

**Policy 5145.3: Nondiscrimination/Harassment**

Status: DRAFT

Original Adopted Date: 01/13/2009 | Last Revised Date: 01/09/2024 | Last Reviewed Date: 01/09/2024

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, 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 Governing Board and the Superintendent 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~~ of 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, **childbirth, termination of pregnancy or lactation, including related medical conditions or recovery**; parental, **marital, and family** status; physical or mental disability; medical condition; sex; **sex stereotypes; sex characteristics**; 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~~**could** occur when disciplining students, including suspension and expulsion, the Superintendent 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, **or refuses to participate** 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 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; **34 CFR 106.8**)

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, 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.

**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 or designee shall engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. The principal or designee shall also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and shall 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 Superintendent or designee shall notify the parents/guardians of victims and perpetrators and may contact law enforcement.**

All-allegations **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, **when required by law. However, complaints alleging sex discrimination, including sex-based harassment, under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.**

### 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

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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 References

	<b>Description</b>
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	<a href="#">Liability of parent or guardian for act of willful misconduct by a minor</a>
Ed. Code 17585	School modernization project; all-gender restroom
Ed. Code 200-270	<a href="#">Prohibition of discrimination</a>
Ed. Code 33353	California Interscholastic Federation; standardized incident form
Ed. Code 35292.5	School restrooms; all-gender restrooms
Ed. Code 48900.3	<a href="#">Suspension or expulsion for act of hate violence</a>
Ed. Code 48900.4	<a href="#">Suspension or expulsion for harassment, threats, or intimidation</a>
Ed. Code 48900.5	Suspension; other means of correction
Ed. Code 48904	<a href="#">Liability of parent/guardian for willful student misconduct</a>
Ed. Code 48907	<a href="#">Exercise of free expression; time, place, and manner rules and regulations</a>
Ed. Code 48950	<a href="#">Speech and other communication</a>
Ed. Code 48985	<a href="#">Notices to parents in language other than English</a>
Ed. Code 49020-49023	<a href="#">Athletic programs</a>
Ed. Code 49060-49079	<a href="#">Student records</a>
Ed. Code 51204.5	<a href="#">Social sciences instruction; contributions of specified groups</a>

**State References**

Ed. Code 51500  
 Ed. Code 51501  
 Ed. Code 60010  
 Ed. Code 60040-60052  
 Gov. Code 11135  
 Pen. Code 422.55  
 Pen. Code 422.6

**Description**

[Prohibited instruction or activity](#)  
[Nondiscriminatory subject matter](#)  
[Instructional materials; definition](#)  
[Requirements for instructional materials](#)  
[Prohibition of discrimination](#)  
[Definition of hate crime](#)  
[Crimes; harassment](#)

**Federal References**

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 106.1-106.82  
 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

**Description**

Title IX of the Education Amendments of 1972; discrimination based on sex  
 Nondiscrimination on basis of disability; complaints  
 Rehabilitation Act of 1973; Section 504  
 Prohibition of discrimination on basis of race, color or national origin  
 Section 504; Designation of responsible employee and adoption of grievances procedures  
 Notice of Nondiscrimination on the Basis of Handicap  
 Discrimination on the basis of sex; effectuating Title IX  
 Prohibition of discrimination based on age  
 Disclosure of personally identifiable information  
 Americans with Disabilities Act  
 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

**Management Resources References**

34 CFR 106.30  
 CA Office of the Attorney General Publication  
 CA Office of the Attorney General Publication  
 California Department of Education Publication  
 Court Decision  
 Court Decision  
 CSBA Publication  
 CSBA Publication  
 CSBA Publication  
 CSBA Publication

**Description**

Discrimination on the basis of sex; definitions  
[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](#)  
 California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019  
 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  
[Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024](#)  
[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](#)  
[Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022](#)

**Management Resources References****Description**

Federal Register

[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)

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 &amp; 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 &amp; U.S. DOJ Civil Rights Divisions Pub

[Resource on Confronting Racial Discrimination in Student Discipline, May 2023](#)

U.S. DOE, Office for Civil Rights Publication

[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](#)

U.S. DOE, Office for Civil Rights Publication

[Dear Colleague Letter: Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 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 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](#)

U.S. DOE, Office for Civil Rights Publication

[Fact Sheet: Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973](#)

U.S. DOE, Office for Civil Rights Publication

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

Website

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

Website

[First Amendment Center](#)

Website

[California Interscholastic Federation](#)

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****Description**

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[Nondiscrimination In District Programs And Activities](#)

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[Equity](#)

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[Comprehensive Safety Plan](#)

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[Comprehensive Safety Plan](#)

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[District-Sponsored Social Media](#)

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[District-Sponsored Social Media](#)

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[Volunteer Assistance](#)

**Cross References****Description**

1240	<a href="#">Volunteer Assistance</a>
1312.1	<a href="#">Complaints Concerning District Employees</a>
1312.1	<a href="#">Complaints Concerning District Employees</a>
1312.1-E PDF(1)	<a href="#">Complaints Concerning District Employees</a>
1312.2	<a href="#">Complaints Concerning Instructional Materials</a>
1312.2	<a href="#">Complaints Concerning Instructional Materials</a>
1312.2-E(1)	<a href="#">Complaints Concerning Instructional Materials</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3-E PDF(1)	<a href="#">Uniform Complaint Procedures</a>
1312.3-E PDF(2)	<a href="#">Uniform Complaint Procedures</a>
1312.4	<a href="#">Williams Uniform Complaint Procedures</a>
1312.4-E(1)	<a href="#">Williams Uniform Complaint Procedures</a>
1312.4-E(2)	<a href="#">Williams Uniform Complaint Procedures</a>
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3553	<a href="#">Free And Reduced Price Meals</a>
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4112.6	<a href="#">Personnel Files</a>
4112.9	<a href="#">Employee Notifications</a>
4112.9-E(1)	<a href="#">Employee Notifications</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4119.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4119.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4119.21	<a href="#">Professional Standards</a>
4119.21-E(1)	<a href="#">Professional Standards</a>
4119.23	<a href="#">Unauthorized Release Of Confidential/Privileged Information</a>
4131	<a href="#">Staff Development</a>
4212.6	<a href="#">Personnel Files</a>
4212.9	<a href="#">Employee Notifications</a>
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4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>

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[Food Allergies/Special Dietary Needs](#)  
[Food Allergies/Special Dietary Needs](#)  
[Child Abuse Prevention And Reporting](#)  
[Child Abuse Prevention And Reporting](#)

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5141.52	<a href="#">Suicide Prevention</a>
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5145.2	<a href="#">Freedom Of Speech/Expression</a>
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5145.6	<a href="#">Parent/Guardian Notifications</a>
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5145.7	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
5145.7	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
5145.71	<a href="#">Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</a>
5145.9	<a href="#">Hate-Motivated Behavior</a>
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6142.8	<a href="#">Comprehensive Health Education</a>
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