

<b>TITLE: Nondiscrimination/Harassment</b>	
Approved by: _____ On File <i>Francisco Reveles, Ed.D., Superintendent of Schools</i>	Series: <b>Students</b> Version: <b>3</b> Effective Date: <b>3/28/2022</b> Previous Policy Date: <b>3/20/2014</b> Revised By: <b>Committee</b> Policy Number: <b>SP 5145.3</b>

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a county office of education (COE) school or program, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

The COE is committed to providing a safe school environment that allows all students equal access to opportunities in academic and other educational support programs, services, and activities. Unlawful discrimination against a student in any COE school, program, or activity, including discriminatory harassment, intimidation, and bullying, is prohibited. Any form of retaliation against an individual who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination is also prohibited.

Unlawful discrimination may result from physical, verbal, nonverbal, or written conduct against a student based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or the student's association with a person or group with one or more of these actual or perceived characteristics. Unlawful discrimination also occurs when the prohibited conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth. (Education Code 210.7)

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in any COE school,

program, or activity, or the provision or receipt of educational benefits or services, such as prohibiting a student from enrolling in a class or course on the basis of the student's sex.

When, as permitted by law, the COE maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, students may choose to access facilities and participate in such programs and activities consistent with their gender identity. In addition, students may choose to participate in accordance with their gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. Each student's gender identity shall be the gender asserted by the student. Transgender and gender-nonconforming students shall be afforded the same rights, benefits, and protections as all COE students.

Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying or retaliation may be filed in accordance with the COE's uniform complaint procedures (UCP) pursuant to BP 1312.3 - Uniform Complaint Procedures. For complaints of sexual harassment, it is the responsibility of the COE's Title IX Coordinator to determine whether the complaint should be addressed through UCP or, if the alleged conduct meets the federal definition of sexual harassment pursuant to 34 CFR 106.30, the complaint procedures established in 34 CFR 106.44-106.45. Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action shall be taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation in violation of law or COE policy or procedures shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4.

### **Antidiscrimination Measures**

The County Board hereby incorporates by reference the policies, procedures, and measures implemented by the COE to prevent or address unlawful discrimination in COE schools, programs, and activities, including, but not limited to, the following:

1. Designation of a coordinator/compliance officer to handle complaints alleging unlawful discrimination
2. Publicizing of the COE's nondiscrimination policies and complaint procedures
3. Posting of the COE's policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media, in a prominent location on the COEs web site in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)

4. Posting of the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on the COE's web site in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)
5. Posting of information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status as required pursuant to Education Code 221.61, and a link to the Title IX information included on the California Department of Education's (CDE) web site, in a prominent location on the COE's web site in a manner that is easily accessible to parents/guardians and students (Education Code 221.6, 221.61, 234.6)
6. Posting of a link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families. Such resources shall be posted in a prominent location on the COE's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.5, 234.6)
7. Provision of training and information about the COE's nondiscrimination policies and complaint procedures, including information related to state and federal laws pertaining to the rights of transgender and gender-nonconforming students, to students, parents/guardians, COE employees, and others as applicable
8. Establishment of a complaint process that ensures a prompt and fair resolution of complaints
9. Provision of annual notification required by law
10. Maintenance of student records in accordance with law

When a former student presents government-issued documentation of a name and/or gender change, the student's records shall be updated accordingly. (Education Code 49062.5)

<b>Federal</b>	<b>Description</b>
100.3	Prohibition of discrimination on basis of race, color or national origin
104.7	Designation of responsible employee for Section 504
104.8	Notice
106.8	Designation of responsible employee for Title IX
106.9	Dissemination of policy
110.25	Prohibition of discrimination based on age
11135	Nondiscrimination in programs or activities funded by state
12101-12213	Americans with Disabilities Act

1714.1	Liability of parents/guardians for willful misconduct of minor
20 USC 1681-1688	Title IX of the Education Amendments of 1972
200-262.4	Prohibition of discrimination
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973, Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Designation of responsible employee for Section 504
34 CFR 104.8	Notice
34 CFR 106.8	Designation of responsible employee for Title IX
34 CFR 106.9	Notification of nondiscrimination on basis of sex
34 CFR 110.25	Prohibition of discrimination based on age
34 CFR 99.31	Disclosure of personally identifiable information
35.107	Designation of responsible employee and adoption of grievance procedures
42 USC 12101-12213	Title II equal opportunity for individuals with disabilities
42 USC 2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
422.55	Definition of hate crime
422.6	Interference with constitutional right or privilege
432	Student record
4600-4670	Uniform complaint procedures
48900.3	Suspension for hate violence
48900.4	Suspension or expulsion for harassment, threats, or intimidation
48904	Liability of parent/guardian for willful student misconduct
48907	Student exercise of free expression
48950	Freedom of speech
48985	Notices to parents in language other than English
4900-4965	Nondiscrimination in elementary and secondary education programs
49060-49079	Student records
51500	Prohibited instruction or activity
51501	Prohibited means of instruction
60044	Prohibited instructional materials
794	Section 504 of the Rehabilitation Act of 1973
<b>Management Resources</b>	<b>Description</b>
CA Office of the Attorney General Publication	Promoting Safe & Secure Learning Environment for All: Guidance & Model Policies to Assist CA K-12 Schools in Responding to Immigration Issues, 4/2018
Court Decision	Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

CSBA Publication	Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, March 2017
First Amendment Center Publication	Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006
U.S Dept of Ed Office for Civil Rights Publication	Resolution Agreement Between the Arcadia USD, US Dept of Ed, OCR, & the US DOJ, CRD, (2013) OCR 09-12-1020, DOJ 169-12C-70
U.S. Dept of Health & Human Services Publication	Guid. to Fed Fin. Assist. Recipients Re. Title VI Prohibition Against Nat'l Origin Discrimination Affect Limited English Proficient Persons, Aug. 2013
U.S. DOE, Office for Civil Rights Publication	Notice of Non-Discrimination, Fact Sheet, August 2010
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Title IX Coordinators, April 2015
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Harassment and Bullying, October 2010
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>
Website	<a href="#">First Amendment Center</a>
Website	<a href="#">CSBA</a>
Website	<a href="#">California Safe Schools Coalition</a>
Website	<a href="#">California Office of the Attorney General</a>
Website	<a href="#">California Department of Education</a>
<b>State</b>	<b>Description</b>
1681-1688	Discrimination based on sex or blindness, Title IX
2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
2000h-2000h-6	Title IX
5 CCR 432	Student records
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary education programs
6101-6107	Age Discrimination Act of 1975
Civ. Code 1714.1	<a href="#">Liability of parent or guardian for act of willful misconduct by a minor</a>
Ed. Code 200-262.4	<a href="#">Educational equity; prohibition of discrimination on the basis of sex</a>
Ed. Code 48900.3	Suspension or expulsion for act of hate violence
Ed. Code 48900.4	Suspension or expulsion for threats or harassment
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48907	Student exercise of free expression
Ed. Code 48950	Freedom of speech
Ed. Code 48985	Translation of notices
Ed. Code 49020-49023	Athletic programs

Ed. Code 49060-49079	Student records
Ed. code 49060-49079	Student records
Ed. Code 51500	Prohibited instruction or activity
Ed. Code 51501	Prohibited means of instruction
Ed. Code 60044	Prohibited instructional materials
Gov. Code 11135	Nondiscrimination in programs or activities funded by state
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes, harassment

**Cross References**

**Code**

0410  
1312.3  
1312.3  
5131.2  
5131.2  
5145.7  
5145.7  
5145.7  
5145.71  
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**Description**

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[Uniform Complaint Procedures](#)  
[Uniform Complaint Procedures](#)  
[Bullying](#)  
[Bullying](#)  
[Sexual Harassment](#)  
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[Title IX Sexual Harassment Complaint Procedures](#)  
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