

LODI UNIFIED SCHOOL DISTRICT

REVISED Policy
5145.3

Students

Nondiscrimination/Harassment

Nondiscrimination in District Programs and Activities

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 Board of Education 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, including discriminatory harassment, intimidation, and bullying of any student based on the student's actual or perceived race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression or association with a person or group with one or more of these actual or perceived characteristics.~~ *, 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.*

~~This policy shall apply to all acts related to school activity or to school attendance occurring within a district school, and to acts which may have an impact or create a hostile environment at school.~~

~~Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, includes physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also shall include the creation of a hostile environment 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 the student's educational opportunities.~~

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 ~~files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination.~~ *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. ~~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 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.~~ *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. (Modify for district practice)

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 ~~counseling, suspension, and/or expulsion for behavior that is severe or pervasive as defined in Education Code 48900.4.~~ *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.*

~~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.

Legal References: 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
4600-4687 Uniform Complaint Procedures
4900-4965 Nondiscrimination in elementary and secondary education
~~PENAL CODE~~
~~422.55 Definition of hate crime~~
~~422.6 Crimes, harassment~~
UNITED STATES CODE, TITLE 20
1681-1688 Title IX of the Education Amendments of 1972
~~12101-12213 Title II equal opportunity for individuals with disabilities~~
UNITED STATES CODE, TITLE 29
794 Section 504 of Rehabilitation Act of 1973
UNITED STATES CODE, TITLE 42
2000d-2000e-17 Title VI & 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

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

Donovan v. Poway Unified School District, (2008), 167

Cal.App.4th 567

MANAGEMENT RESOURCES:

CSBA PUBLICATIONS

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

~~Final Guidance Regarding Transgender Students, Privacy, and Facilities, March 2014~~

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

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

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 OF CIVIL RIGHTS PUBLICATIONS

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

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, January 1999~~

Notice of Non-Discrimination, Fact Sheet, August 2010

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, August 2003

WEB SITES

~~U. S. Department of Education, Office of Civil Rights:~~

~~<http://www.ed.gov/about/offices/list/ocr>~~

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

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

~~California Safe Schools Coalition:~~

~~<http://www.casafeschools.org>~~

~~First Amendment Center: <http://www.firstamendment.org>~~

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

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

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

~~California Office of the Attorney General: <http://oag.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>~~

Policy

adopted: 05/15/01 (renumbered from 5145.3)

revised: 05/03/05 (technical revision)

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