

Policy 5145.3: Nondiscrimination/Harassment

Status:

Original Adopted Date: 01/23/2013 | **Last Revised Date:** 09/21/2022 | **Last Reviewed Date:** 06/12/2024

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.

~~The, and to all acts of the~~ Governing Board and the Superintendent Chief Learning Officer in enacting policies and procedures that govern the district.

The Board desires to provide a **welcoming, safe, and supportive** school environment that allows all students equal access to 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, 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 association with a person or group with one or more of these actual or perceived characteristics.

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 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.

Because unlawful discrimination may occur when disciplining students, including suspension and expulsion, the Superintendent Chief Learning Officer or designee shall ensure that staff enforce discipline rules fairly, consistently and in a non-discriminatory manner, as specified in Board Policy and Administrative Regulation 5144 - Discipline, Board Policy and Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process, and Administrative Regulation 5144.2 - Suspension and Expulsion/Due Process (Students With Disabilities).

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 Chief Learning Officer 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 Chief Learning Officer or designee shall post the district's policies prohibiting discrimination, harassment, intimidation, and bullying and other required information on the district's ~~web site~~**website** in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation. **(Education Code 234.1, 234.6)**

The Superintendent Chief Learning Officer 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 Chief Learning Officer 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 Chief Learning Officer 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, retaliation, or bullying, 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, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

All allegations of unlawful discrimination in district programs and activities shall be brought, investigated, and resolved in accordance with Board Policy 1312.3 - Uniform Complaint Procedures.

Record-Keeping

The Superintendent Chief Learning Officer 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.

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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; time, place and manner 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 51204.5	Social sciences instruction; contributions of specified groups
Ed. Code 51500	Prohibited instruction or activity
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Gov. Code 11135	Prohibition of discrimination
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Federal	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
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	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 104.8	Notice of Nondiscrimination on the Basis of Handicap

34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Prohibition of discrimination based on age
34 CFR 99.31	Disclosure of personally identifiable information
42 USC 12101-12213	Americans with Disabilities Act
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
Management Resources	Description
34 CFR 106.30	Discrimination on the basis of sex; definitions
CA Office of the Attorney General Publication	Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018
California Department of Education Publication	California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
U.S. DOE, 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. Department of Education Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023
U.S. Dept. of Health & Human Services Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, August 2013
U.S. DOE & U.S. DOJ Civil Rights Divisions Pub	Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023
U.S. DOE Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023
U.S. DOE, Office for Civil Rights Publication	Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual

U.S. DOE, Office for Civil Rights
Publication

[Orientation and Gender Identity in Light of Bostock v. Clayton County, June 2021](#)

U.S. DOE, Office for Civil Rights
Publication

[Dear Colleague Letter: Addressing Discrimination Against Jewish Students, May 2023](#)

U.S. DOE, Office for Civil Rights
Publication

[U.S. Department of Education Toolkit: Creating Inclusive and Nondiscriminatory School Environments for LGBTQI+ Students, June 2023](#)

U.S. DOE, Office for Civil Rights
Publication

[Questions and Answers on the Title IX Regulations on Sexual Harassment, June 2022](#)

~~Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973~~
Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973, July 2022

U.S. DOE, Office for Civil Rights
Publication

[Dear Colleague Letter: Race and School Programming, August 2023](#)

U.S. DOE, Office for Civil Rights
Publication

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

Website

[CSBA District and County Office of Education Legal Services](#)

Website

[First Amendment Center](#)

Website

[California Office of the Attorney General](#)

Website

[California Safe Schools Coalition](#)

Website

[CSBA](#)

Website

[California Department of Education](#)

Website

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

Cross References

Code

0410

Description

~~Nondiscrimination In District Programs And Activities~~
Nondiscrimination In District Programs And Activities

~~04150450~~

~~Comprehensive Safety Plan~~
Equity

0450

~~Comprehensive Safety Plan~~
Comprehensive Safety Plan

~~04501114~~

~~District-Sponsored Social Media~~
Comprehensive Safety Plan

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~~District-Sponsored Social Media~~
COVID-19 Mitigation Plan

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~~Volunteer Assistance~~
District-Sponsored Social Media

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~~Volunteer Assistance~~
District-Sponsored Social Media

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4119.214212.9-E PDF(1)	Employee Notifications Professional Standards
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41314219.21-E PDF(1)	Professional Standards - Code Of Ethics Classified Employees Staff Development
4212.64219.23	Unauthorized Release Of Confidential/Privileged Information Personnel Files
4212.94231	Staff Development Employee Notifications
4212.94231	Staff Development Employee Notifications
42184312.6	Personnel Files Dismissal/Suspension/Disciplinary Action
42184312.9	Employee Notifications Dismissal/Suspension/Disciplinary Action
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4319.215414	Admission Professional Standards
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