




STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

July 18, 2017

TO: The Honorable Brian De Lima
Chairperson, Committee on Human Resources

FROM: 
Keith T. Hayashi
Interim Superintendent

SUBJECT: **Committee Action on Board Policy 900-1, Department of Education
Applicant and Employee Non-Discrimination**

1. RECOMMENDATION

It is recommended that the Board of Education (Board) Committee on Human Resources approve the recommendation by the Department of Education (Department) to revise current Board Policy 900-1 found in Attachment C with the proposed language detailed in Attachment B to reflect additional protected classes under Hawaii State law and federal law. This revision also specifically addresses reasonable accommodations to qualified individuals. A mark up version of the proposed policy is included as Attachment A.

2. RECOMMENDED EFFECTIVE DATE

Upon approval by the Board.

3. RECOMMENDED COMPLIANCE DATE (if different from the effective date)

Not applicable.

4. DISCUSSION (if different from the effective date)

a. Conditions leading to the recommendation:

Since the initial passage of Board Policy 900-1, the Hawaii State Legislature has passed legislation to include additional protected classes. Further, existing federal laws that protect certain classes of individuals should have been, but were not included in Board Policy 900-1.

- b. Previous action of the Board on the same or similar matter:

Former policy 1110-11 was approved on September 1, 2005. Board Policy 900.1 was approved on May 19, 2015, which was amended and renumbered as Board Policy 900-1 on June 21, 2016. The 2016 amendment was a simple renumbering of the policy, with no substantive changes.

- c. Other policies affected:

None.

- d. Arguments in support of the recommendation:

Adoption of the recommendation is intended to ensure compliance with Hawaii State law and federal law.

- e. Arguments against the recommendation:

The Department is not aware of any obvious arguments against the recommendation to update the policy to comply with Hawaii State law and federal law.

- f. Other agencies or departments of the State of Hawaii involved in the action:

None.

- g. Possible reaction of the public, professional organizations, unions, Department staff and/or others to the recommendation:

The Department does not anticipate any objections to the revisions, which are being undertaken to update Board Policy 900-1 to comply with applicable state and federal law. However, the Department is committed to addressing any unanticipated objections or concerns that may arise during the consultation and public hearing processes.

- h. Educational implications:

None.

- i. Personnel implications:

None.

- j. Facilities implications:

None.

k. Financial implications:

None.

5. OTHER SUPPLEMENTARY RECOMMENDATIONS

None.

KTH:AMP:cmp

Attachment A: Board Policy 900-1 recommended changes (mark up)

Attachment B: Board Policy 900-1 "clean" version of recommended changes

Attachment C: Current Board Policy 900-1

c: The Honorable Lance A. Mizumoto, Chairperson, Board of Education
Office of Human Resources
Civil Rights Compliance Office
Policy, Innovation, Planning, and Evaluation Branch

POLICY 900-1

DEPARTMENT OF EDUCATION APPLICANT AND EMPLOYEE NON-DISCRIMINATION

The Department of Education strictly prohibits any form of discrimination, including harassment, based on a person's membership in a protected class. Protected classes covered by this policy include race, color, sex (including gender identity or expression), sexual orientation, condition of pregnancy, act of breastfeeding or expressing milk, religion, national origin, ancestry, age, physical or mental disability, ~~[-sexual orientation,]~~ genetic information, marital status, arrest and court record[†] (except as permitted by applicable laws), income assignment for child support, national guard absence, uniformed service, ~~[breastfeeding, or]~~ veteran status, citizenship status (except as permitted by applicable laws), credit history or credit report (unless directly related to a bona fide occupational qualification), domestic or sexual violence victim status (if the domestic or sexual violence victim provides notice to the victim's employer of such status or the employer has actual knowledge of such status), or any other classification protected under applicable state or federal laws.

The Department of Education expressly prohibits retaliation against anyone because they engaged[ing] in protected activity. Protected activity is defined as anyone who files a complaint of discrimination, participates in complaint proceedings dealing with discrimination, inquires about their rights under discrimination laws, or otherwise opposes acts of discrimination.

The Department of Education provides reasonable accommodations to applicants and employees with physical or mental disabilities, including pregnancy-related disabilities, breastfeeding or expressing milk, victims of sexual or domestic abuse, or for bona fide religious purposes, upon request, if needed and to the extent required by law.

The Department of Education shall develop regulations and procedures relating to this policy.

~~[†Except as permissible under State laws.]~~

[Approved: 05/19/2015 (as Board Policy 900.1); amended: 06/21/2016 (renumbered as Board Policy 900-1)]

Former policy 1110-11 history: approved: 09/01/2005

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