

**FRESNO COUNTY SUPERINTENDENT OF SCHOOLS  
FRESNO COUNTY BOARD OF EDUCATION****Students****NONDISCRIMINATION/HARASSMENT**

The County Superintendent and County Board desire to provide a welcoming, safe, and supportive school environment that allows all students equal access to and opportunities in the County Superintendent/County Board academic, extracurricular, and other educational support programs, services, and activities.

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a County Superintendent-operated school or program, 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, and to all acts of the County Superintendent and County Board in enacting policies and procedures that govern County Superintendent and County Board schools and programs.

Unlawful discrimination against an individual or group in any County Superintendent-operated school, program, or activity is prohibited, including discriminatory harassment, intimidation, and bullying based on one, or a combination of two or more, protected characteristics, which include, but may not be limited to any of the following: race or ethnicity; ancestry; color; ethnic group identification; nationality; national origin; immigration status; ethnic group identification; ethnicity; age; sex; sexual orientation; sex stereotypes; gender; gender identity; gender expression; religion; disability; medical condition; genetic information; pregnancy, false pregnancy, childbirth, termination of pregnancy, or related conditions or recovery; and parental, marital, and family status; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics. (Education Code 200, 210.1, 210.2, 212, 212.1, 220, 221.51, 230, 260; Government Code 11135, 12926; 20 USC 1681-1688, 42 USC 2000d-2000d-7)

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 could occur when disciplining students, including suspension and expulsion, discipline shall be enforced in a fair, consistent, and non-discriminatory manner.

The County Superintendent and County Board also prohibit 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, participates, or refuses to participate in

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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 County Superintendent or designee shall facilitate students' access to the educational program by publicizing the nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the County Superintendent or designee shall post the policies prohibiting discrimination, harassment, intimidation, and bullying and other required information on applicable websites 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; 34 CFR 106.8)

The County Superintendent or designee may 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 County Superintendent or designee may regularly review the implementation of the nondiscrimination policies and practices and, as necessary, take action to remove any identified barrier to student access to or participation in the educational program. The County Superintendent or designee may 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, County Superintendent and County 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.

When a student has been suspended, or other means of correction have been implemented against the student for an incident of racist bullying, harassment, or intimidation, the principal, school administrator, or designee may engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. The principal, school administrator, or designee may also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and may regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues. (Education Code 48900.5)

When appropriate based on the severity or pervasiveness of the bullying, the County Superintendent or designee may notify the parents/guardians of victims and perpetrators and may contact law enforcement.

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Complaints alleging unlawful discrimination in County Superintendent and County Board programs and activities shall be investigated and resolved in accordance with County Superintendent/County Board Policy 1312.3 and County Superintendent Administrative Regulation 1312.3 - Uniform Complaint Procedures, when required by law. However, complaints alleging sexual harassment under Title IX shall be investigated and resolved in accordance with the procedures specified in Administrative Regulation 5145.71 - Title IX Sexual Harassment Complaint Procedures.

**Record-Keeping**

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

Adopted: 03/21/2013

Amended: 10/15/2020, 04/20/2023, 12/12/2023, 08/15/2024, 08/21/2025

**Legal References****Education Code**

200-262.4 Prohibition of discrimination  
17585 School modernization project; all-gender restroom  
33353 California Interscholastic Federation; standardized incident form  
35292.5 School restrooms; all-gender restrooms  
48900.3 Suspension or expulsion for act of hate violence  
48900.4 Suspension or expulsion for threats or harassment  
48900.5 Suspension; other means of correction  
48904 Liability of parent/guardian for willful student misconduct  
48907 Student exercise of free expression  
48950 Freedom of speech  
48985 Translation of notices  
49020-49023 Athletic programs  
49060-49079 Student records  
51204.5 Social sciences instruction; contributions of specified groups  
51500 Prohibited instruction or activity  
51501 Prohibited means of instruction  
60010 Instructional materials; definition  
60040-60052 Requirements for instructional materials

**Civil Code**

1714.1 Liability of parents/guardians for willful misconduct of minor

**Government Code**

11135 Nondiscrimination in programs or activities funded by state  
12926 Prohibition of discrimination; definitions

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Penal Code

422.55 Definition of hate crime

422.6 Crimes, harassment

Code of Regulations, Title 5

432 Student record

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

United States Code, Title 20

1681-1688 Title IX of the Education Amendments of 1972

United States Code, Title 29

794 Section 504 of Rehabilitation Act of 1973

United States Code, Title 42

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

6101-6107 Age Discrimination Act of 1975

12101-12213 Title II equal opportunity for individuals with disabilities

Code of Federal Regulations, Title 28

35.107 Nondiscrimination on basis of disability; complaints

Code of Federal Regulations, Title 34

99.31 Disclosure of personally identifiable information

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

104.7 Designation of responsible employee for Section 504

106.30 Discrimination on the basis of sex; definitions

110.25 Prohibition of discrimination based on age

Court Decisions

McDonnell Douglas Corp v. Green (1973) 411 U.S. 792

Burlington Northern and Santa Fe Ry. Co. v. White (2006) 548 U.S. 53

Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581

John T. D. v. River Delta Joint Unified School District (2021) WL 5176356

Students for Fair Admissions v. Harvard (2024) 600 U.S. 181

Tennessee v. Cardona (2024) 737 F.Supp.3d 510

Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567

MANAGEMENT RESOURCES

CSBA Publications

Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption,  
February 2024

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Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024

Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024

California Office of the Attorney General Publications

Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024

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

U.S. Department of Education, Office for Civil Rights Publications

Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics, May 2024

Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023

Dear Colleague Letter: Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023

Resolution Agreement Between the Arcadia Unified School District, U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, (2013) OCR 09-12-1020, DOJ 169-12C-70

U.S. Department of Justice Publications

Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025

Websites

California Department of Education: <http://www.cde.ca.gov>

California Office of the Attorney General: <http://oag.ca.gov>

California Safe Schools Coalition: <http://www.casafeschools.org>

First Amendment Center: <http://www.firstamendmentcenter.org>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

U.S. Department of Justice, Civil Rights Division: <https://www.justice.gov/crt>