

BOARD POLICY 5145.3: Non-Discrimination/Harassment**Original Adoption:** 9/13/1984**Revised:** 2/13/1996, 7/12/2004, 4/9/2013, 2/9/2016, 8/07/2018, 10/13/2020

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, 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 Governing Board desires to provide a safe 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 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, 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, 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.

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 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 web site in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation.

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.

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.

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 Reference

5 CCR 432
 5 CCR 4600-4670
 5 CCR 4900-4965
 Civ. Code 1714.1
 Ed. Code 200-262.4
 Ed. Code 48900.3
 Ed. Code 48900.4
 Ed. Code 48904
 Ed. Code 48907
 Ed. Code 48950
 Ed. Code 48985
 Ed. Code 49020-49023
 Ed. Code 49060-49079
 Ed. code 49060-49079
 Ed. Code 51500
 Ed. Code 51501
 Ed. Code 60044
 Gov. Code 11135
 Pen. Code 422.55
 Pen. Code 422.6

Description

Student records
 Uniform complaint procedures
 Nondiscrimination in elementary and secondary education programs
 Liability of parent or guardian for act of willful misconduct by a minor
 Educational equity; prohibition of discrimination on the basis of sex
 Suspension or expulsion for act of hate violence
 Suspension or expulsion for threats or harassment
 Liability of parent/guardian for willful student misconduct
 Student exercise of free expression
 Freedom of speech
 Translation of notices
 Athletic programs
 Student records
 Student records
 Prohibited instruction or activity
 Prohibited means of instruction
 Prohibited instructional materials
 Nondiscrimination in programs or activities funded by state
 Definition of hate crime
 Crimes, harassment

Federal Reference

20 USC 1681-1688
 28 CFR 35.107
 29 USC 794
 34 CFR 100.3

Description

Title IX of the Education Amendments of 1972
 Nondiscrimination on basis of disability; complaints
 Rehabilitation Act of 1973, Section 504
 Prohibition of discrimination on basis of race, color or national origin

34 CFR 104.7	Designation of responsible employee for Section 504
34 CFR 104.8	Notice
34 CFR 106.8	Designation of responsible employee for Title IX
34 CFR 106.9	Notification of nondiscrimination on basis of sex
34 CFR 110.25	Prohibition of discrimination based on age
34 CFR 99.31	Disclosure of personally identifiable information
42 USC 12101-12213	Title II equal opportunity for individuals with disabilities
42 USC 2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
<u>Management Resources Reference</u>	<u>Description</u>
CA Office of the Attorney General Publication Model	Promoting Safe & Secure Learning Environment for All: Guidance & Policies to Assist CA K-12 Schools in Responding to Immigration Issues,
4/2018	
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130
CSBA Publication	Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, March 2017
First Amendment Center Publication	Public Schools and Sexual Orientation: A First Amendment Framework for
Finding Common Ground, 2006	
U.S Dept of Ed 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. Dept of Health & Human Services Publication	Guid. to Fed Fin. Assist. Recipients Re. Title VI Prohibition Against Nat'l Origin Discrimination Affect Limited English Proficient Persons, Aug. 2013
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Harassment and Bullying, October 2010
U.S. DOE, Office for Civil Rights Publication	Notice of Non-Discrimination, Fact Sheet, August 2010
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender
Students, May 2016	
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Title IX Coordinators, April 2015
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
Website	First Amendment Center
Policy Reference	Description
0410	Nondiscrimination in District Programs and Activities
0415	Equity
0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
1312.1	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
3515.4	Recovery for Property Loss or Damage
3530	Risk Management/Insurance
3553	Free and Reduced Price Meals
4131	Staff Development
4219.21	Professional Standards
4231	Staff Development
4319.21	Professional Standards
5000	Concepts and Roles
5030	Student Wellness
5111	Admission

5113.1	Chronic Absence and Truancy
5113.12	District School Attendance Review Board
5125	Student Records
5125.1	Release of Directory Information
5131	Conduct
5131.2	Bullying
5131.5	Vandalism and Graffiti
5132	Dress and Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5141.27	Food Allergies/Special Dietary Needs
5141.4	Child Abuse Prevention and Reporting
5141.52	Suicide Prevention
5144	Discipline
5144.1	Suspension and Expulsion/Due Process
5145.12	Search and Seizure
5145.2	Freedom of Speech/Expression
5145.7	Sexual Harassment
5145.9	Hate-Motivated Behavior
5146	Married/Pregnant/Parenting Students
6142.1	Sexual Health and HIV/AIDS Prevention Instruction
6142.8	Comprehensive Health Education
6143	Courses of Study
6144	Controversial Issues
6145	Extracurricular and Cocurricular Activities
6145.2	Athletic Competition
6163.4	Student Use of Technology
6164.2	Guidance/Counseling Services
6173.1	Education for Foster Youth
6175	Migrant Education Program