

Policy 5145.3: Nondiscrimination/Harassment

Status: ADOPTED

Original Adopted Date: 06/14/2018 | **Last Revised Date:** 06/18/2020 | **Last Reviewed Date:** 06/18/2020

The Governing Board desires to provide a safe school environment that allows all students' equal access and opportunities in the district's academic, extracurricular and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, national origin, immigration status, nationality, ethnicity, ethnic group identification, age, religion, marital or parental status, pregnancy, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or association with a person or group with one or more of these actual or perceived characteristics.

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a district school, 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.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also occurs when prohibited conduct that 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.

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 school programs or activities or the provision or receipt of educational benefits or services.

The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the Superintendent or designee shall post the district's policies prohibiting discrimination, harassment, intimidation, and bullying and other required information on the district's web site in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation.

The Superintendent or designee shall provide training and/or information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the district's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. The Superintendent or designee shall report the findings and recommendations to the Board after each review.

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 taken to stop the discrimination, prevent

recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation 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. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 432	Student records
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48900.3	Suspension or expulsion for act of hate violence
Ed. Code 48900.4	Suspension or expulsion for harassment, threats, or intimidation
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48907	Exercise of free expression; rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
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	Discrimination
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes, harassment

Federal

20 USC 1681-1688

28 CFR 35.107

29 USC 794

34 CFR 100.3

34 CFR 104.7

34 CFR 104.8

34 CFR 106.8

34 CFR 106.9

34 CFR 110.25

34 CFR 99.31

42 USC 12101-12213

42 USC 2000d-2000e-17

42 USC 2000h-2-2000h-6

42 USC 6101-6107

Management ResourcesCA Office of the Attorney General
Publication

Court Decision

Court Decision

CSBA Publication

First Amendment Center Publication

U.S Dept of Ed Office for Civil Rights
PublicationU.S. Dept. of Health & Human Services
PublicationU.S. DOE, Office for Civil Rights
PublicationU.S. DOE, Office for Civil Rights
PublicationU.S. DOE, Office for Civil Rights
Publication**Description**

Discrimination based on sex or blindness, Title IX

Nondiscrimination on basis of disability; complaints

Rehabilitation Act of 1973, Section 504

Prohibition of discrimination on basis of race, color or
national origin

Designation of responsible employee for Section 504

Notice

Designation of responsible employee for Title IX

Severability

Prohibition of discrimination based on age

Disclosure of personally identifiable information

Equal opportunity for individuals with disabilities

Title VI and Title VII Civil Rights Act of 1964, as amended

Title IX of the Civil Rights Act of 1964

Age Discrimination Act of 1975

DescriptionPromoting Safe & Secure Learning Environment for All:
Guidance & Model Policies to Assist CA K-12 Schools in
Responding to Immigration Issues, 4/2018Donovan v. Poway Unified School District, (2008) 167
Cal.App.4th 567Flores v. Morgan Hill Unified School District, (2003, 9th Cir.)
324 F.3d 1130Updated Legal Guidance: Protecting Transgender and
Gender Nonconforming Students Against Sex Discrimination,
March 2017Public Schools and Sexual Orientation: A First Amendment
Framework for Finding Common Ground, 2006Resolution Agreement Between the Arcadia USD, US Dept
of Ed, OCR, & the US DOJ, CRD, (2013) OCR 09-12-1020,
DOJ 169-12C-70Guid. to Fed Fin. Assist. Recipients Re. Title VI Prohibition
Against Nat'l Origin Discrimination Affect Limited English
Proficient Persons, Aug. 2013

Notice of Non-Discrimination, Fact Sheet, August 2010

Dear Colleague Letter: Harassment and Bullying, October
2010

Dear Colleague Letter: Title IX Coordinators, April 2015

U.S. DOE, Office for Civil Rights
Publication

Website

Website

Website

Website

Website

Website

Examples of Policies and Emerging Practices for Supporting
Transgender Students, May 2016

[First Amendment Center](#)

[California Office of the Attorney General](#)

[California Safe Schools Coalition](#)

[CSBA](#)

[California Department of Education](#)

[U.S. Department of Education, Office for Civil Rights](#)

Cross References

Code

0410

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0470

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[Comprehensive Safety Plan](#)

[Comprehensive Safety Plan](#)

[COVID-19 Mitigation Plan](#)

[District And School Web Sites](#)

[District And School Web Sites](#)

[Volunteer Assistance](#)

[Volunteer Assistance](#)

[Complaints Concerning District Employees - Complaints
Concerning School Personnel](#)

[Uniform Complaint Procedures](#)

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[Access To District Records](#)

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[Recovery For Property Loss Or Damage](#)

[Recovery For Property Loss Or Damage](#)

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4219.21-E PDF(1)	Professional Standards
4219.23	Unauthorized Release Of Confidential/Privileged Information
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4312.9	Employee Notifications
4312.9-E PDF(1)	Employee Notifications - Signed Statements
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