

TULARE COUNTY OFFICE OF EDUCATION

Board Policy

Students

BP 5145.3

Nondiscrimination/Harassment

Nondiscrimination/Harassment

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a Tulare County Office of Education (TCOE) school or program, 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 Tulare County Board of Education and the Tulare County Superintendent of Schools in enacting policies and procedures that govern the TCOE.

The County Board of Education and the County Superintendent of Schools is committed to provide a welcoming, safe, and supportive school environment that allows all students equal access and opportunities in academic and other educational support programs, services, and activities. Unlawful discrimination against a student in any TCOE school, program, or activity, including discriminatory harassment, intimidation, and bullying, is prohibited. Any form of retaliation against an individual who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination is also prohibited.

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:

Assistant Superintendent, Instructional Services (title or position) 7000 W. Doe Ave., Visalia CA 93291 (physical address) P.O. Box 5091, Visalia CA 93278-5091 (mailing address) (559) 733-6328 (telephone number)	Assistant Superintendent, Human Resources (title or position) 6200 S. Mooney Blvd., Visalia CA 93277 (physical address) P.O. Box 5091, Visalia CA 93278-5091 (mailing address) (559) 733-6306 (telephone number)
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Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, includes physical, verbal, nonverbal, or written conduct against a student 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 the student's association with a person or group with one or more of these actual or perceived characteristics.

Unlawful discrimination also occurs 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 any one of the characteristics specified above with respect to the provision of opportunities for a student's participation in any TCOE school, program, or activity, or a student's receipt of educational benefits or services.

Because unlawful discrimination may occur when disciplining students, including suspension and expulsion, discipline shall be enforced in a fair, consistent, and non-discriminatory manner.

In accordance with law, all TCOE students shall be afforded the same rights, benefits, and protections. When, as permitted by law, the TCOE maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, students may choose to access facilities and participate in such programs and activities consistent with their gender identity. In addition, students may choose to participate in accordance with their gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. (Education Code 221.5)

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.

Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying or retaliation, may be filed in accordance with the TCOE's uniform complaint procedures (UCP) specified in Board Policy 1312.3 - Uniform Complaint Procedures. For complaints of sexual harassment, it is the responsibility of the TCOE's Title IX Coordinator to determine whether the complaint should be addressed through UCP, or if the alleged conduct meets the federal definition of sexual harassment pursuant to 34 CFR 106.30, the complaint procedures established in 34 CFR 106.44-106.45. 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 shall be 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 for behavior that is severe or pervasive as defined in Education Code 48900.4.

Antidiscrimination Measures

The County Board hereby incorporates by reference the policies, procedures, and measures implemented by the County Superintendent to prevent or address unlawful discrimination in TCOE schools, programs, and activities. TCOE nondiscrimination policies and practices shall be reviewed regularly, and action shall be taken to remove any identified barriers to student access to or participation in the educational program.

Legal Reference:

EDUCATION CODE

200-262.4 – Educational equity; Prohibition of discrimination on the basis of sex
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; rules and regulations
48950 – Freedom of speech and other communication
48985 – Notices to parents in language other than English
49020-49023 – Athletic programs
49060-49079 – Student records
51204.5 – Social sciences instruction; contributions of specified groups
51500 – Prohibited instruction or activity
51501 – Nondiscriminatory subject matter
60010 – Instructional materials; definition
60040-60052 – Requirements for instructional materials

CIVIL CODE

1714.1 – Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE

11135 – Unlawful discrimination

PENAL CODE

422.55 – Definition of hate crime
422.6 – Crimes, harassment

CODE OF REGULATIONS, TITLE 5

432 – Student record
4600-4670 – 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 29

794 – Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

12101-12213 – Americans with Disabilities Act
2000d-2000d-7 – 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 – Designation of responsible employee and adoption of grievance procedures

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
104.8 – Notice

106.30 – Discrimination on the basis of sex; definitions
106.44-106.45 – Grievance process for formal complaints of sexual harassment
106.8 – Designation of responsible employee and adoption of grievance procedures
110.25 – Prohibition of discrimination based on age
99.31 – Disclosure of personally identifiable information

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

Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATION

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 DEPARTMENT OF EDUCATION PUBLICATION

California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019

U.S. DEPARTMENT OF EDUCATION PUBLICATION

Creating Inclusive and Nondiscriminatory School Environments for LGBTQI+ Students, June 2023

Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023

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

Dear Colleague Letter: Race and School Programming, August 2023

Dear Colleague Letter: Addressing Discrimination Against Jewish Students, May 2023

Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973, July 2022

Questions and Answers on the Title IX Regulations on Sexual Harassment, June 2022

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

Resolution Agreement Between the Arcadia USD, US Dept of Ed, OCR, & the US DOJ, CRD, (2013) OCR 09-12-1020, DOJ 169-12C-70

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

Dear Colleague Letter: Harassment and Bullying, October 2010

U.S. DEPARTMENT OF JUSTICE & DEPARTMENT OF EDUCATION CIVIL RIGHTS JOINT PUBLICATIONS

Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATION

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, August 2013

WEBSITES

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

California Department of Education: <http://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>

U.S. Department of Justice, Civil Rights Division, Americans with Disabilities Act: <http://www.ada.gov>

Policy Adopted: 4/8/2015

Revised: 9/11/2024

Tulare County Board of Education

Visalia, CA