

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
FRESNO COUNTY BOARD OF EDUCATION

Students

SEX DISCRIMINATION AND SEX-BASED HARASSMENT

The County Superintendent and County Board are committed to maintaining a welcoming, safe, and supportive school environment that is free from discrimination and harassment. The County Superintendent and County Board prohibit, at school, at programs, or at school-sponsored or school-related activities, sex discrimination and sex-based harassment, as defined in the accompanying administrative regulation, targeted at any student, based on the student's actual or perceived sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; and, parental, marital, and family status.

The County Superintendent and County Board also prohibit retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1; 34 CFR 106.71)

The County Superintendent and County Board strongly encourage students who feel that they are being or have experienced sex discrimination, including sex-based harassment, on school or program grounds or at a school-sponsored or school-related activity, or off-campus when the conduct has a continuing effect on campus, to immediately contact their teacher, the lead site administrator, the County Superintendent's Title IX Coordinator, or any other available school or program employee.

Any employee who receives a report or observes an incident of sex discrimination, including sex-based harassment, by or against a student in a County Superintendent or County Board education program or activity shall report the incident to the Title IX Coordinator within one workday.

Once notified of a complaint or allegation of sexual harassment, the Title IX Coordinator shall ensure the complaint or allegation is addressed through Title IX complaint procedures or uniform complaint procedures, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of the Title IX procedure concurrently meets the requirements of the uniform complaint procedures.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if a grievance procedure has begun or an informal resolution process has been offered to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.

The County Superintendent or designee shall ensure that all County Superintendent staff are trained in accordance with 34 Code of Federal Regulations §106.8, consistent with their duties under Title IX. (34 CFR 106.8)

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
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The County Superintendent or designee shall ensure that all County Superintendent and County Board students receive age-appropriate information on sex discrimination and sex-based harassment. Such instruction and information shall include:

1. What acts and behavior constitute sex discrimination and sex-based harassment, including the fact that sex discrimination and sex-based harassment could occur between people of the same sex and could involve sexual violence
2. A clear message that students do not have to endure sex discrimination or sex-based harassment under any circumstance
3. Encouragement to report observed incidents of sex discrimination and sex-based harassment even when the alleged victim of the discrimination or harassment has not complained
4. A clear message that student safety is the County Superintendent's and County Board's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sex discrimination or sex-based harassment incident will be addressed separately and will not affect the manner in which the sex discrimination or sex-based harassment complaint will be received, investigated, or resolved
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sex discrimination and sex-based harassment allegation that involves a student, whether as the complainant, respondent, or victim of the discrimination or harassment, shall be investigated and action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students
6. Information about the procedures for investigating complaints and the person(s) to whom a report of sex discrimination and/or sex-based harassment should be made
7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the investigation of a sex discrimination or sex-based harassment complaint continues
8. A clear message that, when needed, the County Superintendent will implement supportive measures to ensure a safe school environment for a student who is the complainant or victim of sex discrimination or sex-based harassment and/or other students during an investigation

**FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
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Upon completion of an investigation of sex discrimination and/or sex-based harassment, any student found to have engaged in sex discrimination, and/or sex-based harassment or sexual violence, in violation of this policy, shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion pursuant to Education Code 48900.2, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

Upon investigation of sex discrimination and/or sex-based harassment, any employee found to have engaged in sex discrimination against, and/or sex-based harassment or sexual violence toward, any student, shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement and policy.

Record-Keeping

The County Superintendent or designee shall maintain records in accordance with law, including in accordance with 34 CFR 106.8 as specified in Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and applicable policies and regulations, of all reported cases of sex-based harassment to enable the County Superintendent and County Board to monitor, address, and prevent repetitive harassing behavior in schools and programs.

Adopted: 03/21/2013

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

LEGAL REFERENCE**Education Code**

200-262.4 Prohibition of discrimination on the basis of sex

220.1 Prohibition of retaliation related to educational equity

220.3 Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression

220.5 Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression

35292.5 School restrooms; all-gender restrooms

48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

48985 Notices, report, statements and records in primary language

49060-49079 Student records

Civil Code

51.9 Liability for sexual harassment; business, service and professional relationships

1714.1 Liability of parents/guardians for willful misconduct of minor

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Government Code

12950.1 Sexual harassment training

Code of Regulations, Title 5

432 Student records

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

United States Code, Title 20

1092 Definition of sexual assault

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

United States Code, Title 34

12291 Definition of dating violence, domestic violence, and stalking

United States Code, Title 42

1983 Civil action for deprivation of rights

2000d-2000d-7 Title VI, Civil Rights Act of 1964

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

Code of Federal Regulation, Title 34

99.1-99.67 Family Educational Rights and Privacy

106.1-106.82 Nondiscrimination on the basis of sex in education programs

Court Decisions

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

Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130

Reese v. Jefferson School District, (2000, 9th Cir.) 208 F.3d 736

Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

MANAGEMENT RESOURCES

California Department of Education Publications

California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158:

Guidance for Changing a Student's Gender in CALPADS, July 2019

CSBA Publications

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

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Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools,
October 2022

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

Q&A on Campus Sexual Misconduct, September 2017

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

Dear Colleague Letter: Title IX Coordinators, April 2015

Sexual Harassment: It's Not Academic, September 2008

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other
Students, or Third Parties, January 2001

Websites

CSBA: <http://www.csba.org>

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

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