

NONDISCRIMINATION/HARASSMENT

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in the district's academic and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression; the 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.

This policy shall apply to all acts related to school activity or to school attendance occurring within a district school and is intended to reduce the stigmatization of and improving the educational integration of transgender and gender nonconforming students, maintaining the privacy of all students, and fostering cultural competence and professional development for school staff. (Education Code 234.1)

(cf. 0410 – Nondiscrimination in District Programs and Activities)

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.9 - Hate-Motivated Behavior)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 5146 – Married/Pregnant/Parenting Students)

(cf. 6164.6 – Identification and Education under Section 504)

Prohibited discrimination, harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and 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.

The Board also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying.

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. He/she shall provide training and 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

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identified barrier to student access to or participation in the educational program. He/she shall report his/her findings and recommendations to the Board after each review.

(cf. 1312.3 – Uniform Complaint Procedures)

(cf. 1330 – Use of Facilities)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

In providing instruction, guidance, supervision, or other services to district students, employees and volunteers shall carefully guard against segregating or stereotyping students.

(cf. 1240 - Volunteer Assistance)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6164.2 - Guidance/Counseling Services)

The principal or designee shall develop a plan to provide students with appropriate accommodations when necessary for their protection from threatening or potentially harassing or discriminatory behavior.

Students who engage in discrimination, harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, up to and/or including counseling, suspension and/or expulsion. Any employee who permits or engages in prohibited discrimination, harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 – Suspension/Disciplinary Action)

(cf. 4119.21/4219.21/4319.21- Professional Standards)

(cf. 4218 – Dismissal/Suspension/Disciplinary Action)

(cf. 5131 – Conduct)

(cf. 5144 – Discipline)

(cf. 5144.1 – Suspension and Expulsion/Due Process)

(cf. 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 5145.2 - Freedom of Speech/Expression)

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

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48907 Student exercise of free expression

48950 Freedom of speech

48985 Translation of notices

49020-49023 Athletic programs

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

PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

432 Student record

4600-4687 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 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

CODE OF FEDERAL REGULATIONS, TITLE 34

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

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

COURT DECISIONS

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

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

Management Resources:

CSBA PUBLICATIONS

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

Interim Guidance Regarding Transgender Students, Privacy, and Facilities, September 27, 2013

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

FIRST AMENDMENT CENTER PUBLICATIONS

Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity, 2004

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, January 1999

Students

BP 5145.3 (d)

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WEB SITES

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>

National School Boards Association: <http://www.nsba.org>

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

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The following position is designated Coordinator for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying and to answer inquiries regarding the district's nondiscrimination policies: (Education Code 234.1; 5 CCR 4621)

Coordinator, Child Welfare and Attendance
9333 Loch Lomond Drive
Pico Rivera, CA 90660
(562) 942-1500

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

To prevent discrimination, harassment, intimidation, and bullying of students at district schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent or designee shall implement the following measures:

1. Provide to employees, volunteers, and parents/guardians training and information regarding the district's nondiscrimination policy; what constitutes prohibited discrimination, harassment, intimidation, or bullying; how and to whom a report of an incident should be made; and how to guard against segregating or stereotyping students when providing instruction, guidance, supervision, or other services to them. Such training and information shall include guidelines for addressing issues related to transgender and gender-nonconforming students.

(cf. 1240 - Volunteer Assistance)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

2. Provide to students a handbook that contains age-appropriate information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the victim of any such behavior. (Education Code 234.1)

3. Annually notify all students and parents/guardians of the district's nondiscrimination policy and of the opportunity to inform the Coordinator whenever a student's participation in a sex-segregated school program or activity together with another student of the opposite biological sex would be against the student's religious beliefs and/or practices or a violation of his/her right to privacy. In such a case, the Coordinator shall meet with the student and/or parent/guardian to determine how best to accommodate the student.

(cf. 5145.6 - Parental Notifications)

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4. Publicize the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, employees, volunteers, and the general public and post them on the district's web site and other locations that are easily accessible to students. (Education Code 234.1)

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

5. When 15 percent or more of a school's students speak a single primary language other than English, translate the nondiscrimination policy, related complaint procedures, and all forms for use in the complaint process into that other language. (Education Code 234.1, 48985)

6. At the beginning of each school year, inform school employees that any employee who witnesses any act of discrimination, harassment, intimidation, or bullying against a student is required to intervene if it is safe to do so. (Education Code 234.1)

7. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate accommodation(s) to protect students' privacy rights and ensure their safety from threatened or potentially harassing, intimidating, or discriminatory behavior.

Process for Initiating and Responding to Complaints

Any student who feels that he/she has been subjected to discrimination, harassment, intimidation, or bullying should immediately contact the Coordinator, the principal, or any other staff member. In addition, any student who observes any such incident should report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Any school employee who observes an incident of discrimination, harassment, intimidation, or bullying or to whom such an incident is reported shall immediately report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures.

Transgender and Gender-Nonconforming Students

Privacy

1. All persons, including students, have a right to privacy; this includes keeping a student's actual or perceived sexual orientation, gender identity, and gender expression private.
2. School personnel should not disclose a student's actual or perceived sexual orientation, gender identity, or gender expression to others, including, but not limited to, other

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students, parents, and/or other school personnel, unless there is a specific “need to know”.

3. School personnel must be mindful of the confidentiality and privacy rights of students when contacting parents/legal guardians so as to not reveal, imply, or refer to a student’s actual or perceived sexual orientation, gender identity, or gender expression.
4. To ensure confidentiality, whenever discussing a particular issue such as conduct, discipline, grades, attendance, health, or any other school related matter, school personnel should focus on the conduct or particular issue, and not on any assumptions regarding the student’s actual or perceived sexual orientation, gender identity, or gender expression.
5. All students, including transgender and gender variant students, have the right to openly discuss and express their sexual orientation, gender identity, and gender expression and to decide when, with whom, and how much to share private information.

Official Records

The District is required to maintain a mandatory permanent pupil record which includes the legal name of the pupil and the pupil’s sex.

The District will change a student’s official records to reflect a change in legal name or gender upon receipt of documentation that such legal name or gender has been changed pursuant to a court order.

The District will maintain the student preferred name and gender on any “non-legal” forms, including standardized testing materials.

(cf. 3580 – District Records)

(cf. 5125 – Student Records)

(cf. 5125.1 – Release of Directory Information)

Names/Pronouns

1. A student is to be addressed by a name and pronoun that corresponds to the gender identity that the student asserts at school.
2. Students may request to be addressed by their “preferred name” (and preferred pronoun) that corresponds to their gender identity without obtaining a court order or without changing their official records.
3. The parent/legal guardian with legal custody of a child may also request that their child be addressed by the student’s “preferred name” (and preferred pronoun) that corresponds to the student’s gender identity without obtaining a court order or without changing the student’s official records.
4. It is strongly suggested that school personnel privately ask transgender and gender variant students how they want to be addressed in communications to the home or at conferences with the student’s parents/legal guardians.

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5. The parent/legal guardian with legal custody of a child may request that their child be registered in school under a name different from that appearing upon documentary proof of age or school records. This may be accomplished by completion of a “Request for Change of Name of Minor” form. This applies to, but is not limited to, transgender and gender variant students.
6. After the school receives and verifies the contents of the completed form, the school is to change the name of the student in the Student Information System (SIS) and Integrated Student Information System (ISIS) and enter the unofficial name as an “Also Known As” in the cumulative folder
7. For initial communications with a student’s parent/legal guardian, school personnel should use the student’s legal name, unless the parent/legal guardian has filed a “Request for Change of Name of Minor” form.
8. While inadvertent slips or honest mistakes in the use of the “preferred” names or pronouns may occur, the intentional and persistent refusal to respect a student’s gender identity is discriminatory and is not to occur.

Restroom Accessibility

1. Schools may maintain separate restroom facilities for male and female students. However, students shall have access to the restroom that corresponds to their gender identity asserted at school.
2. Where available, a “gender neutral” restroom may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a “gender neutral” restroom shall be a matter of choice for a student and no student shall be compelled to use such restroom. If a “gender neutral” restroom is not available, a reasonable alternative restroom, such as the health office restroom may be used.

Locker Room Accessibility

1. Schools may maintain separate locker room facilities for male and female students. However, students shall have access to the locker room facility that corresponds to their gender identity asserted at school.
2. Schools may provide a student access to a locker room facility that corresponds to the gender identity that the student asserts at school considering the available accommodation and the needs and privacy concerns of all students involved.
3. If there is a reason or request for increased privacy and safety, regardless of the underlying reason, any student may be provided access to a reasonable alternative locker room such as:
 - a. Use of a private area in the public area of the locker room facility (i.e., a nearby restroom stall with a door, an area separated by a curtain, or a P.E. instructor’s office in the locker room).

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- b. separate changing schedule (utilizing the locker room either before or after the other students).
- c. Use of a nearby private area (i.e., a nearby restroom or a health office restroom).
- d. Any alternative arrangement shall be provided in a way that keeps the student's gender identity confidential.

Sports and Physical Education Classes

Transgender and gender variant students are to be provided the same opportunities to participate in physical education as are all other students. Participation in competitive athletic activities and contact sports are to be addressed on a case-by-case basis, and consistent with California Interscholastic Federation (CIF) guidelines for gender identity participation, as appropriate. (cf. 5145.3 – Nondiscrimination/Harassment)
(cf. 6145 – Extracurricular and Co curricular Activities
(cf. 6145.2 – Interscholastic Competition)

Gender Segregation in Other Areas

As a general rule, in any other circumstances where students are separated by gender in school activities or programs (i.e., class discussions, field trips), students shall be permitted to participate in accordance with their gender identity as expressed by the student and asserted at school. Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case by case basis. In such circumstances, staff shall make a reasonable effort to provide an available accommodation that can address any such concerns.

Dress Code

Dress codes pursuant to District policy will be enforced. Students shall have the right to dress in accordance with their gender identity consistently asserted at school, within the constraints of the dress codes adopted by the school, as it relates to health and safety issues. (i.e., shoes must have a firm sole, no flip flops or sandals and no hoops or dangling earrings)
(cf. 5132 – Dress and Grooming)

Student Transitions

In order to maintain privacy and confidentiality regarding a student's transition and gender identity, it is recommended that a student transition over summer break or between grades.

Elementary: Generally, parent and/or guardian will inform the school of the impending transition.

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Secondary: Generally, parent/guardian and/or student will inform the school of the impending transition. Prior to notification of any parent or guardian regarding the transition process, school staff should work closely with the student to assess the degree to which, if any, the guardian will be involved in the process and must consider the health, well-being, and safety of the transitioning student.

When a student transitions during the school year, a meeting will be conducted with the student (and parents if they are involved in the process). The meeting may consist of school administration, counselor, school psychologist, and/or mental health staff.

Definitions

These definitions are provided not for the purpose of labeling students, but rather to assist in understanding this policy and the legal obligations of District staff. Students may not use these terms to describe one another.

- Gender: A person's actual or perceived sex and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. [5 California Code of Regulations Section 2910(k)]
- Gender Identity: A person's deeply held sense or psychological knowledge of his or her own gender. One's gender identity can be the same or different from the gender assigned at birth. Most people have a gender identity that matches their assigned gender at birth. For some, however, their gender identity is different from their assigned gender.
- Gender Expression: The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, speech patterns, mannerisms, and social interactions that are perceived as masculine or feminine.
- Gender Fluid: Persons who do not identify as, or who do not express themselves as, solely male or female.
- Transgender: An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth.
- Gender Variant: Persons that have a gender expression or gender identity that varies from stereotypical expectations and norms. An example may be the boy who wears clothing that some might perceive as feminine, or vice versa.
- Sexualized Bullying: Unwanted or demeaning conduct or comments directed at or about an individual on the basis of actual or perceived gender, gender identity and expression, sex, sexual behavior, sexual orientation, or other related personal characteristics with the intention to humiliate. Anti-gay and sexist epithets are common forms of sexualized bullying.
- LGBTQ – Lesbian, Gay, Bisexual, Transgender, Questioning