

TULARE COUNTY OFFICE OF EDUCATION

Board Policy

BP 5145.3
Nondiscrimination/Harassment

Students

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in the county office's academic and other educational support programs, services, and activities. The Board prohibits, at any county office program, 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.

This policy shall apply to all acts related to school activity or to school attendance within a schools under the jurisdiction of the Tulare County Superintendent of Schools. (Education Code 234.1)

School personnel are required to take immediate steps to intervene when safe to do so when he or she witnesses an act of discrimination, harassment, intimidation, or bullying.

The county office designates the individual(s) identified below as the employee(s) responsible for coordinating the county office's efforts to comply with state and federal civil rights laws including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975, and to answer inquiries regarding the county office's nondiscrimination policies. The individual(s) shall also serve as the compliance officer(s) specified in AR 1312.3 – Uniform Complaint Procedures as the responsible employee(s) to handle complaints regarding unlawful discrimination, harassment, intimidation, or bullying based on actual ancestry, age, color disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, age, sex, sexual orientation, or association with a person or a group with one or more of these actual or perceived characteristics. The coordinator/compliance officer(s) may be contacted at:

Deputy Superintendent, Instructional Services (title or position)	Director, Human Resources (title or position)
2637 West Burrel Avenue, Visalia CA 93291 (physical address)	2637 West Burrel Avenue, Visalia CA 93291 (physical address)
P.O. Box 5091, Visalia CA 93278-5091 (mailing address)	P.O. Box 5091, Visalia CA 93278-5091 (mailing address)
(559) 733-6328 (telephone number)	(559) 733-6306 (telephone number)

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 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. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The County Superintendent of Schools or designee shall facilitate students' access to the educational program by publicizing the county office'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 County Superintendent or designee shall regularly review the implementation of the county office'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.

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 for behavior that 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.

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

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

12101-12213 – Title II equal opportunity for individuals with disabilities

UNITED STATES CODE, TITLE 29

794 – Section 504 of the Rehabilitation Act of 1973

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

6101-6107 – Age Discrimination Act of 1975

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 – Nondiscrimination on basis of disability; complaints

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

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

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 BOARD 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

WEBSITES

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

California Department of Education: <http://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>

Policy Adopted: 4/8/2015

Revised:

Tulare County Board of Education

Visalia, CA