Students
NONDISCRIMINATION/HARASSMENT

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, 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 County Superintendent and County Board desire to provide a safe school environment that allows all students equal access to and opportunities in the County Superintendent’s academic, extracurricular, and other educational support programs, services, and activities. Unlawful discrimination against a student in any County Superintendent-operated 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 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.

Unlawful discrimination also includes disparate treatment of students based on one of the characteristics specified above with respect to the provision of opportunities for a student’s participation in school programs or activities or the provision or receipt of educational benefits or services.

In accordance with law, all County Superintendent/County Board students shall be afforded the same rights, benefits, and protections. When, as permitted by law, the County Superintendent/County Board maintain sex-segregated facilities, such as restrooms and locker rooms, or offer 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.

Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying or retaliation, may be filed in accordance with County Superintendent/County Board
Policy 1312.3 and County Superintendent Administrative Regulation 1312.3 - Uniform Complaint Procedures (UCP). For complaints of sexual harassment, it is the responsibility of the County Superintendent 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 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.

Adopted: 03/21/2013
Amended: 10/15/2020, 04/20/2023

LEGAL REFERENCE

Education Code
200-262.4 Prohibition of discrimination
48900.3 Suspension or expulsion for act of hate violence
48900.4 Suspension or expulsion for threats or harassment
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
51500 Prohibited instruction or activity
51501 Prohibited means of instruction
60044 Prohibited 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

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
104.8  Notice
106.8  Designation of responsible employee for Title IX
106.9  Notification of nondiscrimination on basis of sex
110.25  Prohibition of discrimination based on age

Court Decisions

MANAGEMENT RESOURCES

CSBA Publications
Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, March 2017

California Office of the Attorney General Publications
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

First Amendment Center Publications
Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006
U.S. Department of Education, Office for Civil Rights Publications
Dear Colleague Letter: Title IX Coordinators, April 2015
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
Dear Colleague Letter: Harassment and Bullying, October 2010
Notice of Non-Discrimination, Fact Sheet, August 2010

U.S. Department of Health and Human Services Publications

Websites
CSBA: http://www.csba.org
California Department of Education: http://www.cde.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

5145.3, 03/2023; Doc# 123016-2