

## CSBA UPDATE CHECKLIST – July 2024

District Name: Happy Valley Elementary School

Contact Name: Michelle Stewart Phone: 831-429-1456 Email: mstewart@huesd.com

POLICY	TITLE	OPTIONS/BLANKS	ADOPT DATE
BP 0410	Nondiscrimination in District Programs and Activities	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u> _____ _____	
BP 1312.3	Uniform Complaint Procedures		
AR 1312.3	Uniform Complaint Procedures	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u> _____ _____  <b>OPTION 1:</b> <input type="checkbox"/> <b>OPTION 2:</b> <input checked="" type="checkbox"/>	
BP 4030	Nondiscrimination in Employment		
AR 4030	Nondiscrimination in Employment	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u> _____ _____	
BP 4033	Lactation Accommodation		

## CSBA UPDATE CHECKLIST – July 2024

District Name: \_\_\_\_\_

Policy	Title	Option/Blanks	Adopt Date
BP 4119.11	Sex Discrimination and Sex-Based Harassment		
AR 4119.11	Sex Discrimination and Sex-Based Harassment	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u> <hr/>	
BP 4219.11	Sex Discrimination and Sex-Based Harassment		
			<b>E</b>
AR 4219.11	Sex Discrimination and Sex-Based Harassment	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u> <hr/>	
BP 4319.11	Sex Discrimination and Sex-Based Harassment		
AR 4319.11	Sex Discrimination and Sex-Based Harassment	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u> <hr/>	
AR 4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures		
E(1) 4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u> <hr/>	

## CSBA UPDATE CHECKLIST – July 2024

District Name: \_\_\_\_\_

Policy	Title	Option/Blanks	Adopt Date
AR 4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures		
E(1) 4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u>	
AR 4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures		
E(1) 4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u>	
BP 5145.3	Nondiscrimination/Harassment		

AR 5145.3	Nondiscrimination/Harassment	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u>	
BP 5145.7	Sex Discrimination and Sex-Based Harassment		
AR 5145.7	Sex Discrimination and Sex-Based Harassment	<b>Fill in Blanks</b> <u>Superintendent /</u> <u>Principal</u>	

## CSBA UPDATE CHECKLIST – July 2024

District Name: \_\_\_\_\_

Policy	Title	Options/Blanks	Adopt Date
AR 5145.71	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures		
E(1) 5145.71	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures	<p><b>Fill in Blanks</b></p> <p><u>Superintendent/</u></p> <p><u>Principal</u></p> <p>_____</p>	

## CSBA POLICY GUIDE SHEET July 2024

Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.

### **Board Policy 0410 - Nondiscrimination in District Programs and Activities**

Policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status, and (2) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. Additionally, policy updated to reflect **NEW LAW (SB 153, 2024)** which prohibits the Governing Board from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination in accordance with specified state law. In addition, policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 31320)** which include specified technical standards to ensure that content available through a district's web and mobile applications are accessible to individuals with disabilities.

### **Board Policy 1312.3 - Uniform Complaint Procedures**

Policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct, and (2) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Additionally, policy updated to reflect **NEW LAW (SB 153, 2024)** which prohibits the Governing Board from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination in accordance with specified state law. In addition, policy updated to clarify that the uniform complaint procedures should not be used to investigate and resolve employment discrimination complaints, and reflect **NEW LAW (AB 714, 2023)** which exempts "newcomer students" from district adopted graduation requirements, transfer of coursework and credit requirements, and specified consultation and notice requirements, formerly applicable to students in the third or fourth year of high school participating in a newcomer program.

### **Administrative Regulation 1312.3 - Uniform Complaint Procedures**

Regulation updated to reflect **NEW LAW (AB 714, 2023)** which exempts "newcomer students" from district adopted graduation requirements, transfer of coursework and credit requirements, and specified consultation and notice requirements, formerly applicable to students in the third or fourth year of high school participating in a newcomer program. Additionally, regulation updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct, (2) require the Title IX notice of nondiscrimination on the basis of sex to be posted on the district's website and published in district handbooks, catalogs,

announcements, bulletins, and application forms, and (3) provide that a complaint alleging sex discrimination, including sex-based harassment, may be oral or written.

#### **Board Policy 4030 - Nondiscrimination in Employment**

Policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status, and (2) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. Additionally, policy updated to reflect **NEW LAW (SB 700, 2023)** which prohibits the district from discriminating against an employee in termination, or any term or condition of employment, or otherwise penalizing a person, based on the person's use of cannabis when off the job or away from the workplace. In addition, policy updated to move material related to sex discrimination to Board Policy and Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment in order to keep material related to sex discrimination and sex-based harassment together. Policy also updated to provide that employees are required to report incidents of prohibited discrimination within one workday, which may be modified to reflect the district's timeline, in order to maintain consistency of such reporting requirements across the policy manual.

#### **Administrative Regulation 4030 - Nondiscrimination in Employment**

Regulation updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct, (2) require districts to provide a notice of nondiscrimination on the basis of sex, and (3) require specified training related to sex discrimination for all district employees, as well as additional training for investigators, decisionmakers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and the Title IX Coordinator(s) and designees. Additionally, regulation updated to reflect remedies available for violation of the Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act, the Pregnant Workers Fairness Act, and other provisions of state law.

#### **Board Policy 4033 - Lactation Accommodation**

Policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) require districts to provide reasonable break time for employees to express breast milk or breastfeed, and to ensure that employees have access to a lactation space, as specified, (2) provide that "sex" for purposes of sex discrimination under Title IX includes lactation and related medical conditions or recovery, and (3) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. Additionally, policy updated to reflect the Providing Urgent Maternal Protections (PUMP) for Nursing Mother Act which (1) requires employers to provide reasonable break time for nursing employees to express breast milk for one year after the child's birth, and to ensure that employees have access to a lactation space, as specified, and (2) authorizes an employee to file a complaint with the Wage and Hour Division of the U.S. Department of Labor for violation of such act. In addition, policy updated to reflect the Pregnant Workers Fairness Act which (1) requires employers to provide reasonable accommodation to employees due to pregnancy, childbirth, or related medical conditions, including lactation, as specified, and (2) authorizes an employee to file a complaint with the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the act.

### **Board Policy 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment**

Policy updated to include material related to sex discrimination, in addition to sex-based harassment.

Additionally, policy updated to reflect **NEW LAW (AB 1955, 2024)** which prohibits a district, including a Governing Board member, from retaliating or otherwise taking adverse action against an employee, including by placing the employee on administrative leave, on the basis that the employee supported a student exercising rights specified in certain Education Code provisions, performed work in a manner consistent with the district's legal obligations related to educational equity, or provided instruction to students consistent with current content standards, curriculum frameworks, instructional materials adopted by the state board, and state law. In addition, policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) require districts to provide a notice of nondiscrimination on the basis of sex, (2) require employees with knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment in a district education program or activity to notify the Title IX Coordinator, (3) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct, and (4) require the Title IX Coordinator to offer and coordinate supportive measures when notified of conduct that reasonably may constitute sex discrimination, including sex-based harassment.

### **Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment**

Regulation updated to include material related to sex discrimination, in addition to sex-based harassment.

Additionally, regulation updated to emphasize that the district does not discriminate on the basis of sex in any of its programs or activities, prohibits such conduct, and complies with Title IX. In addition, regulation updated to include definitions of sex discrimination and sex-based harassment, and reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status, (2) require specified training related to sex discrimination for all district employees, as well as additional training for investigators, decisionmakers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and the Title IX Coordinator(s) and designees, (3) require the district to retain for at least seven years the materials used to provide training required by Title IX and make the materials available to members of the public upon request, (4) require districts to provide a notice of nondiscrimination on the basis of sex, (5) require districts to take specified actions to prevent sex discrimination and sex-based harassment, and (6) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct.

### **Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures**

Regulation updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which make extensive and significant changes to the title IX grievance procedures including that they (1) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct,

(2) require district's to follow "basic requirements" when implementing the Title IX grievance procedures, (3) modify the definition of a "complaint" and who may bring a complaint, (4) modify the Title IX Coordinator's responsibilities related to the initiation of a complaint when the alleged victim chooses to not bring a complaint, (5) modify the requirements related to the offering and coordination of supportive measures, (6) expand the requirements related to the dismissal of complaints, including the appeal of dismissals, (7) expand the requirements related to the informal resolution process, (8) amend requirements related to notice of allegations when a formal investigation is initiated by the district, (9) expand

requirements related to the investigation procedures, (10) modify requirements related to the written decision, (11) alter the process for the appeal of the decision, (12) provide for extension of timelines, and (13) amend requirements for remedies, disciplinary actions, and record-keeping. Additionally, regulation updated to delete material defining sex-based harassment as the definitions for sex discrimination and sex-based harassment are contained within Administrative Regulation 4119.11 – Sex Discrimination and Sex-Based Harassment, and to delete material in regard to reporting of sex-based harassment as such material is contained within other related policies. Regulation also updated to add a section on Consolidation of Complaints, and material related to record-keeping requirements for complaints containing allegations of childhood sexual assault.

#### **Exhibit(1) 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures**

Exhibit updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which amend the Title IX notice of nondiscrimination on the basis of sex.

#### **Board Policy 5145.3 - Nondiscrimination/Harassment**

Policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status, and (2) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. Additionally, policy updated to reflect **NEW LAW (AB 1165, 2023)** which encourages districts to have a student who has been suspended, or for whom other means of correction have been implemented pursuant to Education Code 48900.5 for an incident of racist bullying, harassment, or intimidation, as well as the victim, to engage in a restorative justice practice suitable to address the needs of both the victim and the perpetrator.

#### **Administrative Regulation 5145.3 - Nondiscrimination/Harassment**

Regulation updated to provide that the individual identified as the Compliance Officer for coordinating the district's efforts to comply with applicable state and federal laws and to answer inquiries regarding the district's nondiscrimination policies be the same as the Compliance Officer specified in Administrative Regulation 1312.3 - Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination of a student, and the Title IX Coordinator specified in Administrative Regulation 5145.7 – Sex Discrimination and Sex-Based Harassment as the responsible employee to handle complaints alleging unlawful sex discrimination and sex-based harassment. Additionally, regulation updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status, (2) require the Title IX notice of nondiscrimination on the basis of sex to be posted on the district's website and published in district handbooks, catalogs, announcements, bulletins, and application forms, and (3) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. In addition, regulation updated to reflect **NEW LAW (AB 1327, 2023)** which requires a district that participates in the California Interscholastic Federation to post on its website the California Department of Education's (CDE) standardized incident form to track racial discrimination, harassment, or hazing that occurs at high school sporting games or events, including information on how to submit a completed incident form to the district. Regulation also updated to reflect **NEW LAW (SB 153, 2024)** which requires a district that serves students in any of grades 7-12 to provide certificated school employees information on existing school and community resources related to the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ+) students, or related to the support of students who may face bias or bullying, and



**NEW LAW (AB 5, 2023)** which requires a district that serves students in any of grades 7-12, starting in the 2025-26 school year, to provide at least one hour of training annually to all teachers and certificated employees which incorporates CDE's online training curriculum to support LGBTQ+ cultural competency. Additionally, regulation updated to provide that employees are required to report incidents of prohibited discrimination within one workday, which may be modified to reflect the district's timeline, in order to maintain consistency of such reporting requirements across the policy manual, and to move the section "Issues Unique to Intersex, Nonbinary, Transgender and Gender-Nonconforming Students," to Administrative Regulation 5145.7 – Sex Discrimination and Sex-Based Harassment in order to keep related material together.

#### **Board Policy 5145.7 - Sex Discrimination and Sex-Based Harassment**

Policy updated to include material related to sex discrimination, in addition to sex-based harassment. Additionally, policy updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status, (2) require employees with knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment in a district education program or activity to notify the Title IX Coordinator, (3) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct, (4) require the Title IX Coordinator to offer and coordinate supportive measures when notified of conduct that reasonably may constitute sex discrimination, including sex-based harassment (5) require specified training related to sex discrimination for all district employees, as well as additional training for investigators, decisionmakers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and the Title IX Coordinator(s) and designees, and (6) require specified records to be maintained for seven years. In addition, policy updated to reflect **NEW LAW (AB 1955, 2024)** which prohibits a district, including a Governing Board member from retaliating or otherwise taking adverse action against an employee, including by placing the employee on administrative leave, on the basis that the employee supported a student exercising rights specified in certain Education Code provisions, performed work in a manner consistent with the district's legal obligations related to educational equity, or provided instruction to students consistent with current content standards, curriculum frameworks, instructional materials adopted by the state board, and state law. Policy also updated to (1) provide that employees are required to report incidents of prohibited discrimination within one workday, which may be modified to reflect the district's timeline, in order to maintain consistency of such reporting requirements across the policy manual, and (2) delete material related to requirements for posting and publishing the district's sexual harassment policy which are located in Administrative Regulation 5145.3 – Nondiscrimination/Harassment, and the accompanying administrative regulation by reference.

#### **Administrative Regulation 5145.7 - Sex Discrimination and Sex-Based Harassment**

Regulation updated to include material related to sex discrimination, in addition to sex-based harassment. Additionally, regulation updated to emphasize that the district does not discriminate on the basis of sex in any of its programs or activities, prohibits such conduct, and complies with Title IX. In addition, regulation updated to include definitions of sex discrimination and sex-based harassment, and reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which (1) clarify that discrimination on the basis of sex, including sex-based harassment, for the purpose of Title IX includes sex stereotypes; sex characteristics; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status, (2) require a district with knowledge

of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct, and (3) provide that a district (a) may not exclude a student from participation in, deny a student the benefits of, or otherwise subject a student to discrimination on the basis of sex in any education program or activity, (b) that in the limited circumstances in which different treatment or separation on the basis of sex is permitted, a district may not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a student to more than de minimis harm, and (c) that preventing a student from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex. Regulation also updated to provide that employees are required to report incidents of prohibited discrimination within one workday, which may be modified to reflect the district's timeline, in order to maintain consistency of such reporting requirements across the policy manual. Additionally, regulation updated to (1) include material formerly in Administrative Regulation 5145.3 - Nondiscrimination/Harassment related to issues that are unique to intersex, nonbinary, transgender, and gender nonconforming students, (2) reflect **NEW LAW (AB 1955, 2024)** which clarifies that under existing law a district, including a Governing Board member, may not require an employee or contractor to disclose any information related to a student's sexual orientation, gender identity, or gender expression to any other person, or enact or enforce any policy, rule, or administrative regulation that would require the same, without the student's consent unless otherwise required by state or federal law, and (3) reflect **NEW LAW (SB 760, 2023)** which requires, beginning July 1, 2026, each school with more than one female student restroom and more than one male student restroom to provide and maintain at least one all-gender restroom for student use that meets the requirements of law.

#### **Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures**

Regulation updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which make extensive and significant changes to the title IX grievance procedures including that they (1) require a district with knowledge of alleged conduct, which occurs in a district program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct, (2) require district's to follow "basic requirements" when implementing the Title IX grievance procedures, (3) modify the definition of a "complaint" and who may bring a complaint, (4) modify the Title IX Coordinator's responsibilities related to the initiation of a complaint when the alleged victim chooses to not bring a complaint, (5) modify the requirements related to the offering and coordination of supportive measures, (6) expand the requirements related to the dismissal of complaints, including the appeal of dismissals, (7) expand the requirements related to the informal resolution process, (8) amend requirements related to notice of allegations when a formal investigation is initiated by the district, (9) expand requirements related to the investigation procedures, (10) modify requirements related to the written decision, (11) alter the process for the appeal of the decision, (12) provide for extension of timelines, and (13) amend requirements for remedies, disciplinary actions, and record-keeping. Additionally, regulation updated to delete material defining sex-based harassment as the definitions for sex discrimination and sex-based harassment are contained within Administrative Regulation 5145.7 – Sex Discrimination and Sex-Based Harassment, and to delete material in regard to reporting of sex-based harassment as such material is contained within other related policies. Regulation also updated to add a section on Consolidation of Complaints, and material related to record-keeping requirements for complaints containing allegations of childhood sexual assault.

#### **Exhibit(1) 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures**

Exhibit updated to reflect **NEW FEDERAL REGULATIONS (89 Fed. Reg. 33474)** which amend the Title IX notice of nondiscrimination on the basis of sex.

# **CSBA Policy Management Console**

CSBA Sample District Policy Manual

**Policy 0410: Nondiscrimination In District Programs And Activities**

Status: ADOPTED

Original Adopted Date: 02/01/2014 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

This policy shall apply to all acts related to a school activity or school attendance and to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district.

The Board is committed to providing equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual or group based on race; color; ancestry; nationality; national origin; immigration status; ethnic group identification; ethnicity; age; religion; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; reproductive health decisionmaking; physical or mental disability; medical condition; sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; veteran or military status; or genetic information; a 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.

All individuals shall be treated equitably in the receipt of district and school services. Personally identifiable information collected in the implementation of any district program, including, but not limited to, student and family information for the free and reduced-price lunch program, transportation, or any other educational program, shall be used only for the purposes of the program, except when the Superintendent or designee authorizes its use for another purpose in accordance with law. Resources and data collected by the district shall not be used, directly or by others, to compile a list, registry, or database of individuals based on any of the categories identified above.

District programs and activities shall be free of any discriminatory use, selection, or rejection of textbooks, instructional materials, library books, or similar educational resources.

The use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library shall not be rejected or prohibited by the Board or district on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. (Education Code 243)

Additionally, the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library shall not be adopted by the Board or district if the use would subject a student to unlawful discrimination as specified in Education Code 220. (Education Code 244)

District programs and activities shall be free of any racially derogatory or discriminatory school or athletic team names, mascots, or nicknames.

The Superintendent or designee shall annually review district programs and activities to ensure the removal of any derogatory or discriminatory name, image, practice, or other barrier that may unlawfully prevent an individual or group in any of the protected categories stated above from accessing district programs and activities. The Superintendent or designee shall take prompt, reasonable actions to remove any identified barrier. The Superintendent or designee shall report the findings and recommendations to the Board after each review.

Except for allegations of sex discrimination or sex-based harassment, allegations of unlawful discrimination in district programs and activities shall be investigated and resolved in accordance with Board Policy and Administrative Regulation 1312.3 - Uniform Complaint Procedures, for students, and Administrative Regulation 4030 Nondiscrimination in Employment, for employees. Complaints alleging sex discrimination, including sex-based harassment, shall be investigated and resolved in accordance with 34 CFR 106.44 and 106.45 and as specified in Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, for students, and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, for employees.

Pursuant to 34 CFR 104.8 and 106.8, the Superintendent or designee shall notify students, parents/guardians, employees, employee organizations, applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination and related complaint procedures. Such notification shall be included in the annual parental notification distributed pursuant to Education Code 48980 and, as applicable, in announcements, bulletins, catalogs, handbooks, application forms, or other materials distributed by the district. The notification shall also be posted on the district's website and social media and in district schools and offices, including staff lounges, student government meeting rooms, and other prominent locations as appropriate.

In addition, the annual parental notification shall inform parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, including information on educational rights issued by the California Attorney General. Alternatively, such information may be provided through any other cost-effective means determined by the Superintendent or designee. (Education Code 234.7)

The district's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand. In addition, when 15 percent or more of a school's students speak a single primary language other than English, those materials shall be translated into that other language. (Education Code 48985; 20 USC 6312)

### **Access for Individuals with Disabilities**

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act (ADA) and any implementing standards and/or regulations. When structural changes to existing district facilities are needed to provide individuals with disabilities access to programs, services, activities, or facilities, the Superintendent or designee shall develop a transition plan that sets forth the steps for completing the changes.

The Superintendent or designee shall ensure that the district's web and mobile applications comply with technical standards prescribed by law, and as necessary, shall provide appropriate auxiliary aids and services to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of district services, programs, or activities. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, assistive technologies or other modifications to increase accessibility to district and school websites, notetakers, written materials, taped text, and Braille or large-print materials. Individuals with disabilities shall notify the Superintendent or designee if they have a disability that requires special assistance or services. Reasonable notification should be given prior to a school-sponsored function, program, or meeting.

The individual identified in Administrative Regulation 1312.3 - Uniform Complaint Procedures as the employee responsible for coordinating the district's response to complaints and for complying with state federal civil rights laws is hereby designated as the district's ADA coordinator. The compliance officer shall

receive and address requests for accommodation submitted by individuals with disabilities, and shall investigate and resolve complaints regarding their access to district programs, services, activities, or facilities.

Superintendent / Principal  
(title or position)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(telephone number)

\_\_\_\_\_  
(email)

**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 References**

5 CCR 4600-4670

**Description**

Uniform complaint  
procedures

## State References

5 CCR 4900-4965  
Ed. Code 200-262.4  
Ed. Code 48980  
Ed. Code 48985  
Ed. Code 51007  
Ed. Code 51204.5  
Ed. Code 51501  
Ed. Code 60010  
Ed. Code 60040-60052  
Gov. Code 11000  
Gov. Code 11135  
Gov. Code 12900-12996  
Gov. Code 54953  
Gov. Code 54953.2  
Gov. Code 8310.3  
Pen. Code 422.55  
Pen. Code 422.6

## Federal References

20 USC 1400-1482  
20 USC 1681-1688  
20 USC 2301-2414  
20 USC 6311  
20 USC 6312  
28 CFR 35.101-35.190  
28 CFR 36.303  
29 USC 794  
34 CFR 100.1-100.13  
34 CFR 104.1-104.39  
34 CFR 106.1-106.82  
42 USC 12101-12213  
42 USC 2000d-2000d-7  
42 USC 2000e-2000e-17

## Management Resources References

CA Civil Rights Department Publication

## Description

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance  
Prohibition of discrimination  
Parent/Guardian notifications  
Notices to parents in language other than English  
Legislative intent: state policy  
Social sciences instruction; contributions of specified groups  
Nondiscriminatory subject matter  
Instructional materials; definition  
Requirements for instructional materials  
Definitions  
Prohibition of discrimination  
Fair Employment and Housing Act  
Meetings; Americans with Disabilities Act accessibility  
Brown Act compliance with Americans with Disabilities Act  
California Religious Freedom Act  
Definition of hate crime  
Crimes; harassment

## Description

Individuals with Disabilities Education Act  
Title IX of the Education Amendments of 1972; discrimination based on sex  
Strengthening Career and Technical Education for the 21st Century Act  
State plan  
Local educational agency plan  
Americans with Disabilities Act  
Nondiscrimination on the basis of disability, public accommodations, auxiliary aids, and services  
Rehabilitation Act of 1973; Section 504  
Nondiscrimination in federal programs; effectuating Title VI  
Section 504 of the Rehabilitation Act of 1973  
Discrimination on the basis of sex; effectuating Title IX  
Americans with Disabilities Act  
Title VI, Civil Rights Act of 1964  
Title VII, Civil Rights Act of 1964, as amended

## Description

California Law Prohibits Workplace Discrimination and Harassment, January 2024

	Description
CA Department of Health Care Services Publication	<a href="#"><u>Policy and Procedures Letter No. 21-017R, December 2021</u></a>
CA Department of Health Care Services Publication	<a href="#"><u>Policy and Procedures Letter No. 23-004, February 2023</u></a>
<b>Management Resources References</b>	
	<a href="#"><u>Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024</u></a>
CA Office of the Attorney General Publication	<a href="#"><u>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</u></a>
CA Office of the Attorney General Publication	<a href="#"><u>Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024</u></a>
CSBA Publication	<a href="#"><u>Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024</u></a>
CSBA Publication	<a href="#"><u>Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024</u></a>
CSBA Publication	<a href="#"><u>Parental and Student Rights in Relation to Transgender and Gender Nonconforming Students, Recently Asked Questions, August 2023</u></a>
CSBA Publication	<a href="#"><u>Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022</u></a>
Federal Register	<a href="#"><u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</u></a>
U.S. Department of Education Publication	<a href="#"><u>Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023</u></a>
U.S. DOE & U.S. DOJ Civil Rights Divisions Pub	<a href="#"><u>Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics, May 2024</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Dear Colleague Letter: Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Supporting Transgender Youth in School, June 2021</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Dear Colleague Letter: Frequently Asked Questions About the June 29, 2010, Dear Colleague Letter, May 26, 2011</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Nondiscrimination in Employment Practices in Education, August 1991</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Dear Colleague Letter: Race and School Programming, August 2023</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Dear Colleague Letter: Electronic Book Readers, June 29, 2010</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Dear Colleague Letter: Harassment and Bullying, October 2010</u></a>
U.S. DOJ, Civil Rights Division Publication	<a href="#"><u>Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments, April 2024</u></a>
U.S. DOJ, Civil Rights Division Publication	<a href="#"><u>Guidance on Web Accessibility and the ADA, March 2022</u></a>
U.S. DOJ, Civil Rights Division Publication	<a href="#"><u>Accessibility of State and Local Government Websites to People with Disabilities, February 2020</u></a>



	<b>Description</b>
U.S. DOJ, Civil Rights Division Publication	<a href="#"><u>2010 ADA Standards for Accessible Design, September 2010</u></a>
Website	<a href="#"><u>CSBA District and County Office of Education Legal Services</u></a>
Website	<a href="#"><u>California Office of the Attorney General</u></a>
Website	<a href="#"><u>World Wide Web Consortium, Web Accessibility Initiative</u></a>
Website	<a href="#"><u>Pacific ADA Center</u></a>
Website	<a href="#"><u>U.S. Department of Justice, Civil Rights Division, Disability Rights Section</u></a>
Website	<a href="#"><u>California Safe Schools Coalition</u></a>
Website	<a href="#"><u>CSBA</u></a>
<b>Management Resources References</b>	
Website	<a href="#"><u>California Department of Education</u></a>
Website	<a href="#"><u>California Civil Rights Department</u></a>
Website	<a href="#"><u>Equal Employment Opportunity Commission</u></a>
Website	<a href="#"><u>U.S. Department of Education, Office for Civil Rights</u></a>
Website	<a href="#"><u>California Department of Health Care Services</u></a>
World Wide Web Consortium Publication	<a href="#"><u>Web Content Accessibility Guidelines, September 2023</u></a>
<b>Cross References</b>	<b>Description</b>
0100	<a href="#"><u>Philosophy</u></a>
0415	<a href="#"><u>Equity</u></a>
0450	<a href="#"><u>Comprehensive Safety Plan</u></a>
0450	<a href="#"><u>Comprehensive Safety Plan</u></a>
1100	<a href="#"><u>Communication With The Public</u></a>
1113	<a href="#"><u>District And School Websites</u></a>
1113	<a href="#"><u>District And School Websites</u></a>
1113-E(1)	<a href="#"><u>District And School Websites</u></a>
1114	<a href="#"><u>District-Sponsored Social Media</u></a>
1114	<a href="#"><u>District-Sponsored Social Media</u></a>
1230	<a href="#"><u>School-Connected Organizations</u></a>
1230	<a href="#"><u>School-Connected Organizations</u></a>
1240	<a href="#"><u>Volunteer Assistance</u></a>
1240	<a href="#"><u>Volunteer Assistance</u></a>
1260	<a href="#"><u>Educational Foundation</u></a>
1312.2	<a href="#"><u>Complaints Concerning Instructional Materials</u></a>
1312.2	<a href="#"><u>Complaints Concerning Instructional Materials</u></a>
1312.2-E(1)	<a href="#"><u>Complaints Concerning Instructional Materials</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(1)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(2)	<a href="#"><u>Uniform Complaint Procedures</u></a>

	<b>Description</b>
1312.4	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(1)	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(2)	<u>Williams Uniform Complaint Procedures</u>
1325	<u>Advertising And Promotion</u>
1330	<u>Use Of School Facilities</u>
1330	<u>Use Of School Facilities</u>
3260	<u>Fees And Charges</u>
3260	<u>Fees And Charges</u>
3270	<u>Sale And Disposal Of Books, Equipment And Supplies</u>
3270	<u>Sale And Disposal Of Books, Equipment And Supplies</u>

<b>Cross References</b>	<b>Description</b>
3311	<u>Bids</u>
3311	<u>Bids</u>
3515.3	<u>District Police/Security Department</u>
3515.3	<u>District Police/Security Department</u>
3515.31	<u>School Resource Officers</u>
3530	<u>Risk Management/Insurance</u>
3530	<u>Risk Management/Insurance</u>
3540	<u>Transportation</u>
3541.2	<u>Transportation For Students With Disabilities</u>
3551	<u>Food Service Operations/Cafeteria Fund</u>
3551	<u>Food Service Operations/Cafeteria Fund</u>
3552	<u>Summer Meal Program</u>
3552	<u>Summer Meal Program</u>
3553	<u>Free And Reduced Price Meals</u>
3553	<u>Free And Reduced Price Meals</u>
3555	<u>Nutrition Program Compliance</u>
3555-E(1)	<u>Nutrition Program Compliance</u>
3600	<u>Consultants</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4032	<u>Reasonable Accommodation</u>
4033	<u>Lactation Accommodation</u>
4040	<u>Employee Use Of Technology</u>
4040-E(1)	<u>Employee Use Of Technology</u>
4111	<u>Recruitment And Selection</u>
4111.2	<u>Legal Status Requirement</u>
4111.2	<u>Legal Status Requirement</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
	<u>Procedures</u>
4119.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
	<u>Procedures</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4119.22	<u>Dress And Grooming</u>
4131	<u>Staff Development</u>
4144	<u>Complaints</u>

<b>Cross References</b>	<b>Description</b>
4144	<u>Complaints</u>
4161.8	<u>Family Care And Medical Leave</u>
4211	<u>Recruitment And Selection</u>
4211.2	<u>Legal Status Requirement</u>
4211.2	<u>Legal Status Requirement</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u> <u>Title IX Sex Discrimination and Sex-Based Harassment</u> <u>Complaint</u>
4219.12	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment</u> <u>Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.22	<u>Dress And Grooming</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4261.8	<u>Family Care And Medical Leave</u>
4311	<u>Recruitment And Selection</u>
4311.2	<u>Legal Status Requirement</u>
4311.2	<u>Legal Status Requirement</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u> <u>Title IX Sex Discrimination and Sex-Based Harassment</u> <u>Complaint</u>
4319.12	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment</u> <u>Complaint</u>
4319.12-E(1)	<u>Procedures</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.22	<u>Dress And Grooming</u>
4331	<u>Staff Development</u>

<b>Cross References</b>	<b>Description</b>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
4361.8	<u>Family Care And Medical Leave</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.1	<u>Chronic Absence And Truancy</u>
5116.2	<u>Involuntary Student Transfers</u>
5126	<u>Awards For Achievement</u>
5126	<u>Awards For Achievement</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5141.22	<u>Infectious Diseases</u>
5141.22	<u>Infectious Diseases</u>
5141.6	<u>School Health Services</u>
5141.6	<u>School Health Services</u>
5145.12	<u>Search And Seizure</u>
5145.12	<u>Search And Seizure</u>
5145.13	<u>Response To Immigration Enforcement</u>
5145.13	<u>Response To Immigration Enforcement</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/Pregnant/Parenting Students</u>
5148	<u>Child Care And Development</u>
5148	<u>Child Care And Development</u>
5148.2	<u>Before/After School Programs</u>
5148.2	<u>Before/After School Programs</u>
6000	<u>Concepts And Roles</u>
6020	<u>Parent Involvement</u>
6020	<u>Parent Involvement</u>
6141	<u>Curriculum Development And Evaluation</u>

<b>Cross References</b>	<b>Description</b>
6141	<u>Curriculum Development And Evaluation</u>
6141.2	<u>Recognition Of Religious Beliefs And Customs</u>
6141.2	<u>Recognition Of Religious Beliefs And Customs</u>
6141.4	<u>International Baccalaureate Program</u>
6141.5	<u>Advanced Placement</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.3	<u>Civic Education</u>
6142.5	<u>Environmental Education</u>
6142.7	<u>Physical Education And Activity</u>
6142.7	<u>Physical Education And Activity</u>
6143	<u>Courses Of Study</u>
6143	<u>Courses Of Study</u>
6144	<u>Controversial Issues</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6152.1	<u>Placement In Mathematics Courses</u>
6152.1	<u>Placement In Mathematics Courses</u>
6158	<u>Independent Study</u>
6158	<u>Independent Study</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
6161.11	<u>Supplementary Instructional Materials</u>
6162.5	<u>Student Assessment</u>
6163.1	<u>Library Media Centers</u>
6163.2	<u>Animals At School</u>
6163.2	<u>Animals At School</u>
6164.2	<u>Guidance/Counseling Services</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.6	<u>Identification And Education Under Section 504</u>
6164.6	<u>Identification And Education Under Section 504</u>
6172	<u>Gifted And Talented Student Program</u>
6172	<u>Gifted And Talented Student Program</u>
6173	<u>Education For Homeless Children</u>
6173	<u>Education For Homeless Children</u>

**Cross References****Description**

6173-E(1)	<u>Education For Homeless Children</u>
6173- E(2)	<u>Education For Homeless Children</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>
6173.4	<u>Education For American Indian Students</u>
6175	<u>Migrant Education Program</u>
6175	<u>Migrant Education Program</u>
6178	<u>Career Technical Education</u>
6178	<u>Career Technical Education</u>
6181	<u>Alternative Schools/Programs Of Choice</u>
6181	<u>Alternative Schools/Programs Of Choice</u>
6184	<u>Continuation Education</u>
6184	<u>Continuation Education</u>
6200	<u>Adult Education</u>
6200	<u>Adult Education</u>
7110	<u>Facilities Master Plan</u>
7111	<u>Evaluating Existing Buildings</u>
7310	<u>Naming Of Facility</u>
9150	<u>Student Board Members</u>
9220	<u>Governing Board Elections</u>
9220-E(1)	<u>Governing Board Elections</u>
9320	<u>Meetings And Notices</u>
9322	<u>Agenda/Meeting Materials</u>

### Policy 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 05/01/2017 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages the early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

#### Complaints Subject to UCP

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve complaints regarding the following programs and activities:

1. Accommodations for pregnant and parenting students (Education Code 46015)
2. Adult education programs (Education Code 8500-8538, 52334.7, 52500-52617)
3. After School Education and Safety programs (Education Code 8482-8484.65)
4. Agricultural career technical education (Education Code 52460-52462)
5. Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)
6. Child care and development programs (Education Code 8200-8488)
7. Compensatory education (Education Code 54400)
8. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)
9. Course periods without educational content (Education Code 51228.1-51228.3)
10. Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, physical or mental disability, medical condition, or genetic information; any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55; or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

Discrimination includes, but is not limited to, the Board's refusal to approve the use or prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education



Code 51501 or 60044. Additionally, discrimination includes, but is not limited to, the Board's adoption or approval of use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library if the use would subject a student to unlawful discrimination pursuant to Education Code 220. A complaint alleging such unlawful discrimination may, in addition to or in lieu of being filed with the district, be directly filed with the Superintendent of Public Instruction (SPI). (Education Code 243, 244)

The UCP shall not be used to investigate and resolve employment discrimination complaints. (5 CCR 4611)

11. Educational and graduation requirements for students in foster care, students experiencing homelessness, students from military families, students formerly in a juvenile court school, students who are migratory, and newcomer students (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)
12. Every Student Succeeds Act (Education Code 52059.5; 20 USC 6301 et seq.)
13. Local control and accountability plan (Education Code 52075)
14. Migrant education (Education Code 54440-54445)
15. Physical education instructional minutes (Education Code 51210, 51222, 51223)
16. Student fees (Education Code 49010-49013)
17. Reasonable accommodations to a lactating student (Education Code 222)
18. Regional occupational centers and programs (Education Code 52300-52334.7)
19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)
20. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)
21. State preschool programs (Education Code 8207-8225)
22. State preschool health and safety issues in license-exempt programs (Education Code 8212)
23. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy
24. Any other state or federal educational program the SPI or designee deems appropriate

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with federal, state, and local laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

When an allegation that is not subject to UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

### **Non-UCP Complaints**

The following complaints shall not be subject to the district's UCP but shall be investigated and resolved by the specified agency or through an alternative process:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency (5 CCR 4611)
2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services (5 CCR 4611)
3. Any complaint alleging that a student, while in an education program or activity, was subjected to conduct known to the district that may reasonably constitute sex discrimination under Title IX, including sex-based harassment, as defined in 34 CFR 106.2

Discrimination on the basis of sex includes sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Such a complaint shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. (34 CFR 106.2, 106.10, 106.11, 106.44)

4. Except for complaints alleging sex discrimination, including sex-based harassment, any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in Administrative Regulation 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Civil Rights Department

Employment complaints alleging sex discrimination, including sex-based harassment, shall be investigated and resolved as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

5. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE),

failure or refusal to implement a due process hearing order to which the district is subject, or a physical safety concern that interferes with the district's provision of FAPE shall be submitted to the California Department of Education (CDE) in accordance with Administrative Regulation 6159.1 - Procedural Safeguards and Complaints for Special Education (5 CCR 3200-3205)

6. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with Board Policy 3555 - Nutrition Program Compliance (5 CCR 15580-15584)
7. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with Board Policy 3555 - Nutrition Program Compliance (5 CCR 15582)
8. Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with Administrative Regulation 1312.4 Williams Uniform Complaint Procedures (Education Code 35186)

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**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.

<b>State References</b>	<b>Description</b>
2 CCR 11023	Harassment and discrimination prevention and correction
5 CCR 15580-15584	Child nutrition programs complaint procedures
5 CCR 3200-3205	Special education compliance complaints
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4600-4687	Uniform complaint procedures and Williams complaints

State References	Description
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 18100-18203	<u>School libraries</u>
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 32280-32289.5	<u>School safety plans</u>
Ed. Code 35186	<u>Williams uniform complaint procedures</u>
Ed. Code 46015	<u>Parental leave for students</u>
Ed. Code 48645.7	<u>Juvenile court schools</u>
Ed. Code 48853-48853.5	<u>Foster youth</u>
Ed. Code 48900.5	Suspension; other means of correction
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Ed. Code 49010-49013	<u>Student fees</u>
Ed. Code 49060-49079	<u>Student records</u>
Ed. Code 49069.5	<u>Records of foster youth</u>
Ed. Code 49490-49590	<u>Child nutrition programs</u>
Ed. Code 49701	<u>Provisions of the Interstate Compact on Educational Opportunities for Military Children</u>
Ed. Code 51204.5	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51210	<u>Course of study for grades 1-6</u>
Ed. Code 51222	<u>Physical education</u>
Ed. Code 51223	<u>Physical education; elementary schools</u>
Ed. Code 51225.1-51225.2	<u>Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements</u>
Ed. Code 51226-51226.1	<u>Career technical education</u>
Ed. Code 51228.1-51228.3	<u>Course periods without educational content</u>
Ed. Code 51501	<u>Nondiscriminatory subject matter</u>
Ed. Code 52059.5	<u>Statewide system of support</u>
Ed. Code 52060-52077	<u>Local control and accountability plan</u>
Ed. Code 52075	<u>Complaint for lack of compliance with local control and accountability plan requirements</u>
Ed. Code 52300-52462	<u>Career technical education</u>
Ed. Code 52500-52617	<u>Adult schools</u>
Ed. Code 54400-54425	<u>Compensatory education programs</u>
Ed. Code 54440-54445	<u>Migrant education</u>
Ed. Code 54460-54529	<u>Compensatory education programs</u>
Ed. Code 59000-59300	<u>Special schools and centers</u>
Ed. Code 60010	<u>Instructional materials; definition</u>
Ed. Code 60040-60052	<u>Requirements for instructional materials</u>

Ed. Code 64000-64001

Ed. Code 65000-65001

**State References**

Ed. Code 8200-8488

Ed. Code 8500-8538

Gov. Code 11135

Gov. Code 12900-12996

H&S Code 1596.792

H&S Code 1596.7925

Pen. Code 422.55

Pen. Code 422.6

**Federal References**

20 USC 1221

20 USC 1232g

20 USC 1681-1688

20 USC 6301-6576

20 USC 6801-7014

28 CFR 35.107

29 USC 794

34 CFR 100.3

34 CFR 104.7

34 CFR 106.1-106.82

34 CFR 106.30

34 CFR 106.44

34 CFR 106.45

34 CFR 106.8

34 CFR 110.25

34 CFR 99.1-99.67

42 USC 11431-11435

42 USC 12101-12213

42 USC 2000d-2000d-7

42 USC 2000h-2-2000h-6

42 USC 6101-6107

**Management Resources References**

**Description**

Consolidated application process; school plan for student achievement

School site councils

Child care and development programs

Adult basic education

Prohibition of discrimination

Fair Employment and Housing Act

California Child Day Care Act; general provisions and definitions

California Child Day Care Act; health and safety regulations

Definition of hate crime

Crimes; harassment

**Description**

Application of laws

Family Educational Rights and Privacy Act (FERPA) of 1974

Title IX of the Education Amendments of 1972; discrimination based on sex

Title I Improving the Academic Achievement of the Disadvantaged

Title III language instruction for limited English proficient and immigrant students

Nondiscrimination on basis of disability; complaints

Rehabilitation Act of 1973; Section 504

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

Section 504; Designation of responsible employee and adoption of grievance procedures

Nondiscrimination on the basis of sex in education programs

Discrimination on the basis of sex in education programs and activities; definitions

Recipient's response to sexual harassment

Grievance process for formal complaints of sexual harassment

Designation of coordinator; dissemination of policy, and adoption of grievance procedures

Notification of nondiscrimination on the basis of age

Family Educational Rights and Privacy

McKinney-Vento Homeless Assistance Act

Americans with Disabilities Act

Title VI, Civil Rights Act of 1964

Title IX of the Civil Rights Act of 1964

Age Discrimination Act of 1975

**Description**

	Description
California Department of Education Publication	<a href="#">Uniform Complaint Procedure 2021-22 Program Instrument</a>
California Department of Education Publication	<a href="#">Sample UCP Board Policies and Procedures</a>
California Department of Justice Publication	<a href="#">Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024</a>
CSBA Publication	<a href="#">Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024</a>

**Management Resources References**

CSBA Publication	<a href="#">Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024</a>
CSBA Publication	<a href="#">Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024</a>
Federal Register	<a href="#">Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</a>
U.S. DOE, Office for Civil Rights Publication	<a href="#">Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014</a>
U.S. DOJ Publication	<a href="#">Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007</a>
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">Student Privacy Policy Office</a>
Website	<a href="#">U.S. Department of Agriculture</a>
Website	<a href="#">California Department of Social Services</a>
Website	<a href="#">U.S. Department of Justice</a>
Website	<a href="#">California Department of Education</a>
Website	<a href="#">CSBA</a>
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>
Website	<a href="#">California Civil Rights Department</a>

**Cross References**

	Description
0410	<a href="#">Nondiscrimination In District Programs And Activities</a>
0420	<a href="#">School Plans/Site Councils</a>
0420	<a href="#">School Plans/Site Councils</a>
0420.41	<a href="#">Charter School Oversight</a>
0420.41-E(1)	<a href="#">Charter School Oversight</a>
0430	<a href="#">Comprehensive Local Plan For Special Education</a>
0430	<a href="#">Comprehensive Local Plan For Special Education</a>
0450	<a href="#">Comprehensive Safety Plan</a>
0450	<a href="#">Comprehensive Safety Plan</a>
0460	<a href="#">Local Control And Accountability Plan</a>
0460	<a href="#">Local Control And Accountability Plan</a>

	<b>Description</b>
1100	<u>Communication With The Public</u>
1113	<u>District And School Websites</u>
1113	<u>District And School Websites</u>
1113-E(1)	<u>District And School Websites</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1220	<u>Citizen Advisory Committees</u>
1220	<u>Citizen Advisory Committees</u>
1250	<u>Visitors/Outsiders</u>

<b>Cross References</b>	<b>Description</b>
1250	<u>Visitors/Outsiders</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.2-E(1)	<u>Complaints Concerning Instructional Materials</u>
1312.4	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(1)	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(2)	<u>Williams Uniform Complaint Procedures</u>
1313	<u>Civility</u>
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
3260	<u>Fees And Charges</u>
3260	<u>Fees And Charges</u>
3555	<u>Nutrition Program Compliance</u>
3555-E(1)	<u>Nutrition Program Compliance</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4112.23	<u>Special Education Staff</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.1	<u>Civil And Legal Rights</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12	<u>Procedures</u>
4119.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	<u>Procedures</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4131	<u>Staff Development</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>



<b>Cross References</b>	<b>Description</b>
4219.1	<u>Civil And Legal Rights</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4319.1	<u>Civil And Legal Rights</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4331	<u>Staff Development</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
5116.1	<u>Intradistrict Open Enrollment</u>
5116.1	<u>Intradistrict Open Enrollment</u>
5117	<u>Interdistrict Attendance</u>
5117	<u>Interdistrict Attendance</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5131.62	<u>Tobacco</u>
5131.62	<u>Tobacco</u>
5137	<u>Positive School Climate</u>
5141.22	<u>Infectious Diseases</u>
5141.22	<u>Infectious Diseases</u>

**Cross References****Description**

5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/Pregnant/Parenting Students</u>
5148	<u>Child Care And Development</u>
5148	<u>Child Care And Development</u>
5148.2	<u>Before/After School Programs</u>
5148.2	<u>Before/After School Programs</u>
5148.3	<u>Preschool/Early Childhood Education</u>
5148.3	<u>Preschool/Early Childhood Education</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.7	<u>Physical Education And Activity</u>
6142.7	<u>Physical Education And Activity</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6146.1	<u>High School Graduation Requirements</u>
6152	<u>Class Assignment</u>
6159	<u>Individualized Education Program</u>
6159	<u>Individualized Education Program</u>
6159.1	<u>Procedural Safeguards And Complaints For Special Education</u>
6159.1	<u>Procedural Safeguards And Complaints For Special Education</u>

Cross References	Description
6159.2	<u>Nonpublic, Nonsectarian School And Agency Services For Special Education</u>
6159.2	<u>Nonpublic, Nonsectarian School And Agency Services For Special Education</u>
6159.3	<u>Appointment Of Surrogate Parent For Special Education Students</u>
6159.3	<u>Appointment Of Surrogate Parent For Special Education Students</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
6161.11	<u>Supplementary Instructional Materials</u>
6163.1	<u>Library Media Centers</u>
6164.2	<u>Guidance/Counseling Services</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.5	<u>Student Success Teams</u>
6164.5	<u>Student Success Teams</u>
6171	<u>Title I Programs</u>
6171	<u>Title I Programs</u>
6173	<u>Education For Homeless Children</u>
6173	<u>Education For Homeless Children</u>
6173-E(1)	<u>Education For Homeless Children</u>
6173- E(2)	<u>Education For Homeless Children</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>
6173.2	<u>Education Of Children Of Military Families</u>
6173.2	<u>Education Of Children Of Military Families</u>
6173.3	<u>Education For Juvenile Court School Students</u>
6175	<u>Migrant Education Program</u>
6175	<u>Migrant Education Program</u>
6178	<u>Career Technical Education</u>
6178	<u>Career Technical Education</u>
6178.1	<u>Work-Based Learning</u>
6178.1	<u>Work-Based Learning</u>
6178.2	<u>Regional Occupational Center/Program</u>
6200	<u>Adult Education</u>
6200	<u>Adult Education</u>
9000	<u>Role Of The Board</u>
9011	<u>Disclosure Of Confidential/Privileged Information</u>

**Cross References**

9012

9124

9200

9321

9321-E(1)

9321-E(2)

9322

**Description**Board Member Electronic CommunicationsAttorneyLimits Of Board Member AuthorityClosed SessionClosed SessionClosed SessionAgenda/Meeting Materials

**Regulation 1312.3: Uniform Complaint Procedures**

Status: ADOPTED

Original Adopted Date: 05/01/2017 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

Except as may otherwise be specifically provided in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in the accompanying Board policy.

**Compliance Officers**

The district designates the individual(s), position(s), or unit(s) identified below as responsible for receiving, coordinating, and investigating complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in Administrative Regulation 5145.3 Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying and in Administrative Regulation 5145.7 - Sex Discrimination and Sex-Based Harassment for handling complaints regarding sex discrimination and sex-based harassment.

Superintendent / Principal  
(title or position)

\_\_\_\_\_  
(unit or office)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(telephone number)

\_\_\_\_\_  
(email)

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program; applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination, harassment, intimidation, or bullying; applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The compliance officer or, if necessary, an appropriate administrator shall determine whether interim measures are necessary during an investigation and while the result is pending. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

### **Notifications**

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

In addition, the Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred
4. A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
7. A statement that the district will post a standardized notice of the educational and graduation requirements of foster youth, students experiencing homelessness, children of military families, former juvenile court school students now enrolled in the district, students who are migratory, and newcomer students as specified in Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant

9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable
11. A statement that copies of the district's UCP are available free of charge

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 and 34 CFR 106.8 shall be posted on the district and district school websites, published in handbooks, catalogs, announcements, bulletins, and application forms, and may be provided through district-supported social media, if available.

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's UCP policy, regulation, forms, and notices shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

### **Filing of Complaints**

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp. If a site administrator not designated as a compliance officer receives a complaint, the site administrator shall notify the compliance officer.

All complaints, except for those that allege sex discrimination, including sex-based harassment, shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist in the filing of the complaint. (5 CCR 4600; 34 CFR 106.2)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization (5 CCR 4600)
2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance

A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee.

3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred (5 CCR 4630)

For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Governing Board. (5 CCR 4630)

4. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination (5 CCR 4630)

The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation
7. When a complainant of unlawful discrimination, harassment, intimidation, or bullying or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action

When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

## **Mediation**

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation to resolve the complaint. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to permit the mediator access to all relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.



## **Investigation of Complaint**

The compliance officer shall begin an investigation into the complaint within 10 business days of receiving the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform the parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offender(s), and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

### **Timeline for Investigation Report**

**OPTION 1:** (Districts that do not allow complainants to appeal to the Board)

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written investigation report, as described in the section "Investigation Report" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination, harassment, intimidation, or bullying, the respondent shall be informed of any extension of the timeline agreed to by the complainant. **END OF OPTION 1**

**OPTION 2:** (Districts that allow complainants to appeal to the Board)

Unless extended by written agreement with the complainant, the investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint.

Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

For any complaint alleging unlawful discrimination, harassment, intimidation, or bullying, the respondent shall be informed of any extension of the timeline agreed to by the complainant, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

## END OF OPTION 2

### **Investigation Report**

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law
3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

In consultation with district legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, so long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient (LEP) student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

For complaints alleging unlawful discrimination, harassment, intimidation, or bullying based on state law, the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including, but not limited to, injunctions, restraining orders or other remedies or orders, 60 calendar days after the filing of an appeal with CDE (Education Code 262.3)

2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination

### **Corrective Actions**

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination, harassment, intimidation, or bullying, appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as the respondent, appropriate corrective actions that may be provided to the student include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team

6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination, harassment, intimidation, or bullying, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 51228.3, 52075)

For complaints alleging noncompliance with the law regarding student fees, the district, by engaging in reasonable efforts, shall attempt in good faith to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

### **Appeals to the California Department of Education**

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law
3. The material findings of fact in the district's investigation report are not supported by substantial evidence
4. The legal conclusion in the district's investigation report is inconsistent with the law
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report
3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP
6. Other relevant information requested by CDE

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

### **Health and Safety Complaints in License-Exempt Preschool Programs**

Any complaint regarding health or safety issues in a license-exempt California State Preschool Program (CSPP) shall be addressed through the procedures described in 5 CCR 4690-4694.

In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code

1596.7925, a notice shall be posted in each license-exempt CSPP classroom in the district notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice available from the CDE website. (Education Code 8212; 5 CCR 4691)

The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, contain a space to indicate whether the complainant desires a response to the complaint, and allow a complainant to add as much text as desired to explain the complaint. (Education Code 8212; 5 CCR 4690)

If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority. (Education Code 8212; 5 CCR 4692)

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8212; 5 CCR 4692)

The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8212; 5 CCR 4692)

If a complaint regarding health or safety issues in a license-exempt CSPP program involves an LEP student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled hearing and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8212; 5 CCR 4693, 4694)

All complaints and responses are public records. (5 CCR 4690)

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent. (5 CCR 4693)

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**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 References**

<b>State References</b>	<b>Description</b>
2 CCR 11023	Harassment and discrimination prevention and correction
5 CCR 15580-15584	Child nutrition programs complaint procedures
5 CCR 3200-3205	Special education compliance complaints
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4600-4687	Uniform complaint procedures and Williams complaints
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 18100-18203	<u>School libraries</u>
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 32280-32289.5	<u>School safety plans</u>
Ed. Code 35186	<u>Williams uniform complaint procedures</u>
Ed. Code 46015	<u>Parental leave for students</u>
Ed. Code 48645.7	<u>Juvenile court schools</u>
Ed. Code 48853-48853.5	<u>Foster youth</u>
Ed. Code 48900.5	Suspension; other means of correction
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Ed. Code 49010-49013	<u>Student fees</u>
Ed. Code 49060-49079	<u>Student records</u>

Ed. Code 49069.5	<u>Records of foster youth</u>
Ed. Code 49490-49590	<u>Child nutrition programs</u>
Ed. Code 49701	<u>Provisions of the Interstate Compact on Educational Opportunities for Military Children</u>
Ed. Code 51204.5	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51210	<u>Course of study for grades 1-6</u>
Ed. Code 51222	<u>Physical education</u>
Ed. Code 51223	<u>Physical education; elementary schools</u>
Ed. Code 51225.1-51225.2	<u>Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements</u>
Ed. Code 51226-51226.1	<u>Career technical education</u>
Ed. Code 51228.1-51228.3	<u>Course periods without educational content</u>
Ed. Code 51501	<u>Nondiscriminatory subject matter</u>
Ed. Code 52059.5	<u>Statewide system of support</u>
Ed. Code 52060-52077	<u>Local control and accountability plan</u>

## State References

Ed. Code 52075  
Ed. Code 52300-52462  
Ed. Code 52500-52617  
Ed. Code 54400-54425  
Ed. Code 54440-54445  
Ed. Code 54460-54529  
Ed. Code 59000-59300  
Ed. Code 60010  
Ed. Code 60040-60052  
Ed. Code 64000-64001  
  
Ed. Code 65000-65001  
Ed. Code 8200-8488  
Ed. Code 8500-8538  
Gov. Code 11135  
Gov. Code 12900-12996  
H&S Code 1596.792  
H&S Code 1596.7925  
Pen. Code 422.55  
Pen. Code 422.6

## Federal References

20 USC 1221  
20 USC 1232g  
20 USC 1681-1688  
  
20 USC 6301-6576  
  
20 USC 6801-7014  
  
28 CFR 35.107  
29 USC 794  
34 CFR 100.3  
34 CFR 104.7  
34 CFR 106.1-106.82  
  
34 CFR 106.30  
34 CFR 106.44  
34 CFR 106.45

## Description

Complaint for lack of compliance with local control and accountability plan requirements  
Career technical education  
Adult schools  
Compensatory education programs  
Migrant education  
Compensatory education programs  
Special schools and centers  
Instructional materials; definition  
Requirements for instructional materials  
Consolidated application process; school plan for student achievement  
School site councils  
Child care and development programs  
Adult basic education  
Prohibition of discrimination  
Fair Employment and Housing Act  
California Child Day Care Act; general provisions and definitions  
California Child Day Care Act; health and safety regulations  
Definition of hate crime  
Crimes; harassment

## Description

Application of laws  
Family Educational Rights and Privacy Act (FERPA) of 1974  
Title IX of the Education Amendments of 1972; discrimination based on sex  
Title I Improving the Academic Achievement of the Disadvantaged  
Title III language instruction for limited English proficient and immigrant students  
Nondiscrimination on basis of disability; complaints  
Rehabilitation Act of 1973; Section 504  
Prohibition of discrimination on basis of race, color or national origin  
Section 504; Designation of responsible employee and adoption of grievances procedures  
Nondiscrimination on the basis of sex in education programs  
Discrimination on the basis of sex in education programs and activities; definitions  
Recipient's response to sexual harassment  
Grievance process for formal complaints of sexual harassment



**Cross References**

34 CFR 106.8

34 CFR 110.25

34 CFR 99.1-99.67

**Federal References**

42 USC 11431-11435

42 USC 12101-12213

42 USC 2000d-2000d-7

42 USC 2000h-2-2000h-6

42 USC 6101-6107

**Management Resources References**

California Department of Education  
Publication

California Department of Education  
Publication

California Department of Justice Publication

CSBA Publication

CSBA Publication

CSBA Publication

Federal Register

U.S. DOE, Office for Civil Rights Publication

U.S. DOJ Publication

Website

Website

Website

Website

Website

Website

Website

Website

Website

**Cross References**

0410

0420

**Description**

Designation of coordinator; dissemination of policy, and adoption of grievance procedures

Notification of nondiscrimination on the basis of age

Family Educational Rights and Privacy

McKinney-Vento Homeless Assistance Act

Americans with Disabilities Act

Title VI, Civil Rights Act of 1964

Title IX of the Civil Rights Act of 1964

Age Discrimination Act of 1975

**Description**

Uniform Complaint Procedure 2021-22 Program Instrument

Sample UCP Board Policies and Procedures

Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024

Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024

Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024

Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007

CSBA District and County Office of Education Legal Services

Student Privacy Policy Office

U.S. Department of Agriculture

California Department of Social Services

U.S. Department of Justice

California Department of Education

CSBA

U.S. Department of Education, Office for Civil Rights

California Civil Rights Department

**Description**

Nondiscrimination In District Programs And Activities

School Plans/Site Councils

	<b>Description</b>
0420	<u>School Plans/Site Councils</u>
0420.41	<u>Charter School Oversight</u>
0420.41-E(1)	<u>Charter School Oversight</u>
0430	<u>Comprehensive Local Plan For Special Education</u>
0430	<u>Comprehensive Local Plan For Special Education</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
0460	<u>Local Control And Accountability Plan</u>
0460	<u>Local Control And Accountability Plan</u>
1100	<u>Communication With The Public</u>
1113	<u>District And School Websites</u>
1113	<u>District And School Websites</u>
1113-E(1)	<u>District And School Websites</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1220	<u>Citizen Advisory Committees</u>
1220	<u>Citizen Advisory Committees</u>
1250	<u>Visitors/Outsiders</u>
1250	<u>Visitors/Outsiders</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.2-E(1)	<u>Complaints Concerning Instructional Materials</u>
1312.4	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(1)	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(2)	<u>Williams Uniform Complaint Procedures</u>
1313	<u>Civility</u>
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
3260	<u>Fees And Charges</u>
3260	<u>Fees And Charges</u>
3555	<u>Nutrition Program Compliance</u>
3555-E(1)	<u>Nutrition Program Compliance</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4112.23	<u>Special Education Staff</u>

**Cross References**

4112.9

4112.9-E(1)

4118

4118

4119.1

4119.11

4119.11

**Description**Employee NotificationsEmployee NotificationsDismissal/Suspension/Disciplinary ActionDismissal/Suspension/Disciplinary ActionCivil And Legal RightsSex Discrimination and Sex-Based HarassmentSex Discrimination and Sex-Based Harassment

**Cross References****Description**

4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>  <u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	<u>Procedures</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4131	<u>Staff Development</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4219.1	<u>Civil And Legal Rights</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4319.1	<u>Civil And Legal Rights</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	<u>Procedures</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4331	<u>Staff Development</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
5116.1	<u>Intradistrict Open Enrollment</u>

<b>Cross References</b>	<b>Description</b>
5116.1	<u>Intradistrict Open Enrollment</u>
5117	<u>Interdistrict Attendance</u>
5117	<u>Interdistrict Attendance</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5131.62	<u>Tobacco</u>
5131.62	<u>Tobacco</u>
5137	<u>Positive School Climate</u>
5141.22	<u>Infectious Diseases</u>
5141.22	<u>Infectious Diseases</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
	<u>Procedures</u>
5145.71-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
	<u>Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/Pregnant/Parenting Students</u>
5148	<u>Child Care And Development</u>
5148	<u>Child Care And Development</u>
5148.2	<u>Before/After School Programs</u>
5148.2	<u>Before/After School Programs</u>
5148.3	<u>Preschool/Early Childhood Education</u>
5148.3	<u>Preschool/Early Childhood Education</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>

**Cross References****Description**

6142.7	<u>Physical Education And Activity</u>
6142.7	<u>Physical Education And Activity</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
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**Cross References****Description**

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6178	<u>Career Technical Education</u>
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**Policy 4030: Nondiscrimination In Employment**

Status: ADOPTED

Original Adopted Date: 05/01/2016 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

The Governing Board is determined to provide a safe, positive environment where all district employees are assured of full and equal employment access and opportunities, protection from harassment and intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. For purposes of this policy, employees include job applicants, interns, volunteers, and persons who contracted with the district to provide services, as applicable.

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race; color; ancestry; national origin; age; religious creed; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; physical or mental disability; medical condition; genetic information; veteran or military status; sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; or association with a person or group with one or more of these actual or perceived characteristics.

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health decision-making, defined as a person's decision to use or access a particular drug, device, product, or medical service for reproductive health. (Government Code 12926, 12940)

The district shall not inquire into any employee's immigration status nor discriminate against an employee on the basis of immigration status, unless there is clear and convincing evidence that such inquiry is necessary to comply with federal immigration law. (2 CCR 11028)

Unless otherwise provided for in law, the district may not discriminate against an employee, including an applicant for employment, in any term or condition of employment, or otherwise penalize a person, including termination, based on the person's use of cannabis off the job and away from the workplace, or on a drug screening which finds that the person has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Hiring, compensation, terms, conditions, and other privileges of employment
2. Taking adverse employment actions such as termination or denial of employment, promotion, job assignment, or training
3. Unwelcome conduct, whether verbal, physical, or visual, that is offensive and so severe or pervasive as to adversely affect an employee's employment opportunities or that has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive work environment



4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:
- a. Sex discrimination as specified in Board Policy and Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment
  - b. Religious creed discrimination based on an employee's religious belief or observance, including religious dress or grooming practices, or based on the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement
  - c. Requiring medical or psychological examination of a job applicant or making an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity
  - d. Failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee who has requested such accommodations in order to determine the effective reasonable accommodations, if any, to be provided to the employee
  - e. Requiring an applicant or employee to disclose information relating to the employee's reproductive health decision-making

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, reports an incident, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940; 2 CCR 11028)

No employee shall, in exchange for a raise or bonus or as a condition of employment or continued employment, be required to sign a release of the employee's claim or right to file a claim against the district or a nondisparagement agreement or other document that has the purpose or effect of preventing the employee from disclosing information about harassment, discrimination, or other unlawful acts in the workplace, including any conduct that the employee has reasonable cause to believe is unlawful. (Government Code 12964.5)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation. However, complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment, including harassment of an employee by a nonemployee, shall report the incident to the Superintendent or designated district coordinator within one workday. All other employees shall report such incidents to their supervisor or designated district coordinator within one workday.

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy, including providing training and information to employees about how to recognize harassment, discrimination, or other prohibited conduct, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

Any district employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

The district shall maintain and preserve all applications, personnel, membership, or employment referral records and files for at least four years after the records are initially created or received or, for an applicant or a terminated employee, for four years after the date the employment action was taken. However, when the district is notified that a complaint has been filed with the California Civil Rights Department, records related to the employee involved shall be maintained and preserved until the later of the first date after the time for filing a civil action has expired or the first date after the complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have been terminated. (Government Code 12946)

**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 References**

2 CCR 11006-11086

**Description**

Discrimination in employment

2 CCR 11023

Harassment and discrimination prevention and correction

2 CCR 11024

Required training and education on harassment based on sex, gender identity and expression, and sexual orientation

2 CCR 11027-11028

National origin and ancestry discrimination

5 CCR 4900-4965

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

CA Constitution Article 1, Section 1

Inalienable rights

Civ. Code 51.7

Freedom from violence or intimidation

Ed. Code 200-262.4

Prohibition of discrimination

Gov. Code 11135

Prohibition of discrimination

Gov. Code 12900-12996

Fair Employment and Housing Act

Gov. Code 12940-12954

Unlawful employment practices

Gov. Code 12960-12976

Unlawful employment practices; complaints

Lab. Code 1030-1034

Lactation accommodation

Lab. Code 1197.5

Wages, hours and working conditions

Lab. Code 79-107

Division of Labor Standards Enforcement

Pen. Code 422.56

Definitions; hate crimes

**Federal References**

**Description**

20 USC 1681-1688

Title IX of the Education Amendments of 1972; discrimination based on sex

28 CFR 35.101-35.190

Americans with Disabilities Act

29 CFR 1636

Implementation of the Pregnant Workers Fairness Act

29 USC 218d	Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act
29 USC 621-634	Age Discrimination in Employment Act
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.6	Title VI; Compliance information
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 104.8	Notice of Nondiscrimination on the Basis of Handicap
34 CFR 106.1-106.82	Discrimination on the basis of sex; effectuating Title IX
34 CFR 110.1-110.39	Nondiscrimination on the basis of age
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
42 USC 2000gg-2000gg-6	Pregnant Workers Fairness Act
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age discrimination in federally assisted programs
Executive Order 11246	<u>Equal Employment Opportunity</u>

**Federal References**

U.S. Constitution, First Amendment

**Description**

[Free exercise, free speech, and establishment clauses](#)

**Management Resources References**

**Description**

CA Civil Rights Department Publication

[Sexual Harassment, January 2023](#)

CA Civil Rights Department Publication

[Family Care and Medical Leave and Pregnancy Disability Leave, January 2023](#)

CA Civil Rights Department Publication

[California Law Prohibits Workplace Discrimination and Harassment, January 2024](#)

CA Civil Rights Department Publication

[The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022](#)

CA Civil Rights Department Publication

[Harassment Prevention Guide for California Employers, 2017](#)

CA Civil Rights Department Publication

[Your Rights and Obligations as a Pregnant Employee, January 2023](#)

Court Decision

[Burlington Industries, Inc v. Ellerth \(1998\) 524 U.S. 742](#)

Court Decision

[Faragher-Ellerth v. City of Boca Raton \(1998\) 524 U.S. 775](#)

Court Decision

[Groff v. DeJoy \(2023\) 600 U.S. 447](#)

Court Decision

[Kennedy v. Bremerton \(2022\) 142 S.Ct. 2407](#)

Court Decision

[Shephard v. Loyola Marymount \(2002\) 102 Cal.App. 4th 837](#)

Court Decision

[Thomson v. North American Stainless LP \(2011\) 62 U.S. 170](#)

Federal Register

[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)

U.S. Department of Education Publication

[Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023](#)

U.S. Equal Employment Opportunity Comm Publication

[Know Your Rights: Workplace Discrimination is Illegal, June 2023](#)

U.S. Equal Employment Opportunity Comm Publication

[Enforcement Guidance on Harassment in the Workplace, April 2024](#)

U.S. Equal Employment Opportunity Comm Publication

[EEOC Compliance Manual](#)

Website

[U.S. Department of Labor, Office of Federal Contract Compliance Program](#)

Website

[CSBA District and County Office of Education Legal Services](#)

Website

[California Department of Industrial Relations](#)

Website

[California Civil Rights Department](#)

Website

[U.S. Department of Education, Office for Civil Rights](#)

Website

[Equal Employment Opportunity Commission](#)

**Cross References**

**Description**

0410

[Nondiscrimination In District Programs And Activities](#)

1113

[District And School Websites](#)

1113

[District And School Websites](#)

1113-E(1)

[District And School Websites](#)

1114

[District-Sponsored Social Media](#)

<b>Cross References</b>	<b>Description</b>
1114	<u>District-Sponsored Social Media</u>
1240	<u>Volunteer Assistance</u>
1240	<u>Volunteer Assistance</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1313	<u>Civility</u>
3312	<u>Contracts</u>
3530	<u>Risk Management/Insurance</u>
3530	<u>Risk Management/Insurance</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
3600	<u>Consultants</u>
4000	<u>Concepts And Roles</u>
4032	<u>Reasonable Accommodation</u>
4033	<u>Lactation Accommodation</u>
4111	<u>Recruitment And Selection</u>
4111.2	<u>Legal Status Requirement</u>
4111.2	<u>Legal Status Requirement</u>
4112.4	<u>Health Examinations</u>
4112.41	<u>Employee Drug Testing</u>
4112.41	<u>Employee Drug Testing</u>
4112.5	<u>Criminal Record Check</u>
4112.5-E(1)	<u>Criminal Record Check</u>
4112.6	<u>Personnel Files</u>
4112.8	<u>Employment Of Relatives</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4113.5	<u>Working Remotely</u>
4114	<u>Transfers</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.1	<u>Civil And Legal Rights</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>

<b>Cross References</b>	<b>Description</b>
	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	<u>Procedures</u>
4119.22	<u>Dress And Grooming</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4119.41	<u>Employees With Infectious Disease</u>
4131	<u>Staff Development</u>
4144	<u>Complaints</u>
4144	<u>Complaints</u>
4151	<u>Employee Compensation</u>
4154	<u>Health And Welfare Benefits</u>
4154	<u>Health And Welfare Benefits</u>
4161.5	<u>Military Leave</u>
4161.8	<u>Family Care And Medical Leave</u>
4211	<u>Recruitment And Selection</u>
4211.2	<u>Legal Status Requirement</u>
4211.2	<u>Legal Status Requirement</u>
4212.4	<u>Health Examinations</u>
4212.41	<u>Employee Drug Testing</u>
4212.41	<u>Employee Drug Testing</u>
4212.6	<u>Personnel Files</u>
4212.8	<u>Employment Of Relatives</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4213.5	<u>Working Remotely</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
4219.1	<u>Civil And Legal Rights</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4219.22	<u>Dress And Grooming</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>

<b>Cross References</b>	<b>Description</b>
4219.41	<u>Employees With Infectious Disease</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4251	<u>Employee Compensation</u>
4254	<u>Health And Welfare Benefits</u>
4254	<u>Health And Welfare Benefits</u>
4261.5	<u>Military Leave</u>
4261.8	<u>Family Care And Medical Leave</u>
4311	<u>Recruitment And Selection</u>
4311.2	<u>Legal Status Requirement</u>
4311.2	<u>Legal Status Requirement</u>
4312.4	<u>Health Examinations</u>
4312.41	<u>Employee Drug Testing</u>
4312.41	<u>Employee Drug Testing</u>
4312.6	<u>Personnel Files</u>
4312.8	<u>Employment Of Relatives</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4313.5	<u>Working Remotely</u>
4319.1	<u>Civil And Legal Rights</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	<u>Procedures</u>
4319.22	<u>Dress And Grooming</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4319.41	<u>Employees With Infectious Disease</u>
4331	<u>Staff Development</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
4351	<u>Employee Compensation</u>
4354	<u>Health And Welfare Benefits</u>
4354	<u>Health And Welfare Benefits</u>

**Cross References**

4361.5

**Description**

Military Leave

4361.8

Family Care And Medical Leave

Title IX Sex Discrimination and Sex-Based Harassment  
Complaint

5145.71

Procedures

Title IX Sex Discrimination and Sex-Based Harassment  
Complaint

5145.71-E(1)

Procedures

9000

Role Of The Board

9321

Closed Session

9321-E(1)

Closed Session

9321-E(2)

Closed Session



**Regulation 4030: Nondiscrimination In Employment**

Status: ADOPTED

Original Adopted Date: 12/01/2015 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

All allegations of discrimination in employment, including those involving an employee, job applicant, intern, volunteer, or other person contracted to provide services to the district shall be investigated and resolved in accordance with procedures specified in this administrative regulation. However, complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

The district designates the position identified below as its coordinator for nondiscrimination in employment (coordinator) to organize and manage the district's efforts to comply with state and federal nondiscrimination laws and to answer inquiries regarding the district's nondiscrimination policies. The coordinator may be contacted at:

\_\_\_\_\_  
(position title)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(telephone number)

\_\_\_\_\_  
(email)

**Measures to Prevent Discrimination**

To prevent unlawful discrimination, harassment, and retaliation in district employment, the Superintendent or designee shall implement the following measures:

1. Display in a prominent and accessible location at every work site where the district has employees, and post electronically in a conspicuous location on computers for employee use, up-to-date California Civil Rights Department (CRD) posters on the prohibition of workplace discrimination and harassment, including sex-based harassment, the rights of transgender employees, and the rights and obligations of employees who are pregnant, have a related medical condition, or are recovering from childbirth (Government Code 12950; 2 CCR 11013, 11023, 11049)
2. Publicize the district's nondiscrimination policy and regulation, including the complaint procedures and the coordinator's contact information, by:
  - a. Including them in each announcement, bulletin, or application form that is used in employee recruitment
  - b. Posting them in all district schools and offices, including staff lounges and other prominent locations

- c. Posting them on the district's website and providing easy access to them through district-supported social media, when available
3. Disseminate the district's nondiscrimination policy and administrative regulation to all employees by one or more of the following methods: (2 CCR 11023)
  - a. Printing and providing a copy to all employees, with an acknowledgment form for each employee to sign and return
  - b. Sending a copy via email with an acknowledgment return form
  - c. Posting a copy on the district intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies
  - d. Discussing the policy and regulation with employees upon hire and/or during a new hire orientation session
  - e. Any other way that ensures employees receive and understand the policy
4. Post in a prominent location on the district's website and include in each handbook, catalog, announcement, bulletin, and application form for students, parents/guardians or other authorized legal representative, and employees, the Title IX notice of nondiscrimination which includes the following: (34 CFR 106.8)
  - a. The district does not discriminate on the basis of sex in any education program or activity that it operates
  - b. Inquiries about the application of Title IX may be referred to the district's Title IX Coordinator and/or the U.S. Department of Education Office for Civil Rights
  - c. The name or title, office and email address, and telephone number of the district's Title IX Coordinator
  - d. How to locate the district's nondiscrimination policy and the district's grievance procedures for Title IX complaints
  - e. How to report conduct that may constitute sex discrimination under Title IX
  - f. How to make a complaint of Title IX sex discrimination

If necessary due to the format or size of any publication specified above, the district may include only the statement that the district prohibits sex discrimination in any education program or activity that it operates, that individuals may report concerns or questions to the Title IX Coordinator, and the location of the complete notice on the district's website.

The district shall not distribute a publication stating that the district treats students, employees or applicants differently on the basis of sex, unless such treatment is permitted by Title IX.
5. Provide to employees a handbook which contains information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to employees who believe they have been the victim of any discriminatory or harassing behavior

6. Provide training regarding the district's nondiscrimination policy, including what constitutes unlawful discrimination, harassment, and retaliation and how and to whom a report of an incident should be made, as well as any additional training as specified in 34 CFR 106.8 related to the prohibition of Title IX sex discrimination

The district may also provide bystander intervention training to employees that includes information and practical guidance on how to recognize potentially problematic behaviors and which may motivate them to take action when they observe such behaviors. The training and education may include exercises to provide employees with the skills and confidence to intervene as appropriate and to provide them with resources they can call upon that support their intervention. (Government Code 12950.2)

7. Periodically review the district's recruitment, hiring, and promotion processes and regularly monitor the terms, conditions, and privileges of employment to ensure district compliance with law and Board Policy 4111 Recruitment and Selection
8. For any district facility where 10 percent of employees have a language other than English as their spoken language, translate the policy into every language spoken by at least 10 percent of the workforce (2 CCR 11023)

### **Complaint Procedure**

Any complaint alleging unlawful discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** A complainant may inform a direct supervisor, another supervisor, the coordinator, the Superintendent or, if available, a complaint hotline or an ombudsman. The complainant's direct supervisor may be bypassed in filing a complaint when the supervisor is the subject of the complaint.

The complainant may first attempt to resolve the situation informally with the complainant's supervisor before filing a written complaint.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, any available evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

2. **Investigation Process:** The coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five business days of receiving notice of the alleged discriminatory or harassing behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The coordinator shall inform the complainant that the investigation of the allegations will be fair, timely, and thorough and will be conducted in a manner that provides all parties due process and reaches reasonable conclusions based on the evidence collected. The coordinator shall also inform the parties that the investigation will be kept confidential to the extent possible, but that some information may be disclosed as necessary to conduct an effective investigation.

If the coordinator determines that a detailed fact-finding investigation is necessary, the investigation shall begin immediately. As part of this investigation, the coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

The coordinator shall track and document the progress of the investigation to ensure reasonable progress and shall inform the parties as necessary.

When necessary to carry out the investigation or to protect employee safety, the coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The coordinator shall also determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed in order to prevent further incidents. The coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Remedial/Corrective Action:** No more than 20 business days after receiving the complaint, the coordinator shall conclude the investigation and prepare a written report of the findings. This timeline may be extended for good cause. If an extension is needed, the coordinator shall notify the parties and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If a determination has been made that discrimination or harassment occurred, the report shall also include any corrective action(s) that have been or will be taken to address the behavior, provide appropriate options for remedial actions and resolutions for the complainant, and ensure that retaliation or further discrimination or harassment is prevented. The report shall be presented to the Superintendent or designee.

A summary of the findings shall be presented to the complainant and the person accused.

4. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 business days of receiving the written report of the coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 business days.

### **Other Remedies**

In addition to filing a discrimination or harassment complaint with the district, a person may file a complaint with either CRD or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. For filing a complaint with CRD alleging a violation of Government Code 12940-12952, within three years of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)
2. For filing a complaint with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)
3. For filing a complaint with EEOC after first filing a complaint with CRD, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by CRD, whichever is earlier (42 USC 2000e-5)

An employee may also file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the PUMP Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg2)

Additionally, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

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**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 References**

2 CCR 11006-11086

2 CCR 11023

2 CCR 11024

2 CCR 11027-11028

5 CCR 4900-4965

CA Constitution Article 1, Section 1

Civ. Code 51.7

Ed. Code 200-262.4

Gov. Code 11135

Gov. Code 12900-12996

Gov. Code 12940-12954

Gov. Code 12960-12976

Lab. Code 1030-1034

Lab. Code 1197.5

Lab. Code 79-107

Pen. Code 422.56

**Federal References**

20 USC 1681-1688

**Description**

Discrimination in employment

Harassment and discrimination prevention and correction

Required training and education on harassment based on sex, gender identity and expression, and sexual orientation

National origin and ancestry discrimination

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Inalienable rights

Freedom from violence or intimidation

Prohibition of discrimination

Prohibition of discrimination

Fair Employment and Housing Act

Unlawful employment practices

Unlawful employment practices; complaints

Lactation accommodation

Wages, hours and working conditions

Division of Labor Standards Enforcement

Definitions; hate crimes

**Description**

Title IX of the Education Amendments of 1972; discrimination based on sex

### Federal References

28 CFR 35.101-35.190

29 CFR 1636

29 USC 218d

29 USC 621-634

29 USC 794

34 CFR 100.6

34 CFR 104.7

34 CFR 104.8

34 CFR 106.1-106.82

34 CFR 110.1-110.39

42 USC 12101-12213

42 USC 2000d-2000d-7

42 USC 2000e-2000e-17

42 USC 2000ff-2000ff-11

42 USC 2000gg-2000gg-6

42 USC 2000h-2-2000h-6

42 USC 6101-6107

Executive Order 11246

U.S. Constitution, First Amendment

### Management Resources References

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

CA Civil Rights Department Publication

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Federal Register

### Description

Americans with Disabilities Act

Implementation of the Pregnant Workers Fairness Act

Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act

Age Discrimination in Employment Act

Rehabilitation Act of 1973; Section 504

Title VI; Compliance information

Section 504; Designation of responsible employee and adoption of grievance procedures

Notice of Nondiscrimination on the Basis of Handicap

Discrimination on the basis of sex; effectuating Title IX

Nondiscrimination on the basis of age

Americans with Disabilities Act

Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended

Genetic Information Nondiscrimination Act of 2008

Pregnant Workers Fairness Act

Title IX of the Civil Rights Act of 1964

Age discrimination in federally assisted programs

Equal Employment Opportunity

Free exercise, free speech, and establishment clauses

### Description

Sexual Harassment, January 2023

Family Care and Medical Leave and Pregnancy Disability Leave, January 2023

California Law Prohibits Workplace Discrimination and Harassment, January 2024

The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022

Harassment Prevention Guide for California Employers, 2017

Your Rights and Obligations as a Pregnant Employee, January 2023

Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742

Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775

Groff v. DeJoy (2023) 600 U.S. 447

Kennedy v. Bremerton (2022) 142 S.Ct. 2407

Shephard v. Loyola Marymount (2002) 102 Cal.App. 4th 837

Thomson v. North American Stainless LP (2011) 62 U.S. 170

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896

**Cross References**

U.S. Department of Education Publication

**Description**

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

**Management Resources References**

U.S. Equal Employment Opportunity Comm Publication

Know Your Rights: Workplace Discrimination is Illegal, June 2023

U.S. Equal Employment Opportunity Comm Publication

Enforcement Guidance on Harassment in the Workplace, April 2024

U.S. Equal Employment Opportunity Comm Publication

EEOC Compliance Manual

Website

U.S. Department of Labor, Office of Federal Contract Compliance Program

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Industrial Relations

Website

California Civil Rights Department

Website

U.S. Department of Education, Office for Civil Rights

Website

Equal Employment Opportunity Commission

**Cross References**

**Description**

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Nondiscrimination In District Programs And Activities

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District And School Websites

1113

District And School Websites

1113-E(1)

District And School Websites

1114

District-Sponsored Social Media

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District-Sponsored Social Media

1240

Volunteer Assistance

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Volunteer Assistance

1312.1

Complaints Concerning District Employees

1312.1

Complaints Concerning District Employees

1312.3

Uniform Complaint Procedures

1312.3

Uniform Complaint Procedures

1312.3-E(1)

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1312.3-E(2)

Uniform Complaint Procedures

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Risk Management/Insurance

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4032	<u>Reasonable Accommodation</u>
4033	<u>Lactation Accommodation</u>
4111	<u>Recruitment And Selection</u>
4111.2	<u>Legal Status Requirement</u>
4111.2	<u>Legal Status Requirement</u>
4112.4	<u>Health Examinations</u>
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4112.6	<u>Personnel Files</u>
4112.8	<u>Employment Of Relatives</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4113.5	<u>Working Remotely</u>
4114	<u>Transfers</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.1	<u>Civil And Legal Rights</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.22	<u>Dress And Grooming</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4119.41	<u>Employees With Infectious Disease</u>
4131	<u>Staff Development</u>
4144	<u>Complaints</u>
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4151	<u>Employee Compensation</u>
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4154	<u>Health And Welfare Benefits</u>
4161.5	<u>Military Leave</u>
4161.8	<u>Family Care And Medical Leave</u>
4211	<u>Recruitment And Selection</u>
4211.2	<u>Legal Status Requirement</u>



**Cross References**

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4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
4219.1	<u>Civil And Legal Rights</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.22	<u>Procedures</u> <u>Dress And Grooming</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4219.41	<u>Employees With Infectious Disease</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
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4251	<u>Employee Compensation</u>
4254	<u>Health And Welfare Benefits</u>
4254	<u>Health And Welfare Benefits</u>
4261.5	<u>Military Leave</u>
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4311.2	<u>Legal Status Requirement</u>
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4312.41	<u>Employee Drug Testing</u>
4312.41	<u>Employee Drug Testing</u>
4312.6	<u>Personnel Files</u>
4312.8	<u>Employment Of Relatives</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
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4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
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4319.12-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
	<u>Procedures</u>

**Cross References**

	<b>Description</b>
4319.22	<u>Dress And Grooming</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4319.41	<u>Employees With Infectious Disease</u>
4331	<u>Staff Development</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
4351	<u>Employee Compensation</u>
4354	<u>Health And Welfare Benefits</u>
4354	<u>Health And Welfare Benefits</u>
4361.5	<u>Military Leave</u>
4361.8	<u>Family Care And Medical Leave</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
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5145.71-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
	<u>Procedures</u>
9000	<u>Role Of The Board</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>

**Policy 4033: Lactation Accommodation**

Status: ADOPTED

Original Adopted Date: 07/01/2011 | Last Revised Date: 07/01/2024 | Last Reviewed Date: 07/01/2024

The Governing Board recognizes the immediate and long-term health benefits of breastfeeding and desires to provide a supportive environment for any district employee to express breast milk for an infant child upon returning to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee for seeking an accommodation to express breast milk for an infant child while at work.

An employee shall notify the employee's supervisor or other appropriate district administrator in advance of the intent to request an accommodation. The supervisor or appropriate district administrator shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor or appropriate district administrator shall address scheduling in order to ensure that the employee's essential job duties are covered during the break time.

Lactation accommodations shall be granted unless limited circumstances exist as specified in law. (Labor Code 1031, 1032; 29 USC 218d, 42 USC 2000gg-1)

Before a determination is made to deny lactation accommodations to an employee, the employee's supervisor shall consult with the Superintendent or designee. When lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

The Superintendent or designee shall provide a written response to any employee who was denied the accommodation(s). (Labor Code 1034)

The district shall include this policy in its employee handbook or in any set of policies that the district makes available to employees. In addition, the Superintendent or designee shall distribute this policy to new employees upon hire and when an employee makes an inquiry about or requests parental leave. (Labor Code 1034)

**Break Time and Location Requirements**

The district shall provide a reasonable amount of break time to accommodate an employee each time the employee has a need to express breast milk for an infant child. (Labor Code 1030; 42 USC 2000gg-1; 34 CFR 106.57)

To the extent possible, any break time granted for lactation accommodation shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. (Labor Code 1030; 29 USC 218d)

The employee shall be provided a lactation space which may be used by the employee for expressing breast milk or breastfeeding as needed. The lactation space shall be a private room or location, other than a bathroom, which may be the employee's work area or another location that is in close proximity to the employee's work area, and shall meet the following requirements: (Labor Code 1031; 29 USC 218d; 34 CFR 106.57)

**Cross References****Description**

1. Is shielded from view and free from intrusion while the employee is expressing breast milk
2. Is safe, clean, and free of hazardous materials, as defined in Labor Code 6382
3. Contains a place to sit and a surface to place a breast pump and personal items
4. Has access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump
5. Has access to a sink with running water and a refrigerator or, if a refrigerator cannot be provided, another

cooling device suitable for storing breast milk in close proximity to the employee's workspace

If a multipurpose room is used for lactation, among other uses, the use of the room for lactation shall take precedence over other uses for the time it is in use for lactation purposes. (Labor Code 1031)

## Dispute Resolution

Complaints alleging sex discrimination under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Additionally, an employee may file a complaint with the Wage and Hour Division of the U.S. Department of Labor for an alleged violation of the Providing Urgent Maternal Protections for Nursing Mothers Act and/or the Equal Employment Opportunity Commission for failure to provide reasonable accommodations pursuant to the Pregnant Workers Fairness Act. (29 USC 218c, 218d, 42 USC 2000gg-2).

In addition, an employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (Labor Code 1034)

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**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 References

2 CCR 11035-11051

29 USC 218c

Civ. Code 43.3

Ed. Code 200-262.4

Gov. Code 12925-12954

Gov. Code 12945

Lab. Code 1030-1034

Lab. Code 6382

### Federal References

20 USC 1681-1688

29 CFR 1636

29 USC 218d

34 CFR 106.1-106.82

42 USC 2000gg-2000gg-6

### Description

Unlawful sex discrimination; pregnancy, childbirth, and related medical conditions

Fair Labor Standards Act; protections for employees

Right of mothers to breastfeed in any public or private location

Prohibition of discrimination

Unlawful discriminatory employment practices

Unlawful discrimination based on pregnancy, childbirth, or related medical conditions

Lactation Accommodation

Procedure for listing hazardous substances

### Description

Title IX of the Education Amendments of 1972; discrimination based on sex

Implementation of the Pregnant Workers Fairness Act

Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act

Discrimination on the basis of sex; effectuating Title IX

Pregnant Workers Fairness Act

### Management Resources References

### Description

CA Department of Industrial Relations Publication Rest Periods/Lactation Accommodation, Frequently Asked Questions

Department of Fair Employment and Housing v. Acosta Tacos (Chavez), California Civil Rights Department Decision

FEHC Precedential Decision 09-03P, 2009

California Department of Public Health Publication [Lactation Accommodation for Employers](#)

[Nondiscrimination on the Basis of Sex in Education Programs or Activities](#)

Federal Register [Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)

**Management Resources References**

**Description**

Federal Register

[Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 78, No. 244, pages 80073-80079](#)

Office of the Surgeon General Publication

[The Surgeon General's Call to Action to Support Breastfeeding, 2011](#)

U.S. DoL, Wage and Hour Div., Publication

[Education FAQs](#)

U.S. DoL, Wage and Hour Div., Publication

[Frequently Asked Questions - Pumping Breast Milk at Work](#)

U.S. DoL, Wage and Hour Div., Publication

[Fact Sheet #73: FLSA Protections for Employees to Pump Breast Milk at Work, rev. January 2023](#)

[The Business Case for Breastfeeding: Steps for Creating a Breastfeeding](#)

U.S. HHS Office on Women's Health Publication

[Friendly Worksite, Toolkit, 2008](#)

Website

[CSBA District and County Office of Education Legal Services](#)

Website

[Equal Employment Opportunity Commission](#)

Website

[California Department of Industrial Relations, Division of Labor and](#)

[Standards Enforcement](#)

Website

[California Department of Public Health](#)

Website

[California Women, Infants and Children Program](#)

Website

[Centers for Disease Control and Prevention](#)

Website

[Health Resources and Services Administration](#)

Website

[Office of the Surgeon General](#)

[U.S. Department of Labor, Wage and Hour Division, FLSA Protections to](#)

Website

[Pump at Work](#)

**Cross References**

**Description**

0410

[Nondiscrimination In District Programs And Activities](#)

4030

[Nondiscrimination In Employment](#)

4030

[Nondiscrimination In Employment](#)

4032

[Reasonable Accommodation](#)

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[Employee Notifications](#)

4112.9-E(1)

[Employee Notifications](#)

4113.4

[Temporary Modified/Light-Duty Assignment](#)

4119.11

[Sex Discrimination and Sex-Based Harassment](#)

4119.11

[Sex Discrimination and Sex-Based Harassment](#)

[Title IX Sex Discrimination and Sex-Based Harassment Complaint](#)

4119.12

[Procedures](#)

4119.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
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4161.8	<u>Family Care And Medical Leave</u>
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4212.9-E(1)	<u>Employee Notifications</u>
4213.4	<u>Temporary Modified/Light-Duty Assignment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
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4219.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4261.8	<u>Family Care And Medical Leave</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4313.4	<u>Temporary Modified/Light-Duty Assignment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	<u>Procedures</u>
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4319.12-E(1)	<u>Procedures</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
4361.8	<u>Family Care And Medical Leave</u>



**Policy 4119.11: Sex Discrimination and Sex-Based Harassment**

Status: ADOPTED

**Original Adopted Date:** 12/01/2015 | **Last Revised Date:** 07/01/2024 | **Last Reviewed Date:** 07/01/2024

The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Governing Board is committed to providing a safe work environment that is free of discrimination, harassment, and intimidation. The Board prohibits sex discrimination, including sex-based harassment, as defined in the accompanying administrative regulation, in district programs and activities by and against district employees.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1; 34 CFR 106.71)

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sex discrimination and sex-based harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sex discrimination and sex-based harassment policy to employees and others to whom the policy may apply
3. Publicizing, in accordance with 34 CFR 106.8 and as specified in Administrative Regulation 4030 Nondiscrimination in Employment, a Title IX notice of nondiscrimination to employees, applicants for employment, and bargaining units
4. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures
5. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address sex discrimination and sex-based harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether sex discrimination and/or sex-based harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to harassment policy(ies), complaint procedures, or training, as appropriate and in accordance with law.

**Reports and Complaints**

Any district employee who has experienced sex discrimination or sex-based harassment in the district's education program or activity may file a complaint with the district's Title IX Coordinator. (34 CFR 106.2, 106.44)

Any employee with knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment by or against another district employee, a student, or a third party in a district education program or activity shall notify the Title IX Coordinator within one workday. An employee may be subject to discipline for failure to timely report such conduct. (34 CFR 106.44)

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the district has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.  
(34 CFR 106.44)

Upon investigation of a sex discrimination or sex-based harassment complaint, any district employee found to have engaged or participated in sex discrimination or sex-based harassment or to have aided, abetted, incited, compelled, or coerced another to commit sex discrimination or sex-based harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

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**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 References**

	<b>Description</b>
2 CCR 11006-11086	Discrimination in employment
2 CCR 11009	Employment discrimination
2 CCR 11021	Discrimination in employment - retaliation
2 CCR 11023	Harassment and discrimination prevention and correction
2 CCR 11024	Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
2 CCR 11034	Terms, conditions, and privileges of employment
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 220.1	Prohibition of retaliation related to educational equity
Ed. Code 220.3	Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 220.5	Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
Gov. Code 12900-12996	<u>Fair Employment and Housing Act</u>
Gov. Code 12940	<u>Unlawful discriminatory employment practices</u>
Gov. Code 12950	<u>Sexual harassment</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
Lab. Code 1101	<u>Political activities of employees</u>
Lab. Code 1102.1	Discrimination: sexual orientation
Lab. Code 1197.5	Wages, hours, and working conditions

**Federal References**

20 USC 1681-1688

29 CFR 1636

34 CFR 106.1-106.82

42 USC 2000e-2000e-17

42 USC 2000gg-2000gg-6

**Description**

Title IX of the Education Amendments of 1972; discrimination based on sex

Implementation of the Pregnant Workers Fairness Act

Nondiscrimination on the basis of sex in education programs

Title VII, Civil Rights Act of 1964, as amended

Pregnant Workers Fairness Act

### Management Resources References

Court Decision	Burlington Industries v. Ellreth (1998) 118 S.Ct. 2257
Court Decision	Department of Health Services v. Superior Court of California (2003) 31 Cal.4th 1026
Court Decision	Faragher v. City of Boca Raton (1998) 118 S.Ct. 2275
Court Decision	Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989
Court Decision	Meritor Savings Bank, FSB v. Vinson et al. (1986) 447 U.S. 57
Court Decision	Oncale v. Sundowner Offshore Serv. Inc. (1998) 118 S.Ct. 998
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</u>
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>California Department of Education</u>
Website	<u>California Civil Rights Department</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>
Website	<u>Equal Employment Opportunity Commission</u>

### Cross References

	Description
0410	<u>Nondiscrimination In District Programs And Activities</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1313	<u>Civility</u>
3530	<u>Risk Management/Insurance</u>
3530	<u>Risk Management/Insurance</u>
3600	<u>Consultants</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4033	<u>Lactation Accommodation</u>
4040	<u>Employee Use Of Technology</u>
4040-E(1)	<u>Employee Use Of Technology</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4117.7	<u>Employment Status Reports</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>

	<b>Description</b>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<b>Cross References</b>	
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	<u>Procedures</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4119.22	<u>Dress And Grooming</u>
4131	<u>Staff Development</u>
4144	<u>Complaints</u>
4144	<u>Complaints</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.22	<u>Dress And Grooming</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4300	<u>Administrative And Supervisory Personnel</u>
4300	<u>Administrative And Supervisory Personnel</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4317.7	<u>Employment Status Reports</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	

	<b>Description</b>
	<u>Procedures</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.22	<u>Dress And Grooming</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint</u>
5145.71	
	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint</u>
5145.71-E(1)	
	<u>Procedures</u>
<b>Cross References</b>	
5146	<u>Married/Pregnant/Parenting Students</u>

**Regulation 4119.11: Sex Discrimination and Sex-Based Harassment**

Status: ADOPTED

Original Adopted Date: 12/01/2016 | Last Revised Date: 07/01/2024 | Last Reviewed Date: 07/01/2024

The district does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations. Sex discrimination, including sex-based harassment, is prohibited in district education programs and activities.

The following administrative regulation shall apply to all allegations of sex discrimination and sex-based harassment by and against district employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by a student.

**Definitions**

*Sex discrimination* includes treating an employee differently based on the employee's sex, which includes differential treatment based on sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or association with a person or group with one or more of these actual or perceived characteristics.

*Sex discrimination*, including sex-based harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct and occurs when prohibited conduct is so severe, persistent, or pervasive that it creates an intimidating, threatening, hostile, or offensive work environment; has the effect of substantially or unreasonably interfering with an employee's term or condition of employment; or otherwise adversely affects an employee's employment opportunities.

*Sex-based harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, or other bases specified above. Conduct will constitute sex-based harassment when it takes the form of: (34 CFR 106.2, 106.11)

1. **Quid pro quo harassment:** A district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service in the district's education program or activity conditioning the provision of district aid, benefit, or service on a student's participation in unwelcome sexual conduct
2. **Hostile environment harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the district's education program or activity

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sex-based harassment in violation of district policy if it has a continuing effect on a student's ability to participate in or benefit from district educational programs or activities.

3. **Sexual assault, dating violence, domestic violence, or stalking,** as defined in 34 CFR 106.2

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature, regardless of whether the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite sex in the work or educational setting under any of the following conditions: (Education Code 212.5; Government Code 12940; 2 CCR 11034)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual
3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile, or offensive work environment
4. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the district

### **Examples of Sex Discrimination and Sex-Based Harassment**

Examples of actions that might constitute sex-based harassment under state and/or federal law in accordance with the definitions above, in the work or educational setting, whether committed by a supervisor, a co-worker, or a nonemployee, include, but are not limited to:

1. Unwelcome verbal conduct such as sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sex-based activity; sex-based jokes or stories; unwelcome sex-based slurs, epithets, threats, innuendoes; derogatory comments; sex-based degrading descriptions; or the spreading of sex-based rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails or messaging; or displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; or cornering, blocking, leaning over, or impeding normal movements

### **Title IX Coordinator/Compliance Officer**

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX in accordance with Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and oversee the district's response to discrimination complaints processed under Administrative Regulation 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

\_\_\_\_\_  
(title or position)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(telephone number)

\_\_\_\_\_  
(email)



## Training

The Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sexbased harassment in accordance with state and federal law.

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours, and nonsupervisory employees receive at least one hour, of classroom or other effective interactive training and education regarding sexual harassment as specified in Government Code 12950.1. All newly hired employees and employees promoted to a supervisory position shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the district, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

The district's sexual harassment training and education program shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention, and correction of sexual harassment
2. The types of conduct that constitute sexual harassment
3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability
4. Strategies to prevent harassment in the workplace
5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware
6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
7. The limited confidentiality of the complaint process
8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment
9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the district's obligation to conduct an effective workplace investigation of a harassment complaint
10. What to do if the supervisor is personally accused of harassment

11. The essential elements of the district's anti-harassment policy, and how to use the policy if a harassment complaint is filed

Employees shall receive a copy of the district's sexual harassment policy and administrative regulations, which they shall read and acknowledge that they have received.

12. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation
13. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and other in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious

Additionally, the Superintendent or designee shall ensure that all employees receive annual training related to their duties under Title IX in accordance with 34 CFR 106.8, and that a newly hired employee receive training promptly upon hire or change of position that alters the employee's duties under Title IX. (34 CFR 106.8)

The district's Title IX sex discrimination and sex-based harassment training shall include: (34 CFR 106.8)

1. The district's obligation to address sex-based discrimination, including sex-based harassment, in its education program or activity
2. The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment
3. The notification and information requirements specified in 34 CFR 106.40 and 106.44

The district's Title IX sex-based harassment training and education program shall also include additional training required of supervisors; investigators, decisionmakers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and Title IX Coordinators and designees. (34 CFR 106.8)

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, type of training, and name of the training provider. (2 CCR 11024)

Additionally, the Superintendent or designee shall retain for at least seven years the materials used to provide training as specified in 34 CFR 106.8, and to make these materials available, upon request, to members of the public. (34 CFR 106.8)

### **Notifications**

To prevent unlawful sex discrimination and sex-based harassment, including retaliation, in district programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 4030 - Nondiscrimination in Employment.

In addition to the measures to prevent discrimination as specified in Administrative Regulation 4030 - Nondiscrimination in Employment, the Superintendent or designee shall ensure that a copy of the Board policy and this administrative regulation:

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired (Education Code 231.5)
3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

All employees shall receive a copy of an information sheet prepared by the California Civil Rights Department (CRD) or the district that contains, at a minimum, components on: (Government Code 12950)

1. The illegality of sex-based harassment
2. The definition of sex-based harassment under applicable state and federal law
3. A description of sex-based harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through CRD and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact CRD and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by CRD and the EEOC

Additionally, the district shall post, in a prominent and accessible location, the CRD poster on discrimination in employment and the illegality of sex-based harassment, and the CRD poster regarding transgender rights. (Government Code 12950)

### **Complaint Procedures**

All complaints and allegations of sex discrimination and sex-based harassment by and against employees shall be investigated and resolved as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

If sex discrimination or sex-based harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Title IX Coordinator, shall take prompt action to stop the sex discrimination or sexbased harassment, prevent recurrence, and address any continuing effects.

**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 References**

2 CCR 11006-11086

2 CCR 11009

#### **Description**

Discrimination in employment

Employment discrimination

2 CCR 11021	Discrimination in employment - retaliation
2 CCR 11023	Harassment and discrimination prevention and correction
2 CCR 11024	Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
2 CCR 11034	Terms, conditions, and privileges of employment
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 220.1	Prohibition of retaliation related to educational equity
Ed. Code 220.3	Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 220.5	Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
Gov. Code 12900-12996	<u>Fair Employment and Housing Act</u>
Gov. Code 12940	<u>Unlawful discriminatory employment practices</u>
Gov. Code 12950	<u>Sexual harassment</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
Lab. Code 1101	<u>Political activities of employees</u>
Lab. Code 1102.1	Discrimination: sexual orientation
Lab. Code 1197.5	Wages, hours, and working conditions

**Federal References**

20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
29 CFR 1636	Implementation of the Pregnant Workers Fairness Act
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000gg-2000gg-6	Pregnant Workers Fairness Act

**Management Resources References**

Court Decision	Burlington Industries v. Ellreth (1998) 118 S.Ct. 2257
Court Decision	Department of Health Services v. Superior Court of California (2003) 31 Cal.4th 1026
Court Decision	Faragher v. City of Boca Raton (1998) 118 S.Ct. 2275
Court Decision	Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989
Court Decision	Meritor Savings Bank, FSB v. Vinson et al. (1986) 447 U.S. 57
Court Decision	Oncale v. Sundowner Offshore Serv. Inc. (1998) 118 S.Ct. 998
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</u>

**Management Resources References**

U.S. Equal Employment Opportunity Com.  
Publication

Website

Website

Website

Website

Website

**Description**

Promising Practices for Preventing Harassment, November 2017

CSBA District and County Office of Education Legal Services

California Department of Education

California Civil Rights Department

U.S. Department of Education, Office for Civil Rights

Equal Employment Opportunity Commission

**Cross References****Description**

0410

Nondiscrimination In District Programs And Activities

0450

Comprehensive Safety Plan

0450

Comprehensive Safety Plan

1312.3

Uniform Complaint Procedures

1312.3

Uniform Complaint Procedures

1312.3-E(1)

Uniform Complaint Procedures

1312.3-E(2)

Uniform Complaint Procedures

1313

Civility

3530

Risk Management/Insurance

3530

Risk Management/Insurance

3600

Consultants

4030

Nondiscrimination In Employment

4030

Nondiscrimination In Employment

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Lactation Accommodation

4040

Employee Use Of Technology

4040-E(1)

Employee Use Of Technology

4112.9

Employee Notifications

4112.9-E(1)

Employee Notifications

4117.7

Employment Status Reports

4118

Dismissal/Suspension/Disciplinary Action

4118

Dismissal/Suspension/Disciplinary Action

4119.12

Title IX Sex Discrimination and Sex-Based Harassment  
Complaint Procedures

4119.12-E(1)

Title IX Sex Discrimination and Sex-Based Harassment  
Complaint Procedures

4119.21

Professional Standards

4119.21-E(1)

Professional Standards

4119.22

Dress And Grooming

4131

Staff Development

4144

Complaints

4144

Complaints

4212.9

Employee Notifications

4212.9-E(1)

Employee Notifications

Cross References	Description
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.22	<u>Dress And Grooming</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4300	<u>Administrative And Supervisory Personnel</u>
4300	<u>Administrative And Supervisory Personnel</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4317.7	<u>Employment Status Reports</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	<u>Procedures</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.22	<u>Dress And Grooming</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u>
5146	<u>Married/Pregnant/Parenting Students</u>

## **Regulation 4119.12: Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures**

Status: ADOPTED

**Original Adopted Date:** 07/01/2020 | **Last Revised Date:** 07/01/2024 | **Last Reviewed Date:** 07/01/2024

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district employee, while in an education program or activity, was subjected to conduct on or after August 1, 2024, including, but not limited to, conduct that is under the authority of the district, that constitutes sex discrimination, including sex-based harassment. For conduct that occurred prior to this date, the district should utilize its policies in place at the time the alleged sex discrimination, including sex-based harassment, occurred, so long as they are in accordance with the applicable statutes and regulations.

Sex discrimination and sex-based harassment include, but are not limited to, sex-based conduct as specified in Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment.

### **Basic Requirements**

When implementing Title IX grievance procedures, the district shall: (34 CFR 106.45)

1. Treat complainants and respondents equitably
2. Ensure that the Title IX Coordinator or designee, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent

The investigator and the decisionmaker may be the same person as the Title IX Coordinator or designee.

3. Presume that the respondent is not responsible for the alleged sex discrimination, including sex-based harassment, until a determination is made at the conclusion of the grievance procedures
4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, such as evaluation of whether to dismiss or investigate a complaint, investigation, decision, and appeals if any
5. Establish a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay

Additionally, the district shall not disclose personally identifiable information obtained while implementing Title IX complaint procedures unless the district has obtained prior written consent from a person with the legal right to consent to the disclosure; the information is disclosed to a parent/guardian or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; to take action to address conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, in the district's education program or activity; as required by federal law, regulations, or as a condition to a federal award; as required by state or local law; or to the extent such disclosures are not otherwise in conflict with Title IX. (34 CFR 106.44)

If the respondent is a student with a disability, the Title IX Coordinator or designee shall consult with one or more members, as appropriate, of the student's individualized education program or 504 team, to determine how to comply with the requirements of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973.

## Filing a Complaint

Upon receiving information of an allegation of sex discrimination, including sex-based harassment, the Title IX Coordinator or designee shall notify the individual(s) specified in law of the Title IX grievance procedures, and of the informal resolution process, if available and appropriate.

A *complaint* is an oral or written request that can objectively be understood by the Title IX Coordinator or designee

as a request for the district to investigate and make a determination about alleged sex discrimination, including sexbased harassment. (34 CFR 106.2)

Complaints of sex discrimination and sex-based harassment may only be brought by an employee, or former employee, who was participating or attempting to participate in the district's education program or activity at the time of the alleged sex-based harassment, or the Title IX Coordinator or designee. (34 CFR 106.45)

If the alleged victim chooses not to bring a complaint, or withdraws any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator or designee shall consider whether to initiate a complaint. To do so, the Title IX Coordinator or designee shall first consider the following factors: (34 CFR 106.44)

1. The victim's request not to proceed with initiation of a complaint
2. The victim's reasonable safety concerns regarding initiation of a complaint
3. The risk that additional acts of sex discrimination, including sex-based harassment, would occur if a complaint is not initiated
4. The severity of the alleged sex discrimination or sex-based harassment, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence
5. The age and relationship of the parties, including whether the respondent is an employee of the district
6. The scope of the alleged sex discrimination, including information suggesting a pattern; ongoing sex discrimination, including sex-based harassment; or sex discrimination, including sex-based harassment, alleged to have impacted multiple individuals
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination, including sexbased harassment, occurred
8. Whether the district could end the alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX grievance procedures

If, after considering these factors, the Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant or another person, or that the conduct as alleged prevents the district from ensuring equal access to a district program or activity on the basis of sex, the Title IX Coordinator may initiate a complaint.



If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall provide the alleged victim notice of the complaint as well as other notices as required by the Title IX regulations at specific points in the complaint process. The Title IX Coordinator shall also address reasonable concerns about the victim's safety or the safety of others, including providing supportive measures as described in "Supportive Measures" below, and taking other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district. (34 CFR 106.44)

The Title IX Coordinator or designee, investigator, decisionmaker, other person who is responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.8. (34 CFR 106.44)

In order to ensure that employees are not barred from reporting information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, the Title IX Coordinator shall monitor the district for barriers to reporting and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

### **Supportive Measures**

Upon receipt of a report of Title IX sex discrimination or sex-based harassment, the Title IX Coordinator or designee shall offer and coordinate supportive measures. Supportive measures may vary depending on what the district determines to be reasonably available and shall not unreasonably burden either the complainant or respondent. Supportive measures shall be provided without charging a fee to the complainant or respondent and be designed to protect the safety of the complainant, respondent, and the district's educational environment, and to provide support during any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44. The district shall not impose such measures for punitive or disciplinary reasons. Supportive measures may include, but are not limited to, counseling; extensions of deadlines and other course- or work-related adjustment; changes in class, work, housing, or extracurricular or any other activity regardless of whether there is a comparable alternative; campus escort services; modifications of class or work schedules; mutual restrictions on contact; changes in class or work locations; leaves of absence; increased security; monitoring of certain areas of the campus; and, training and education programs related to sex-based harassment. (34 CFR 106.2, 106.44)

Unless there is an allegation of sex-based harassment or retaliation, the district may provide supportive measures without altering the alleged discriminatory conduct. (34 CFR 106.44)

Upon the conclusion of any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44, the district may continue with the supportive measures, or modify or terminate such measures, as appropriate. (34 CFR 106.44)

The district shall provide a complainant or respondent for whom supportive measures have been implemented with a timely opportunity to seek, from an impartial employee with authority to modify or reverse the supportive measures, modification or reversal of the district's decision to provide, deny, modify, or terminate such measures, and to seek additional modification or termination of the supportive measures if circumstances materially change. (34 CFR 106.44)

The district shall not disclose information about supportive measures to any person other than the person to whom they apply, including informing one party of supportive measures provided to another party,

unless the disclosure is necessary to providing the supportive measures, or restoring or preserving a party's access to the district's education program or activity. (34 CFR 106.44)

### **Emergency Removal**

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

If the respondent is a student, the district may, on an emergency basis, remove the student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an imminent and serious threat to the health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the IDEA or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44) **Dismissal of Complaint**

The Title IX Coordinator or designee may dismiss a complaint if: (34 CFR 106.45)

1. The district is unable to identify the respondent after taking reasonable steps to do so
2. The respondent is not participating in the district's education program or activity and is not employed by the district
3. The district determines that the conduct alleged in the complaint, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX

Before dismissing the complaint, the Title IX Coordinator shall make reasonable efforts to clarify the allegations with the complainant.

4. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination, including sex-based harassment, under Title IX, even if proven

The Title IX Coordinator shall determine whether to dismiss or investigate any complaint of sex discrimination, including sex-based harassment, within \_\_\_\_\_ days, unless such timeline is extended in accordance with this administrative regulation.

Upon dismissal, the Title IX Coordinator shall promptly notify the complainant of the dismissal and the reasons for the dismissal. Additionally, if the dismissal occurs after the respondent has been notified of the allegations, the Title IX Coordinator shall provide such notification to the respondent, which shall occur simultaneously to both parties if the notification is in writing. The Title IX Coordinator shall also inform the complainant, and the respondent if the dismissal occurs after the respondent has been notified of the allegations, of their right to appeal. Dismissals may be appealed on the following bases: (34 CFR 106.45)

1. A procedural irregularity that would change the outcome
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made

3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome

If the dismissal is appealed, the district shall: (34 CFR 106.45)

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent
2. Implement appeal procedures equally for the parties
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome
6. Notify the parties of the result of the appeal and the rationale for the result

If a complaint is dismissed, the Title IX Coordinator or designee shall offer supportive measures as described above in "Supportive Measures" to the complainant. Additionally, the respondent shall be offered supportive measures if the complaint was dismissed because the complainant voluntarily withdrew any or all of the allegations in the complaint and the district determined that without the withdrawn allegations the conduct, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX, or if the complaint was dismissed because the district determined, after taking reasonable efforts to clarify the allegations of the complaint, that the alleged conduct would not constitute sex discrimination, including sex-based harassment, even if proven. The Title IX Coordinator shall also take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to Administrative Regulation 4030 Nondiscrimination in Employment as applicable.

### **Informal Resolution Process**

At any time prior to determining whether sex discrimination, including sex-based harassment, occurred under the complaint procedures specified in 34 CFR 106.45, the district may offer, if it is determined to be appropriate upon receiving information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made, an informal resolution process, such as mediation, to the complainant and respondent. However, the district shall not offer an informal resolution process if the complaint alleges that an employee engaged in sex-based harassment of an elementary or secondary school student or that such process would conflict with federal, state, or local law. (34 CFR 106.44)

The district shall not require or pressure a party to participate in the informal resolution process, or to waive the right to an investigation and determination of a complaint as a condition of employment or continuing employment, or exercise of any other right. The district may decline to offer an informal resolution process including, but not limited to, when the district determines that the alleged conduct would present a future risk of harm to others. (34 CFR 106.44)

The district may facilitate an informal resolution process provided that the district, prior to initiating such process:

(34 CFR 106.44)

1. Provides the parties with written notice disclosing the allegations; the requirements of the informal resolution process; the right to withdraw from the informal process and resume the formal complaint process; the inability to initiate or resume complaint procedures arising from the same allegations once the informal resolution process is concluded; the potential terms that may be requested or offered in an informal resolution agreement, including that the agreement would only be binding on the parties; and the information that the district will maintain and whether and how the district could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed
2. Obtains the parties' voluntary consent to the informal resolution process

The Title IX Coordinator or designee shall ensure that the facilitator of the informal resolution process is not the same person as the investigator or decisionmaker of any ongoing or newly initiated complaint process specified in 34 CFR 106.45, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and receives training in accordance with 34 CFR 106.8. (34 CFR 106.44)

If the district facilitates an informal resolution process, the Title IX Coordinator shall, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district' education program or activity. (34 CFR 106.45)

### **Notice of Allegations**

If the district initiates a formal Title IX investigation, the Title IX Coordinator or designee shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process
2. Sufficient information, available at the time, to allow the parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident(s), the conduct allegedly constituting sex discrimination, including sex-based harassment, and the date(s) and location(s) of the alleged incident. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. A statement that retaliation is prohibited
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of such evidence, as specified

The above notice may also include the name of the investigator, facilitator of an informal process, and decisionmaker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator or designee.

## Consolidation of Complaints

The district may consolidate complaints of sex discrimination, including sex-based harassment, against more than one respondent; by more than one complainant against one or more respondents; or by one party against another party, when the allegations of sex discrimination, including sex-based harassment, arise out of the same facts or circumstances. (34 CFR 106.45)

## Investigation Procedures

The district shall provide for adequate, reliable, and impartial investigation of complaints. (34 CFR 106.45)

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible
2. Review all evidence gathered through the investigation and determine which evidence is relevant and which evidence is impermissible regardless of relevance
3. Provide each party with an equal opportunity to access evidence that is relevant, and not otherwise impermissible, to the allegations of sex discrimination, including sex-based harassment, by:

- a. Providing an equal opportunity to access either the relevant and not otherwise impermissible evidence or an accurate description of such evidence

If an accurate description is provided, the district shall, upon request of any party, provide the parties with an equal opportunity to access the relevant and permissible evidence.

- b. Providing a reasonable opportunity to respond to the evidence or to the accurate description of the evidence
  - c. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures
4. Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of the parties to obtain and present evidence, including, by speaking to witnesses; consulting with family members, confidential resources, or advisors; or otherwise preparing for or participating in the grievance procedures
  5. Objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence, including that credibility determinations will not be based on a person's status as complainant, respondent, or witness
  6. Exclude as impermissible the following types of evidence, and questions seeking that evidence:
    - a. Evidence that is protected under a privilege recognized by state or federal law or evidence that is provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege
    - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the district obtains that party's or witness's voluntary, written consent for use in its grievance procedures

Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment.

The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

The district shall ensure that the decisionmaker is able to question parties and witnesses adequately to assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. (34 CFR 106.45)

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

The investigator shall complete the investigation within \_\_\_\_ days after the Title IX Coordinator determines to proceed with an investigation, unless such timeline is extended in accordance with this administrative regulation.

### **Written Decision**

The Superintendent shall designate an employee as the decisionmaker to determine responsibility for the alleged conduct, who may be the Title IX Coordinator or designee or the investigator so long as there is no conflict of interest or bias. (34 CFR 106.45)

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall:

(34 CFR 106.45)

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has occurred
2. Notify the parties in writing of the determination of whether sex discrimination, including sex-based harassment, occurred

The notification shall include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.

The written decision shall be issued within \_\_\_\_ days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

### **Appeal of the Decision**

Either party may appeal the district's decision of a complaint or any allegation in the complaint. (34 CFR 106.45)

When conducting an appeal, the district shall follow the appeal process as specified in Administrative Regulation 4030 - Nondiscrimination in Employment.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable. **Extension of Timelines**

Any timelines specified in this administrative regulation may be extended by the district for good cause, with written notice to the parties. The written notice shall specify the reasons for the extension. (34 CFR 106.45)

### **Remedies**

When there is a determination that sex discrimination, including sex-based harassment, has occurred, the Title IX Coordinator shall coordinate the provision and implementation of remedies to the complainant and other persons the district identifies as having had equal access to the district's education program or activity limited or denied by sex discrimination, including sex-based harassment; coordinate the imposition of any disciplinary sanctions on a respondent as described in "Disciplinary Actions" below, including notification to the complainant of any such disciplinary sanctions; and take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)

### **Disciplinary Actions**

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44, 106.45)

When an employee is found to have committed sex discrimination, including sex-based harassment, or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district shall not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the district's determination of whether sex discrimination, including sex-based harassment, occurred. (34 CFR 106.45)

### **Record-Keeping**

The Superintendent or designee shall maintain, for at least a period of seven years: (34 CFR 106.45)

1. For each complaint of sex discrimination, including sex-based harassment, records documenting any informal resolution process or formal investigation procedures
2. For each notification the Title IX Coordinator or designee receives of information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, records documenting the actions taken to fulfill the district's obligations as specified in 34 CFR 106.44, including supportive measures offered and implemented
3. All materials used to train district employees; the Title IX Coordinator and designee(s); investigator(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person who facilitates an informal resolution process

The district shall make such training materials available upon request by members of the public.

For complaints containing allegations of childhood sexual assault, the Superintendent or designee shall also indefinitely maintain the following: (Code of Civil Procedure 340.1):

1. A record of the allegation(s)
2. A record of the investigation procedures followed
3. A record of the written determination
4. A record of the corrective action implemented, if any
5. A record of any appeals and the outcome of the same
6. All training materials addressing the prohibition and investigation of childhood sexual assault

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**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 References**

5 CCR 4600-4670

**Description**

Uniform complaint procedures

5 CCR 4900-4965

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Civ. Code 1714.1

Liability of parent or guardian for act of willful misconduct by a minor

Civ. Code 51.9

Liability for sexual harassment; business, service and professional relationships

Ed. Code 200-270

Prohibition of discrimination

Ed. Code 48900

Grounds for suspension or expulsion

Ed. Code 48900.2

Additional grounds for suspension or expulsion; sexual harassment

Ed. Code 48985

Notices to parents in language other than English

Gov. Code 12950.1

Sexual harassment training

**Federal References**

**Description**

20 USC 1092

Definition of sexual assault

20 USC 1221

Application of laws

20 USC 1681-1688

Title IX of the Education Amendments of 1972; discrimination based on sex

34 CFR 106.1-106.82

Nondiscrimination on the basis of sex in education programs

34 CFR 99.1-99.67

Family Educational Rights and Privacy

34 USC 12291

Definition of dating violence, domestic violence, and stalking

42 USC 1983

Civil action for deprivation of rights

42 USC 2000d-2000d-7

Title VI, Civil Rights Act of 1964

42 USC 2000e-2000e-17

Title VII, Civil Rights Act of 1964, as amended

U.S. DOJ, FBI Publication

National Incident-Based Reporting System

**Management Resources References**

**Description**

Court Decision

Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736

Court Decision

Davis v. Monroe County Board of Education (1999) 526 U.S. 629

Court Decision

Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274



Court Decision	<a href="#">Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473</a>
Court Decision	<a href="#">Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447</a>
Court Decision	<a href="#">Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567</a>
Court Decision	<a href="#">Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130</a>
Federal Register	<a href="#">Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</a>
Website	<a href="#">U.S. Department of Justice, Federal Bureau of Investigation</a>
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">CSBA</a>
Website	<a href="#">California Department of Education</a>
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>

**Cross References**

**Description**

0410	<a href="#">Nondiscrimination In District Programs And Activities</a>
<b>Cross References</b>	<b>Description</b>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(1)	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(2)	<a href="#">Uniform Complaint Procedures</a>
1313	<a href="#">Civility</a>
3580	<a href="#">District Records</a>
3580	<a href="#">District Records</a>
3600	<a href="#">Consultants</a>
4030	<a href="#">Nondiscrimination In Employment</a>
4030	<a href="#">Nondiscrimination In Employment</a>
4033	<a href="#">Lactation Accommodation</a>
4117.7	<a href="#">Employment Status Reports</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4119.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4119.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4131	<a href="#">Staff Development</a>
4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4219.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4219.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4317.7	<a href="#">Employment Status Reports</a>
4319.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4319.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
5145.7	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
5145.7	<a href="#">Sex Discrimination and Sex-Based Harassment</a>

**Exhibit 4119.12-E(1): Title IX Sex Discrimination and Sex-Based Harassment  
Complaint Procedures**

Status: ADOPTED

Original Adopted Date: 10/01/2020 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

**NOTICE OF TITLE IX NONDISCRIMINATION**

The Code of Federal Regulations, Title 34, Section 106.8 requires the district to issue the following notification to employees, job applicants, and employee organizations:

The district does not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment, in any education program or activity that it operates. The prohibition against discrimination on the basis of sex is required by federal law (20 USC 1681-1688; 34 CFR Part 106) and extends to employment. The district also prohibits retaliation against any employee for filing a complaint or exercising any right granted under Title IX.

The district is required, as specified in Title IX, to take prompt and equitable action to address any potential Title IX violations that are brought to its attention. Any inquiries about the application of Title IX, this notice, and who is protected by Title IX may be referred to the district's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The district has designated and authorized the following employee(s) as the district's Title IX Coordinator, to address concerns or inquiries regarding discrimination on the basis of sex, including sex-based harassment:

\_\_\_\_\_  
(name and/or title/position)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(telephone number)

\_\_\_\_\_  
(email address)

Any individual may report sex discrimination, including sex-based harassment, to the Title IX Coordinator or any other school employee at any time, including during non-business hours, by mail, phone, or email. During district business hours, reports may also be made in person. Upon receiving an allegation of sex discrimination, including sexbased harassment, the Title IX Coordinator will promptly notify the parties, in writing, of the applicable district complaint procedure.

To view an electronic copy of the district's policies and administrative regulations on sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see Board Policy/Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment, and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures on the district's website at \_\_\_\_\_ (insert website link)\_\_\_\_\_.

To inspect or obtain a copy of the district's sex discrimination and sex-based harassment policies and administrative regulations, please contact: \_\_\_\_\_ (insert location/phone/email of contact person) \_\_\_\_\_.

Materials used to train employees; the Title IX Coordinator; investigator(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person(s) who facilitates an informal resolution process, are available at the district office upon request.

**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.

<b>State References</b>	<b>Description</b>
5 CCR 4600-4670	Uniform complaint procedures
<b>State References</b>	<b>Description</b>
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	<u>Liability of parent or guardian for act of willful misconduct by a minor</u>
Civ. Code 51.9	<u>Liability for sexual harassment; business, service and professional relationships</u>
Ed. Code 200-270	Prohibition of discrimination
Ed. Code 48900	<u>Grounds for suspension or expulsion</u>
Ed. Code 48900.2	<u>Additional grounds for suspension or expulsion; sexual harassment</u>
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
<b>Federal References</b>	<b>Description</b>
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
U.S. DOJ, FBI Publication	<u>National Incident-Based Reporting System</u>
<b>Management Resources References</b>	<b>Description</b>
Court Decision	Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736
Court Decision	Davis v. Monroe County Board of Education (1999) 526 U.S. 629
Court Decision	Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473
Court Decision	Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130

Federal Register	<a href="#"><u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2012, Vol. 77, No. 83, pages 33474-33896</u></a>
Website	<a href="#"><u>U.S. Department of Justice, Federal Bureau of Investigation</u></a>
Website	<a href="#"><u>CSBA District and County Office of Education Legal Services</u></a>
Website	<a href="#"><u>CSBA</u></a>
Website	<a href="#"><u>California Department of Education</u></a>
Website	<a href="#"><u>U.S. Department of Education, Office for Civil Rights</u></a>

**Cross References**

0410	<a href="#"><u>Nondiscrimination In District Programs And Activities</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>

**Cross References**

1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(1)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(2)	<a href="#"><u>Uniform Complaint Procedures</u></a>
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5145.7	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
5145.7	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>

The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Governing Board is committed to providing a safe work environment that is free of discrimination, harassment, and intimidation. The Board prohibits sex discrimination, including sex-based harassment, as defined in the accompanying administrative regulation, in district programs and activities by and against district employees.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1; 34 CFR 106.71)

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sex discrimination and sex-based harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sex discrimination and sex-based harassment policy to employees and others to whom the policy may apply
3. Publicizing, in accordance with 34 CFR 106.8 and as specified in Administrative Regulation 4030 Nondiscrimination in Employment, a Title IX notice of nondiscrimination to employees, applicants for employment, and bargaining units
4. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures
5. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address sex discrimination and sex-based harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether sex discrimination and/or sex-based harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to harassment policy(ies), complaint procedures, or training, as appropriate and in accordance with law.

### **Reports and Complaints**

Any district employee who has experienced sex discrimination or sex-based harassment in the district's education program or activity may file a complaint with the district's Title IX Coordinator. (34 CFR 106.2, 106.44)

Any employee with knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment by or against another district employee, a student, or a third party in a district education program or activity shall notify the Title IX Coordinator within one workday. An employee may be subject to discipline for failure to timely report such conduct. (34 CFR 106.44)

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the district has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.  
(34 CFR 106.44)

Upon investigation of a sex discrimination or sex-based harassment complaint, any district employee found to have engaged or participated in sex discrimination or sex-based harassment or to have aided, abetted, incited, compelled, or coerced another to commit sex discrimination or sex-based harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

**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 References**

2 CCR 11006-11086

#### **Description**

Discrimination in employment

2 CCR 11009

Employment discrimination

2 CCR 11021

Discrimination in employment - retaliation

2 CCR 11023

Harassment and discrimination prevention and correction

2 CCR 11024

Required training and education on harassment based on sex, gender identity and expression, and sexual orientation

2 CCR 11034

Terms, conditions, and privileges of employment

5 CCR 4900-4965

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Ed. Code 200-262.4

Prohibition of discrimination

Ed. Code 220.1

Prohibition of retaliation related to educational equity

Ed. Code 220.3

Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression

Ed. Code 220.5

Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression

Gov. Code 12900-12996

Fair Employment and Housing Act

Gov. Code 12940

Unlawful discriminatory employment practices

Gov. Code 12950

Sexual harassment

Gov. Code 12950.1

Sexual harassment training

Lab. Code 1101

Political activities of employees

Lab. Code 1102.1

Discrimination: sexual orientation

Lab. Code 1197.5

Wages, hours, and working conditions

#### **Federal References**

#### **Description**

20 USC 1681-1688

Title IX of the Education Amendments of 1972; discrimination based on sex

29 CFR 1636

Implementation of the Pregnant Workers Fairness Act

34 CFR 106.1-106.82

Nondiscrimination on the basis of sex in education programs

42 USC 2000e-2000e-17  
42 USC 2000gg-2000gg-6

Title VII, Civil Rights Act of 1964, as amended  
Pregnant Workers Fairness Act

### Management Resources References

	Description
Court Decision	Burlington Industries v. Ellreth (1998) 118 S.Ct. 2257
Court Decision	Department of Health Services v. Superior Court of California (2003) 31 Cal.4th 1026
Court Decision	Faragher v. City of Boca Raton (1998) 118 S.Ct. 2275
Court Decision	Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989
Court Decision	Meritor Savings Bank, FSB v. Vinson et al. (1986) 447 U.S. 57
Court Decision	Oncale v. Sundowner Offshore Serv. Inc. (1998) 118 S.Ct. 998
Federal Register	<u><a href="#">Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</a></u>
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	<u><a href="#">CSBA District and County Office of Education Legal Services</a></u>
Website	<u><a href="#">California Department of Education</a></u>
Website	<u><a href="#">California Civil Rights Department</a></u>
Website	<u><a href="#">U.S. Department of Education, Office for Civil Rights</a></u>
Website	<u><a href="#">Equal Employment Opportunity Commission</a></u>

### Cross References

	Description
0410	<u><a href="#">Nondiscrimination In District Programs And Activities</a></u>
0450	<u><a href="#">Comprehensive Safety Plan</a></u>
0450	<u><a href="#">Comprehensive Safety Plan</a></u>
1312.3	<u><a href="#">Uniform Complaint Procedures</a></u>
1312.3	<u><a href="#">Uniform Complaint Procedures</a></u>
1312.3-E(1)	<u><a href="#">Uniform Complaint Procedures</a></u>
1312.3-E(2)	<u><a href="#">Uniform Complaint Procedures</a></u>
1313	<u><a href="#">Civility</a></u>
3530	<u><a href="#">Risk Management/Insurance</a></u>
3530	<u><a href="#">Risk Management/Insurance</a></u>
3600	<u><a href="#">Consultants</a></u>
4030	<u><a href="#">Nondiscrimination In Employment</a></u>
4030	<u><a href="#">Nondiscrimination In Employment</a></u>
4033	<u><a href="#">Lactation Accommodation</a></u>
4040	<u><a href="#">Employee Use Of Technology</a></u>
4040-E(1)	<u><a href="#">Employee Use Of Technology</a></u>
4112.9	<u><a href="#">Employee Notifications</a></u>
4112.9-E(1)	<u><a href="#">Employee Notifications</a></u>
4117.7	<u><a href="#">Employment Status Reports</a></u>
4118	<u><a href="#">Dismissal/Suspension/Disciplinary Action</a></u>
4118	<u><a href="#">Dismissal/Suspension/Disciplinary Action</a></u>



	<b>Description</b>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<b>Cross References</b>	
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	<u>Procedures</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4119.22	<u>Dress And Grooming</u>
4131	<u>Staff Development</u>
4144	<u>Complaints</u>
4144	<u>Complaints</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.22	<u>Dress And Grooming</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4300	<u>Administrative And Supervisory Personnel</u>
4300	<u>Administrative And Supervisory Personnel</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4317.7	<u>Employment Status Reports</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	

	<b>Description</b>
	<u>Procedures</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.22	<u>Dress And Grooming</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint</u>
5145.71	
	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint</u>
5145.71-E(1)	
	<u>Procedures</u>
<b>Cross References</b>	
5146	<u>Married/Pregnant/Parenting Students</u>

**Regulation 4219.11: Sex Discrimination and Sex-Based Harassment**

Status: ADOPTED

Original Adopted Date: 12/01/2016 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

The district does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations. Sex discrimination, including sex-based harassment, is prohibited in district education programs and activities.

The following administrative regulation shall apply to all allegations of sex discrimination and sex-based harassment by and against district employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by a student.

**Definitions**

*Sex discrimination* includes treating an employee differently based on the employee's sex, which includes differential treatment based on sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or association with a person or group with one or more of these actual or perceived characteristics.

*Sex discrimination*, including sex-based harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct and occurs when prohibited conduct is so severe, persistent, or pervasive that it creates an intimidating, threatening, hostile, or offensive work environment; has the effect of substantially or unreasonably interfering with an employee's term or condition of employment; or otherwise adversely affects an employee's employment opportunities.

*Sex-based harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, or other bases specified above. Conduct will constitute sex-based harassment when it takes the form of: (34 CFR 106.2, 106.11)

1. **Quid pro quo harassment:** A district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service in the district's education program or activity conditioning the provision of district aid, benefit, or service on a student's participation in unwelcome sexual conduct
2. **Hostile environment harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the district's education program or activity

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sex-based harassment in violation of district policy if it has a continuing effect on a student's ability to participate in or benefit from district educational programs or activities.

3. **Sexual assault, dating violence, domestic violence, or stalking,** as defined in 34 CFR 106.2

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature, regardless of whether the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite sex in the work or educational setting under any of the following conditions: (Education Code 212.5; Government Code 12940; 2 CCR 11034)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual
3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile, or offensive work environment
4. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the district

### **Examples of Sex Discrimination and Sex-Based Harassment**

Examples of actions that might constitute sex-based harassment under state and/or federal law in accordance with the definitions above, in the work or educational setting, whether committed by a supervisor, a co-worker, or a nonemployee, include, but are not limited to:

1. Unwelcome verbal conduct such as sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sex-based activity; sex-based jokes or stories; unwelcome sex-based slurs, epithets, threats, innuendoes; derogatory comments; sex-based degrading descriptions; or the spreading of sex-based rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails or messaging; or displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; or cornering, blocking, leaning over, or impeding normal movements

### **Title IX Coordinator/Compliance Officer**

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX in accordance with Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and oversee the district's response to discrimination complaints processed under Administrative Regulation 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

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(title or position)

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(address)

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(telephone number)

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(email)

## Training

The Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sexbased harassment in accordance with state and federal law.

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours, and nonsupervisory employees receive at least one hour, of classroom or other effective interactive training and education regarding sexual harassment as specified in Government Code 12950.1. All newly hired employees and employees promoted to a supervisory position shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the district, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

The district's sexual harassment training and education program shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention, and correction of sexual harassment
2. The types of conduct that constitute sexual harassment
3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability
4. Strategies to prevent harassment in the workplace
5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware
6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
7. The limited confidentiality of the complaint process
8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment
9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the district's obligation to conduct an effective workplace investigation of a harassment complaint
10. What to do if the supervisor is personally accused of harassment

11. The essential elements of the district's anti-harassment policy, and how to use the policy if a harassment complaint is filed

Employees shall receive a copy of the district's sexual harassment policy and administrative regulations, which they shall read and acknowledge that they have received.

12. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation
13. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and other in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious

Additionally, the Superintendent or designee shall ensure that all employees receive annual training related to their duties under Title IX in accordance with 34 CFR 106.8, and that a newly hired employee receive training promptly upon hire or change of position that alters the employee's duties under Title IX. (34 CFR 106.8)

The district's Title IX sex discrimination and sex-based harassment training shall include: (34 CFR 106.8)

1. The district's obligation to address sex-based discrimination, including sex-based harassment, in its education program or activity
2. The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment
3. The notification and information requirements specified in 34 CFR 106.40 and 106.44

The district's Title IX sex-based harassment training and education program shall also include additional training required of supervisors; investigators, decisionmakers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and Title IX Coordinators and designees. (34 CFR 106.8)

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, type of training, and name of the training provider. (2 CCR 11024)

Additionally, the Superintendent or designee shall retain for at least seven years the materials used to provide training as specified in 34 CFR 106.8, and to make these materials available, upon request, to members of the public. (34 CFR 106.8)

### **Notifications**

To prevent unlawful sex discrimination and sex-based harassment, including retaliation, in district programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 4030 - Nondiscrimination in Employment.

In addition to the measures to prevent discrimination as specified in Administrative Regulation 4030 - Nondiscrimination in Employment, the Superintendent or designee shall ensure that a copy of the Board policy and this administrative regulation:

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired (Education Code 231.5)
3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

All employees shall receive a copy of an information sheet prepared by the California Civil Rights Department (CRD) or the district that contains, at a minimum, components on: (Government Code 12950)

1. The illegality of sex-based harassment
2. The definition of sex-based harassment under applicable state and federal law
3. A description of sex-based harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through CRD and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact CRD and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by CRD and the EEOC

Additionally, the district shall post, in a prominent and accessible location, the CRD poster on discrimination in employment and the illegality of sex-based harassment, and the CRD poster regarding transgender rights. (Government Code 12950)

### **Complaint Procedures**

All complaints and allegations of sex discrimination and sex-based harassment by and against employees shall be investigated and resolved as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

If sex discrimination or sex-based harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Title IX Coordinator, shall take prompt action to stop the sex discrimination or sexbased harassment, prevent recurrence, and address any continuing effects.

**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.

<b>State References</b>	<b>Description</b>
2 CCR 11006-11086	Discrimination in employment
2 CCR 11009	Employment discrimination

2 CCR 11021	Discrimination in employment - retaliation
2 CCR 11023	Harassment and discrimination prevention and correction
2 CCR 11024	Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
2 CCR 11034	Terms, conditions, and privileges of employment
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 220.1	Prohibition of retaliation related to educational equity
Ed. Code 220.3	Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 220.5	Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
Gov. Code 12900-12996	<u>Fair Employment and Housing Act</u>
Gov. Code 12940	<u>Unlawful discriminatory employment practices</u>
Gov. Code 12950	<u>Sexual harassment</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
Lab. Code 1101	<u>Political activities of employees</u>
Lab. Code 1102.1	Discrimination: sexual orientation
Lab. Code 1197.5	Wages, hours, and working conditions

**Federal References**

20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
29 CFR 1636	Implementation of the Pregnant Workers Fairness Act
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000gg-2000gg-6	Pregnant Workers Fairness Act

**Management Resources References**

	<b>Description</b>
Court Decision	Burlington Industries v. Ellreth (1998) 118 S.Ct. 2257
Court Decision	Department of Health Services v. Superior Court of California (2003) 31 Cal.4th 1026
Court Decision	Faragher v. City of Boca Raton (1998) 118 S.Ct. 2275
Court Decision	Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989
Court Decision	Meritor Savings Bank, FSB v. Vinson et al. (1986) 447 U.S. 57
Court Decision	Oncale v. Sundowner Offshore Serv. Inc. (1998) 118 S.Ct. 998
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</u>



### Management Resources References

U.S. Equal Employment Opportunity Com. Publication

Website

Website

Website

Website

Website

### Description

Promising Practices for Preventing Harassment, November 2017

CSBA District and County Office of Education Legal Services

California Department of Education

California Civil Rights Department

U.S. Department of Education, Office for Civil Rights

Equal Employment Opportunity Commission

### Cross References

0410

Nondiscrimination In District Programs And Activities

0450

Comprehensive Safety Plan

0450

Comprehensive Safety Plan

1312.3

Uniform Complaint Procedures

1312.3

Uniform Complaint Procedures

1312.3-E(1)

Uniform Complaint Procedures

1312.3-E(2)

Uniform Complaint Procedures

1313

Civility

3530

Risk Management/Insurance

3530

Risk Management/Insurance

3600

Consultants

4030

Nondiscrimination In Employment

4030

Nondiscrimination In Employment

4033

Lactation Accommodation

4040

Employee Use Of Technology

4040-E(1)

Employee Use Of Technology

4112.9

Employee Notifications

4112.9-E(1)

Employee Notifications

4117.7

Employment Status Reports

4118

Dismissal/Suspension/Disciplinary Action

4118

Dismissal/Suspension/Disciplinary Action

4119.12

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4119.12-E(1)

Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4119.21

Professional Standards

4119.21-E(1)

Professional Standards

4119.22

Dress And Grooming

4131

Staff Development

4144

Complaints

4144

Complaints

4212.9

Employee Notifications

4212.9-E(1)

Employee Notifications

Cross References	Description
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
4219.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.21	<u>Procedures</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.22	<u>Professional Standards</u>
4231	<u>Dress And Grooming</u>
4244	<u>Staff Development</u>
4244	<u>Complaints</u>
4300	<u>Complaints</u>
4300	<u>Administrative And Supervisory Personnel</u>
4312.9	<u>Administrative And Supervisory Personnel</u>
4312.9-E(1)	<u>Employee Notifications</u>
4317.7	<u>Employee Notifications</u>
4319.12	<u>Employment Status Reports</u>
4319.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u> <u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.21	<u>Procedures</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.22	<u>Professional Standards</u>
4344	<u>Dress And Grooming</u>
4344	<u>Complaints</u>
5145.3	<u>Complaints</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u> <u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u>
5146	<u>Married/Pregnant/Parenting Students</u>

## **Regulation 4219.12: Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures**

Status: ADOPTED

**Original Adopted Date:** 07/01/2020 | **Last Revised Date:** 07/01/2024 | **Last Reviewed Date:** 07/01/2024

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district employee, while in an education program or activity, was subjected to conduct on or after August 1, 2024, including, but not limited to, conduct that is under the authority of the district, that constitutes sex discrimination, including sex-based harassment. For conduct that occurred prior to this date, the district should utilize its policies in place at the time the alleged sex discrimination, including sex-based harassment, occurred, so long as they are in accordance with the applicable statutes and regulations.

Sex discrimination and sex-based harassment include, but are not limited to, sex-based conduct as specified in Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment.

### **Basic Requirements**

When implementing Title IX grievance procedures, the district shall: (34 CFR 106.45)

1. Treat complainants and respondents equitably
2. Ensure that the Title IX Coordinator or designee, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent

The investigator and the decisionmaker may be the same person as the Title IX Coordinator or designee.

3. Presume that the respondent is not responsible for the alleged sex discrimination, including sex-based harassment, until a determination is made at the conclusion of the grievance procedures
4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, such as evaluation of whether to dismiss or investigate a complaint, investigation, decision, and appeals if any
5. Establish a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay

Additionally, the district shall not disclose personally identifiable information obtained while implementing Title IX complaint procedures unless the district has obtained prior written consent from a person with the legal right to consent to the disclosure; the information is disclosed to a parent/guardian or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; to take action to address conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, in the district's education program or activity; as required by federal law, regulations, or as a condition to a federal award; as required by state or local law; or to the extent such disclosures are not otherwise in conflict with Title IX. (34 CFR 106.44)

If the respondent is a student with a disability, the Title IX Coordinator or designee shall consult with one or more members, as appropriate, of the student's individualized education program or 504 team, to determine how to comply with the requirements of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973.

## Filing a Complaint

Upon receiving information of an allegation of sex discrimination, including sex-based harassment, the Title IX Coordinator or designee shall notify the individual(s) specified in law of the Title IX grievance procedures, and of the informal resolution process, if available and appropriate.

A *complaint* is an oral or written request that can objectively be understood by the Title IX Coordinator or designee

as a request for the district to investigate and make a determination about alleged sex discrimination, including sexbased harassment. (34 CFR 106.2)

Complaints of sex discrimination and sex-based harassment may only be brought by an employee, or former employee, who was participating or attempting to participate in the district's education program or activity at the time of the alleged sex-based harassment, or the Title IX Coordinator or designee. (34 CFR 106.45)

If the alleged victim chooses not to bring a complaint, or withdraws any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator or designee shall consider whether to initiate a complaint. To do so, the Title IX Coordinator or designee shall first consider the following factors: (34 CFR 106.44)

1. The victim's request not to proceed with initiation of a complaint
2. The victim's reasonable safety concerns regarding initiation of a complaint
3. The risk that additional acts of sex discrimination, including sex-based harassment, would occur if a complaint is not initiated
4. The severity of the alleged sex discrimination or sex-based harassment, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence
5. The age and relationship of the parties, including whether the respondent is an employee of the district
6. The scope of the alleged sex discrimination, including information suggesting a pattern; ongoing sex discrimination, including sex-based harassment; or sex discrimination, including sex-based harassment, alleged to have impacted multiple individuals
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination, including sexbased harassment, occurred
8. Whether the district could end the alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX grievance procedures

If, after considering these factors, the Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant or another person, or that the conduct as alleged prevents the district from ensuring equal access to a district program or activity on the basis of sex, the Title IX Coordinator may initiate a complaint.

If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall provide the alleged victim notice of the complaint as well as other notices as required by the Title IX regulations at specific points in the complaint process. The Title IX Coordinator shall also address reasonable concerns about the victim's safety or the safety of others, including providing supportive measures as described in "Supportive Measures" below, and taking other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district. (34 CFR 106.44)

The Title IX Coordinator or designee, investigator, decisionmaker, other person who is responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.8. (34 CFR 106.44)

In order to ensure that employees are not barred from reporting information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, the Title IX Coordinator shall monitor the district for barriers to reporting and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

### **Supportive Measures**

Upon receipt of a report of Title IX sex discrimination or sex-based harassment, the Title IX Coordinator or designee shall offer and coordinate supportive measures. Supportive measures may vary depending on what the district determines to be reasonably available and shall not unreasonably burden either the complainant or respondent. Supportive measures shall be provided without charging a fee to the complainant or respondent and be designed to protect the safety of the complainant, respondent, and the district's educational environment, and to provide support during any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44. The district shall not impose such measures for punitive or disciplinary reasons. Supportive measures may include, but are not limited to, counseling; extensions of deadlines and other course- or work-related adjustment; changes in class, work, housing, or extracurricular or any other activity regardless of whether there is a comparable alternative; campus escort services; modifications of class or work schedules; mutual restrictions on contact; changes in class or work locations; leaves of absence; increased security; monitoring of certain areas of the campus; and, training and education programs related to sex-based harassment. (34 CFR 106.2, 106.44)

Unless there is an allegation of sex-based harassment or retaliation, the district may provide supportive measures without altering the alleged discriminatory conduct. (34 CFR 106.44)

Upon the conclusion of any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44, the district may continue with the supportive measures, or modify or terminate such measures, as appropriate. (34 CFR 106.44)

The district shall provide a complainant or respondent for whom supportive measures have been implemented with a timely opportunity to seek, from an impartial employee with authority to modify or reverse the supportive measures, modification or reversal of the district's decision to provide, deny, modify, or terminate such measures, and to seek additional modification or termination of the supportive measures if circumstances materially change. (34 CFR 106.44)

The district shall not disclose information about supportive measures to any person other than the person to whom they apply, including informing one party of supportive measures provided to another party,

unless the disclosure is necessary to providing the supportive measures, or restoring or preserving a party's access to the district's education program or activity. (34 CFR 106.44)

### **Emergency Removal**

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

If the respondent is a student, the district may, on an emergency basis, remove the student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an imminent and serious threat to the health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the IDEA or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44) **Dismissal of Complaint**

The Title IX Coordinator or designee may dismiss a complaint if: (34 CFR 106.45)

1. The district is unable to identify the respondent after taking reasonable steps to do so
2. The respondent is not participating in the district's education program or activity and is not employed by the district
3. The district determines that the conduct alleged in the complaint, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX

Before dismissing the complaint, the Title IX Coordinator shall make reasonable efforts to clarify the allegations with the complainant.

4. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination, including sex-based harassment, under Title IX, even if proven

The Title IX Coordinator shall determine whether to dismiss or investigate any complaint of sex discrimination, including sex-based harassment, within \_\_\_\_\_ days, unless such timeline is extended in accordance with this administrative regulation.

Upon dismissal, the Title IX Coordinator shall promptly notify the complainant of the dismissal and the reasons for the dismissal. Additionally, if the dismissal occurs after the respondent has been notified of the allegations, the Title IX Coordinator shall provide such notification to the respondent, which shall occur simultaneously to both parties if the notification is in writing. The Title IX Coordinator shall also inform the complainant, and the respondent if the dismissal occurs after the respondent has been notified of the allegations, of their right to appeal. Dismissals may be appealed on the following bases: (34 CFR 106.45)

1. A procedural irregularity that would change the outcome
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made

3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome

If the dismissal is appealed, the district shall: (34 CFR 106.45)

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent
2. Implement appeal procedures equally for the parties
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome
6. Notify the parties of the result of the appeal and the rationale for the result

If a complaint is dismissed, the Title IX Coordinator or designee shall offer supportive measures as described above in "Supportive Measures" to the complainant. Additionally, the respondent shall be offered supportive measures if the complaint was dismissed because the complainant voluntarily withdrew any or all of the allegations in the complaint and the district determined that without the withdrawn allegations the conduct, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX, or if the complaint was dismissed because the district determined, after taking reasonable efforts to clarify the allegations of the complaint, that the alleged conduct would not constitute sex discrimination, including sex-based harassment, even if proven. The Title IX Coordinator shall also take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to Administrative Regulation 4030 Nondiscrimination in Employment as applicable.

### **Informal Resolution Process**

At any time prior to determining whether sex discrimination, including sex-based harassment, occurred under the complaint procedures specified in 34 CFR 106.45, the district may offer, if it is determined to be appropriate upon receiving information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made, an informal resolution process, such as mediation, to the complainant and respondent. However, the district shall not offer an informal resolution process if the complaint alleges that an employee engaged in sex-based harassment of an elementary or secondary school student or that such process would conflict with federal, state, or local law. (34 CFR 106.44)

The district shall not require or pressure a party to participate in the informal resolution process, or to waive the right to an investigation and determination of a complaint as a condition of employment or continuing employment, or exercise of any other right. The district may decline to offer an informal resolution process including, but not limited to, when the district determines that the alleged conduct would present a future risk of harm to others. (34 CFR 106.44)

The district may facilitate an informal resolution process provided that the district, prior to initiating such process:

(34 CFR 106.44)

1. Provides the parties with written notice disclosing the allegations; the requirements of the informal resolution process; the right to withdraw from the informal process and resume the formal complaint process; the inability to initiate or resume complaint procedures arising from the same allegations once the informal resolution process is concluded; the potential terms that may be requested or offered in an informal resolution agreement, including that the agreement would only be binding on the parties; and the information that the district will maintain and whether and how the district could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed
2. Obtains the parties' voluntary consent to the informal resolution process

The Title IX Coordinator or designee shall ensure that the facilitator of the informal resolution process is not the same person as the investigator or decisionmaker of any ongoing or newly initiated complaint process specified in 34 CFR 106.45, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and receives training in accordance with 34 CFR 106.8. (34 CFR 106.44)

If the district facilitates an informal resolution process, the Title IX Coordinator shall, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district' education program or activity. (34 CFR 106.45)

### **Notice of Allegations**

If the district initiates a formal Title IX investigation, the Title IX Coordinator or designee shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process
2. Sufficient information, available at the time, to allow the parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident(s), the conduct allegedly constituting sex discrimination, including sex-based harassment, and the date(s) and location(s) of the alleged incident. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. A statement that retaliation is prohibited
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of such evidence, as specified

The above notice may also include the name of the investigator, facilitator of an informal process, and decisionmaker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator or designee.



## Consolidation of Complaints

The district may consolidate complaints of sex discrimination, including sex-based harassment, against more than one respondent; by more than one complainant against one or more respondents; or by one party against another party, when the allegations of sex discrimination, including sex-based harassment, arise out of the same facts or circumstances. (34 CFR 106.45)

## Investigation Procedures

The district shall provide for adequate, reliable, and impartial investigation of complaints. (34 CFR 106.45)

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible
2. Review all evidence gathered through the investigation and determine which evidence is relevant and which evidence is impermissible regardless of relevance
3. Provide each party with an equal opportunity to access evidence that is relevant, and not otherwise impermissible, to the allegations of sex discrimination, including sex-based harassment, by:
  - a. Providing an equal opportunity to access either the relevant and not otherwise impermissible evidence or an accurate description of such evidence  

If an accurate description is provided, the district shall, upon request of any party, provide the parties with an equal opportunity to access the relevant and permissible evidence.
  - b. Providing a reasonable opportunity to respond to the evidence or to the accurate description of the evidence
  - c. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures
4. Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of the parties to obtain and present evidence, including, by speaking to witnesses; consulting with family members, confidential resources, or advisors; or otherwise preparing for or participating in the grievance procedures
5. Objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence, including that credibility determinations will not be based on a person's status as complainant, respondent, or witness
6. Exclude as impermissible the following types of evidence, and questions seeking that evidence:
  - a. Evidence that is protected under a privilege recognized by state or federal law or evidence that is provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege
  - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the district obtains that party's or witness's voluntary, written consent for use in its grievance procedures

Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment.

The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

The district shall ensure that the decisionmaker is able to question parties and witnesses adequately to assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. (34 CFR 106.45)

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

The investigator shall complete the investigation within \_\_\_\_ days after the Title IX Coordinator determines to proceed with an investigation, unless such timeline is extended in accordance with this administrative regulation.

### **Written Decision**

The Superintendent shall designate an employee as the decisionmaker to determine responsibility for the alleged conduct, who may be the Title IX Coordinator or designee or the investigator so long as there is no conflict of interest or bias. (34 CFR 106.45)

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall:

(34 CFR 106.45)

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has occurred
2. Notify the parties in writing of the determination of whether sex discrimination, including sex-based harassment, occurred

The notification shall include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.

The written decision shall be issued within \_\_\_\_\_ days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

### **Appeal of the Decision**

Either party may appeal the district's decision of a complaint or any allegation in the complaint. (34 CFR 106.45)

When conducting an appeal, the district shall follow the appeal process as specified in Administrative Regulation 4030 - Nondiscrimination in Employment.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable. **Extension of Timelines**

Any timelines specified in this administrative regulation may be extended by the district for good cause, with written notice to the parties. The written notice shall specify the reasons for the extension. (34 CFR 106.45)

### **Remedies**

When there is a determination that sex discrimination, including sex-based harassment, has occurred, the Title IX Coordinator shall coordinate the provision and implementation of remedies to the complainant and other persons the district identifies as having had equal access to the district's education program or activity limited or denied by sex discrimination, including sex-based harassment; coordinate the imposition of any disciplinary sanctions on a respondent as described in "Disciplinary Actions" below, including notification to the complainant of any such disciplinary sanctions; and take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)

### **Disciplinary Actions**

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44, 106.45)

When an employee is found to have committed sex discrimination, including sex-based harassment, or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district shall not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the district's determination of whether sex discrimination, including sex-based harassment, occurred. (34 CFR 106.45)

### **Record-Keeping**

The Superintendent or designee shall maintain, for at least a period of seven years: (34 CFR 106.45)

1. For each complaint of sex discrimination, including sex-based harassment, records documenting any informal resolution process or formal investigation procedures
2. For each notification the Title IX Coordinator or designee receives of information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, records documenting the actions taken to fulfill the district's obligations as specified in 34 CFR 106.44, including supportive measures offered and implemented
3. All materials used to train district employees; the Title IX Coordinator and designee(s); investigator(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person who facilitates an informal resolution process

The district shall make such training materials available upon request by members of the public.

For complaints containing allegations of childhood sexual assault, the Superintendent or designee shall also indefinitely maintain the following: (Code of Civil Procedure 340.1):

1. A record of the allegation(s)
2. A record of the investigation procedures followed
3. A record of the written determination
4. A record of the corrective action implemented, if any
5. A record of any appeals and the outcome of the same
6. All training materials addressing the prohibition and investigation of childhood sexual assault

**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 References

5 CCR 4600-4670

#### Description

Uniform complaint procedures

5 CCR 4900-4965

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Civ. Code 1714.1

Liability of parent or guardian for act of willful misconduct by a minor

Civ. Code 51.9

Liability for sexual harassment; business, service and professional relationships

Ed. Code 200-270

Prohibition of discrimination

Ed. Code 48900

Grounds for suspension or expulsion

Ed. Code 48900.2

Additional grounds for suspension or expulsion; sexual harassment

Ed. Code 48985

Notices to parents in language other than English

Gov. Code 12950.1

Sexual harassment training

#### Federal References

#### Description

20 USC 1092

Definition of sexual assault

20 USC 1221

Application of laws

20 USC 1681-1688

Title IX of the Education Amendments of 1972; discrimination based on sex

34 CFR 106.1-106.82

Nondiscrimination on the basis of sex in education programs

34 CFR 99.1-99.67

Family Educational Rights and Privacy

34 USC 12291

Definition of dating violence, domestic violence, and stalking

42 USC 1983

Civil action for deprivation of rights

42 USC 2000d-2000d-7

Title VI, Civil Rights Act of 1964

42 USC 2000e-2000e-17

Title VII, Civil Rights Act of 1964, as amended

U.S. DOJ, FBI Publication

National Incident-Based Reporting System

#### Management Resources References

#### Description

Court Decision

Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736

Court Decision

Davis v. Monroe County Board of Education (1999) 526 U.S. 629

Court Decision

Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274

Court Decision	<a href="#">Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473</a>
Court Decision	<a href="#">Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447</a>
Court Decision	<a href="#">Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567</a>
Court Decision	<a href="#">Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130</a>
Federal Register	<a href="#">Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</a>
Website	<a href="#">U.S. Department of Justice, Federal Bureau of Investigation</a>
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">CSBA</a>
Website	<a href="#">California Department of Education</a>
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>
<b>Cross References</b>	<b>Description</b>
0410	<a href="#">Nondiscrimination In District Programs And Activities</a>
<b>Cross References</b>	<b>Description</b>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(1)	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(2)	<a href="#">Uniform Complaint Procedures</a>
1313	<a href="#">Civility</a>
3580	<a href="#">District Records</a>
3580	<a href="#">District Records</a>
3600	<a href="#">Consultants</a>
4030	<a href="#">Nondiscrimination In Employment</a>
4030	<a href="#">Nondiscrimination In Employment</a>
4033	<a href="#">Lactation Accommodation</a>
4117.7	<a href="#">Employment Status Reports</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4119.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4119.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4131	<a href="#">Staff Development</a>
4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4219.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4219.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4317.7	<a href="#">Employment Status Reports</a>
4319.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4319.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
5145.7	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
5145.7	<a href="#">Sex Discrimination and Sex-Based Harassment</a>

**Exhibit 4219.12-E(1): Title IX Sex Discrimination and Sex-Based Harassment  
Complaint Procedures**

Status: ADOPTED

Original Adopted Date: 10/01/2020 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

**NOTICE OF TITLE IX NONDISCRIMINATION**

The Code of Federal Regulations, Title 34, Section 106.8 requires the district to issue the following notification to employees, job applicants, and employee organizations:

The district does not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment, in any education program or activity that it operates. The prohibition against discrimination on the basis of sex is required by federal law (20 USC 1681-1688; 34 CFR Part 106) and extends to employment. The district also prohibits retaliation against any employee for filing a complaint or exercising any right granted under Title IX.

The district is required, as specified in Title IX, to take prompt and equitable action to address any potential Title IX violations that are brought to its attention. Any inquiries about the application of Title IX, this notice, and who is protected by Title IX may be referred to the district's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The district has designated and authorized the following employee(s) as the district's Title IX Coordinator, to address concerns or inquiries regarding discrimination on the basis of sex, including sex-based harassment:

\_\_\_\_\_  
(name and/or title/position)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(telephone number)

\_\_\_\_\_  
(email address)

Any individual may report sex discrimination, including sex-based harassment, to the Title IX Coordinator or any other school employee at any time, including during non-business hours, by mail, phone, or email. During district business hours, reports may also be made in person. Upon receiving an allegation of sex discrimination, including sexbased harassment, the Title IX Coordinator will promptly notify the parties, in writing, of the applicable district complaint procedure.

To view an electronic copy of the district's policies and administrative regulations on sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see Board Policy/Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment, and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures on the district's website at \_\_\_\_\_(insert website link)\_\_\_\_\_.

To inspect or obtain a copy of the district's sex discrimination and sex-based harassment policies and administrative regulations, please contact: \_\_\_\_\_(insert location/phone/email of contact person) \_\_\_\_\_.

Materials used to train employees; the Title IX Coordinator; investigator(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person(s) who facilitates an informal resolution process, are available at the district office upon request.

**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.

<b>State References</b>	<b>Description</b>
5 CCR 4600-4670	Uniform complaint procedures
<b>State References</b>	<b>Description</b>
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	<u>Liability of parent or guardian for act of willful misconduct by a minor</u>
Civ. Code 51.9	<u>Liability for sexual harassment; business, service and professional relationships</u>
Ed. Code 200-270	Prohibition of discrimination
Ed. Code 48900	<u>Grounds for suspension or expulsion</u>
Ed. Code 48900.2	<u>Additional grounds for suspension or expulsion; sexual harassment</u>
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
<b>Federal References</b>	<b>Description</b>
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
U.S. DOJ, FBI Publication	<u>National Incident-Based Reporting System</u>
<b>Management Resources References</b>	<b>Description</b>
Court Decision	Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736
Court Decision	Davis v. Monroe County Board of Education (1999) 526 U.S. 629
Court Decision	Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473
Court Decision	Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130

Federal Register	<a href="#"><u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2012, Vol. 89, No. 83, pages 33474-33896</u></a>
Website	<a href="#"><u>U.S. Department of Justice, Federal Bureau of Investigation</u></a>
Website	<a href="#"><u>CSBA District and County Office of Education Legal Services</u></a>
Website	<a href="#"><u>CSBA</u></a>
Website	<a href="#"><u>California Department of Education</u></a>
Website	<a href="#"><u>U.S. Department of Education, Office for Civil Rights</u></a>

**Cross References**

**Description**

0410	<a href="#"><u>Nondiscrimination In District Programs And Activities</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>

**Cross References**

**Description**

1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(1)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(2)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1313	<a href="#"><u>Civility</u></a>
3580	<a href="#"><u>District Records</u></a>
3580	<a href="#"><u>District Records</u></a>
3600	<a href="#"><u>Consultants</u></a>
4030	<a href="#"><u>Nondiscrimination In Employment</u></a>
4030	<a href="#"><u>Nondiscrimination In Employment</u></a>
4033	<a href="#"><u>Lactation Accommodation</u></a>
4117.7	<a href="#"><u>Employment Status Reports</u></a>
4118	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4118	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4119.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4119.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4131	<a href="#"><u>Staff Development</u></a>
4218	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4218	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4219.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4219.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4317.7	<a href="#"><u>Employment Status Reports</u></a>
4319.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4319.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
5145.7	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
5145.7	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>

**CSBA Sample District Policy Manual  
CSBA Policy Management Console**

**Policy 4319.11: Sex Discrimination and Sex-Based Harassment**

**Status: ADOPTED**

Original Adopted Date: 12/01/2015 | Last Revised Date: 07/01/2024 | Last Reviewed Date: 07/01/2024



The following policy shall apply to all district employees, interns, volunteers, contractors, job applicants, and other persons with an employment relationship with the district.

The Governing Board is committed to providing a safe work environment that is free of discrimination, harassment, and intimidation. The Board prohibits sex discrimination, including sex-based harassment, as defined in the accompanying administrative regulation, in district programs and activities by and against district employees.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1; 34 CFR 106.71)

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sex discrimination and sex-based harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sex discrimination and sex-based harassment policy to employees and others to whom the policy may apply
3. Publicizing, in accordance with 34 CFR 106.8 and as specified in Administrative Regulation 4030 Nondiscrimination in Employment, a Title IX notice of nondiscrimination to employees, applicants for employment, and bargaining units
4. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures
5. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

The Superintendent or designee shall periodically evaluate the effectiveness of the district's strategies to prevent and address sex discrimination and sex-based harassment. Such evaluation may involve conducting regular anonymous employee surveys to assess whether sex discrimination and/or sex-based harassment is occurring or is perceived to be tolerated, partnering with researchers or other agencies with the needed expertise to evaluate the district's prevention strategies, and using any other effective tool for receiving feedback on systems and/or processes. As necessary, changes shall be made to harassment policy(ies), complaint procedures, or training, as appropriate and in accordance with law.

### **Reports and Complaints**

Any district employee who has experienced sex discrimination or sex-based harassment in the district's education program or activity may file a complaint with the district's Title IX Coordinator. (34 CFR 106.2, 106.44)

Any employee with knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment by or against another district employee, a student, or a third party in a district education program or activity shall notify the Title IX Coordinator within one workday. An employee may be subject to discipline for failure to timely report such conduct. (34 CFR 106.44)

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the district has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.  
(34 CFR 106.44)

Upon investigation of a sex discrimination or sex-based harassment complaint, any district employee found to have engaged or participated in sex discrimination or sex-based harassment or to have aided, abetted, incited, compelled, or coerced another to commit sex discrimination or sex-based harassment in violation of this policy shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

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**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 References**

2 CCR 11006-11086

**Description**

Discrimination in employment

2 CCR 11009

Employment discrimination

2 CCR 11021

Discrimination in employment - retaliation

2 CCR 11023

Harassment and discrimination prevention and correction

2 CCR 11024

Required training and education on harassment based on sex, gender identity and expression, and sexual orientation

2 CCR 11034

Terms, conditions, and privileges of employment

5 CCR 4900-4965

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Ed. Code 200-262.4

Prohibition of discrimination

Ed. Code 220.1

Prohibition of retaliation related to educational equity

Ed. Code 220.3

Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression

Ed. Code 220.5

Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression

Gov. Code 12900-12996

Fair Employment and Housing Act

Gov. Code 12940

Unlawful discriminatory employment practices

Gov. Code 12950

Sexual harassment

Gov. Code 12950.1

Sexual harassment training

Lab. Code 1101

Political activities of employees

Lab. Code 1102.1

Discrimination: sexual orientation

Lab. Code 1197.5

Wages, hours, and working conditions

**Federal References**

**Description**

20 USC 1681-1688

Title IX of the Education Amendments of 1972; discrimination based on sex

29 CFR 1636

Implementation of the Pregnant Workers Fairness Act

34 CFR 106.1-106.82

Nondiscrimination on the basis of sex in education programs

42 USC 2000e-2000e-17

42 USC 2000gg-2000gg-6

Title VII, Civil Rights Act of 1964, as amended

Pregnant Workers Fairness Act

**Management Resources References**

	<b>Description</b>
Court Decision	Burlington Industries v. Ellreth (1998) 118 S.Ct. 2257
Court Decision	Department of Health Services v. Superior Court of California (2003) 31 Cal.4th 1026
Court Decision	Faragher v. City of Boca Raton (1998) 118 S.Ct. 2275
Court Decision	Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989
Court Decision	Meritor Savings Bank, FSB v. Vinson et al. (1986) 447 U.S. 57
Court Decision	Oncale v. Sundowner Offshore Serv. Inc. (1998) 118 S.Ct. 998
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</u>
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>California Department of Education</u>
Website	<u>California Civil Rights Department</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>
Website	<u>Equal Employment Opportunity Commission</u>

**Cross References**

	<b>Description</b>
0410	<u>Nondiscrimination In District Programs And Activities</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1313	<u>Civility</u>
3530	<u>Risk Management/Insurance</u>
3530	<u>Risk Management/Insurance</u>
3600	<u>Consultants</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4033	<u>Lactation Accommodation</u>
4040	<u>Employee Use Of Technology</u>
4040-E(1)	<u>Employee Use Of Technology</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4117.7	<u>Employment Status Reports</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>

	<b>Description</b>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
<b>Cross References</b>	
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	<u>Procedures</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4119.22	<u>Dress And Grooming</u>
4131	<u>Staff Development</u>
4144	<u>Complaints</u>
4144	<u>Complaints</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.22	<u>Dress And Grooming</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4300	<u>Administrative And Supervisory Personnel</u>
4300	<u>Administrative And Supervisory Personnel</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4317.7	<u>Employment Status Reports</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	

	<b>Description</b>
	<u>Procedures</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.22	<u>Dress And Grooming</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint</u>
5145.71	
	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment</u>
	<u>Complaint</u>
5145.71-E(1)	
	<u>Procedures</u>
<b>Cross References</b>	
5146	<u>Married/Pregnant/Parenting Students</u>

## Regulation 4319.11: Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 12/01/2016 | Last Revised Date: 07/01/2024 | Last Reviewed Date: 07/01/2024

The district does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations. Sex discrimination, including sex-based harassment, is prohibited in district education programs and activities.

The following administrative regulation shall apply to all allegations of sex discrimination and sex-based harassment by and against district employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by a student.

### Definitions

*Sex discrimination* includes treating an employee differently based on the employee's sex, which includes differential treatment based on sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or association with a person or group with one or more of these actual or perceived characteristics.

*Sex discrimination*, including sex-based harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct and occurs when prohibited conduct is so severe, persistent, or pervasive that it creates an intimidating, threatening, hostile, or offensive work environment; has the effect of substantially or unreasonably interfering with an employee's term or condition of employment; or otherwise adversely affects an employee's employment opportunities.

*Sex-based harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, or other bases specified above. Conduct will constitute sex-based harassment when it takes the form of: (34 CFR 106.2, 106.11)

1. **Quid pro quo harassment:** A district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service in the district's education program or activity conditioning the provision of district aid, benefit, or service on a student's participation in unwelcome sexual conduct
2. **Hostile environment harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the district's education program or activity

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sex-based harassment in violation of district policy if it has a continuing effect on a student's ability to participate in or benefit from district educational programs or activities.

3. **Sexual assault, dating violence, domestic violence, or stalking,** as defined in 34 CFR 106.2

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature, regardless of whether the conduct is motivated by sexual desire. Conduct is considered to be sexual harassment when made against another person of the same or opposite sex in the work or educational setting under any of the following conditions: (Education Code 212.5; Government Code 12940; 2 CCR 11034)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual
3. The conduct has the purpose or effect of having a negative impact upon the individual's work performance or of creating an intimidating, hostile, or offensive work environment
4. Submission to or rejection of the conduct is used as the basis for any decision affecting the individual regarding benefits, services, honors, programs, or activities available at or through the district

### **Examples of Sex Discrimination and Sex-Based Harassment**

Examples of actions that might constitute sex-based harassment under state and/or federal law in accordance with the definitions above, in the work or educational setting, whether committed by a supervisor, a co-worker, or a nonemployee, include, but are not limited to:

1. Unwelcome verbal conduct such as sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sex-based activity; sex-based jokes or stories; unwelcome sex-based slurs, epithets, threats, innuendoes; derogatory comments; sex-based degrading descriptions; or the spreading of sex-based rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails or messaging; or displaying sexually suggestive objects
3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; or cornering, blocking, leaning over, or impeding normal movements

### **Title IX Coordinator/Compliance Officer**

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX in accordance with Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and oversee the district's response to discrimination complaints processed under Administrative Regulation 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

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(title or position)

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(address)

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(telephone number)

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(email)



## Training

The Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sexbased harassment in accordance with state and federal law.

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours, and nonsupervisory employees receive at least one hour, of classroom or other effective interactive training and education regarding sexual harassment as specified in Government Code 12950.1. All newly hired employees and employees promoted to a supervisory position shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee having the authority, in the interest of the district, to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 12926)

Such training may be completed by employees individually or as part of a group presentation, may be completed in shorter segments as long as the applicable hourly requirement is met, and may be provided in conjunction with other training provided to the employees. The training shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. (Government Code 12950.1)

The district's sexual harassment training and education program shall include, but is not limited to, the following: (Government Code 12950.1; 2 CCR 11024)

1. Information and practical guidance regarding federal and state laws concerning the prohibition, prevention, and correction of sexual harassment
2. The types of conduct that constitute sexual harassment
3. Remedies available for victims in civil actions, and potential employer/individual exposure/liability
4. Strategies to prevent harassment in the workplace
5. Supervisors' obligation to report sexual harassment, discrimination, and retaliation of which they become aware
6. Practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources
7. The limited confidentiality of the complaint process
8. Resources for victims of unlawful harassment, such as to whom they should report any alleged harassment
9. Steps necessary to take appropriate remedial measures to correct harassing behavior, which includes the district's obligation to conduct an effective workplace investigation of a harassment complaint
10. What to do if the supervisor is personally accused of harassment

11. The essential elements of the district's anti-harassment policy, and how to use the policy if a harassment complaint is filed

Employees shall receive a copy of the district's sexual harassment policy and administrative regulations, which they shall read and acknowledge that they have received.

12. Information, including practical examples, of harassment based on gender identity, gender expression, and sexual orientation
13. Prevention of abusive conduct, including a review of the definition and elements of abusive conduct pursuant to Government Code 12950.1, the negative effects that abusive conduct has on the victim and other in the workplace, the detrimental consequences of this conduct on employee productivity and morale, and that a single act does not constitute abusive conduct unless the act is severe or egregious

Additionally, the Superintendent or designee shall ensure that all employees receive annual training related to their duties under Title IX in accordance with 34 CFR 106.8, and that a newly hired employee receive training promptly upon hire or change of position that alters the employee's duties under Title IX. (34 CFR 106.8)

The district's Title IX sex discrimination and sex-based harassment training shall include: (34 CFR 106.8)

1. The district's obligation to address sex-based discrimination, including sex-based harassment, in its education program or activity
2. The scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment
3. The notification and information requirements specified in 34 CFR 106.40 and 106.44

The district's Title IX sex-based harassment training and education program shall also include additional training required of supervisors; investigators, decisionmakers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; facilitators of an informal resolution process; and Title IX Coordinators and designees. (34 CFR 106.8)

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, type of training, and name of the training provider. (2 CCR 11024)

Additionally, the Superintendent or designee shall retain for at least seven years the materials used to provide training as specified in 34 CFR 106.8, and to make these materials available, upon request, to members of the public. (34 CFR 106.8)

### **Notifications**

To prevent unlawful sex discrimination and sex-based harassment, including retaliation, in district programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 4030 - Nondiscrimination in Employment.

In addition to the measures to prevent discrimination as specified in Administrative Regulation 4030 - Nondiscrimination in Employment, the Superintendent or designee shall ensure that a copy of the Board policy and this administrative regulation:

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired (Education Code 231.5)
3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

All employees shall receive a copy of an information sheet prepared by the California Civil Rights Department (CRD) or the district that contains, at a minimum, components on: (Government Code 12950)

1. The illegality of sex-based harassment
2. The definition of sex-based harassment under applicable state and federal law
3. A description of sex-based harassment, with examples
4. The district's complaint process available to the employee
5. The legal remedies and complaint process available through CRD and the Equal Employment Opportunity Commission (EEOC)
6. Directions on how to contact CRD and the EEOC
7. The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by CRD and the EEOC

Additionally, the district shall post, in a prominent and accessible location, the CRD poster on discrimination in employment and the illegality of sex-based harassment, and the CRD poster regarding transgender rights. (Government Code 12950)

### **Complaint Procedures**

All complaints and allegations of sex discrimination and sex-based harassment by and against employees shall be investigated and resolved as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

If sex discrimination or sex-based harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Title IX Coordinator, shall take prompt action to stop the sex discrimination or sexbased harassment, prevent recurrence, and address any continuing effects.

**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.

<b>State References</b>	<b>Description</b>
2 CCR 11006-11086	Discrimination in employment
2 CCR 11009	Employment discrimination

2 CCR 11021	Discrimination in employment - retaliation
2 CCR 11023	Harassment and discrimination prevention and correction
2 CCR 11024	Required training and education on harassment based on sex, gender identity and expression, and sexual orientation
2 CCR 11034	Terms, conditions, and privileges of employment
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 220.1	Prohibition of retaliation related to educational equity
Ed. Code 220.3	Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 220.5	Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
Gov. Code 12900-12996	<u>Fair Employment and Housing Act</u>
Gov. Code 12940	<u>Unlawful discriminatory employment practices</u>
Gov. Code 12950	<u>Sexual harassment</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
Lab. Code 1101	<u>Political activities of employees</u>
Lab. Code 1102.1	Discrimination: sexual orientation
Lab. Code 1197.5	Wages, hours, and working conditions

**Federal References**

20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
29 CFR 1636	Implementation of the Pregnant Workers Fairness Act
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000gg-2000gg-6	Pregnant Workers Fairness Act

**Management Resources References**

Court Decision	Burlington Industries v. Ellreth (1998) 118 S.Ct. 2257
Court Decision	Department of Health Services v. Superior Court of California (2003) 31 Cal.4th 1026
Court Decision	Faragher v. City of Boca Raton (1998) 118 S.Ct. 2275
Court Decision	Gebser v. Lago Vista Independent School District (1998) 118 S.Ct. 1989
Court Decision	Meritor Savings Bank, FSB v. Vinson et al. (1986) 447 U.S. 57
Court Decision	Oncale v. Sundowner Offshore Serv. Inc. (1998) 118 S.Ct. 998
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</u>

### Management Resources References

U.S. Equal Employment Opportunity Com. Publication

Website

Website

Website

Website

Website

### Description

Promising Practices for Preventing Harassment, November 2017

CSBA District and County Office of Education Legal Services

California Department of Education

California Civil Rights Department

U.S. Department of Education, Office for Civil Rights

Equal Employment Opportunity Commission

### Cross References

### Description

0410

Nondiscrimination In District Programs And Activities

0450

Comprehensive Safety Plan

0450

Comprehensive Safety Plan

1312.3

Uniform Complaint Procedures

1312.3

Uniform Complaint Procedures

1312.3-E(1)

Uniform Complaint Procedures

1312.3-E(2)

Uniform Complaint Procedures

1313

Civility

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Risk Management/Insurance

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Risk Management/Insurance

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Consultants

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Nondiscrimination In Employment

4030

Nondiscrimination In Employment

4033

Lactation Accommodation

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Employee Use Of Technology

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Employee Use Of Technology

4112.9

Employee Notifications

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Employee Notifications

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Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

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<b>Cross References</b>	<b>Description</b>
4218.1	<u>Dismissal/Suspension/Disciplinary Action (Merit System)</u>
4219.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.22	<u>Dress And Grooming</u>
4231	<u>Staff Development</u>
4244	<u>Complaints</u>
4244	<u>Complaints</u>
4300	<u>Administrative And Supervisory Personnel</u>
4300	<u>Administrative And Supervisory Personnel</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4317.7	<u>Employment Status Reports</u>
4319.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.22	<u>Dress And Grooming</u>
4344	<u>Complaints</u>
4344	<u>Complaints</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5146	<u>Married/Pregnant/Parenting Students</u>

## **Regulation 4319.12: Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures**

Status: ADOPTED

**Original Adopted Date:** 07/01/2020 | **Last Revised Date:** 07/01/2024 | **Last Reviewed Date:** 07/01/2024

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district employee, while in an education program or activity, was subjected to conduct on or after August 1, 2024, including, but not limited to, conduct that is under the authority of the district, that constitutes sex discrimination, including sex-based harassment. For conduct that occurred prior to this date, the district should utilize its policies in place at the time the alleged sex discrimination, including sex-based harassment, occurred, so long as they are in accordance with the applicable statutes and regulations.

Sex discrimination and sex-based harassment include, but are not limited to, sex-based conduct as specified in Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment.

### **Basic Requirements**

When implementing Title IX grievance procedures, the district shall: (34 CFR 106.45)

1. Treat complainants and respondents equitably
2. Ensure that the Title IX Coordinator or designee, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent

The investigator and the decisionmaker may be the same person as the Title IX Coordinator or designee.

3. Presume that the respondent is not responsible for the alleged sex discrimination, including sex-based harassment, until a determination is made at the conclusion of the grievance procedures
4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, such as evaluation of whether to dismiss or investigate a complaint, investigation, decision, and appeals if any
5. Establish a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay

Additionally, the district shall not disclose personally identifiable information obtained while implementing Title IX complaint procedures unless the district has obtained prior written consent from a person with the legal right to consent to the disclosure; the information is disclosed to a parent/guardian or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; to take action to address conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, in the district's education program or activity; as required by federal law, regulations, or as a condition to a federal award; as required by state or local law; or to the extent such disclosures are not otherwise in conflict with Title IX. (34 CFR 106.44)

If the respondent is a student with a disability, the Title IX Coordinator or designee shall consult with one or more members, as appropriate, of the student's individualized education program or 504 team, to determine how to comply with the requirements of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973.

## **Filing a Complaint**

Upon receiving information of an allegation of sex discrimination, including sex-based harassment, the Title IX Coordinator or designee shall notify the individual(s) specified in law of the Title IX grievance procedures, and of the informal resolution process, if available and appropriate.

A *complaint* is an oral or written request that can objectively be understood by the Title IX Coordinator or designee

as a request for the district to investigate and make a determination about alleged sex discrimination, including sexbased harassment. (34 CFR 106.2)

Complaints of sex discrimination and sex-based harassment may only be brought by an employee, or former employee, who was participating or attempting to participate in the district's education program or activity at the time of the alleged sex-based harassment, or the Title IX Coordinator or designee. (34 CFR 106.45)

If the alleged victim chooses not to bring a complaint, or withdraws any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator or designee shall consider whether to initiate a complaint. To do so, the Title IX Coordinator or designee shall first consider the following factors: (34 CFR 106.44)

1. The victim's request not to proceed with initiation of a complaint
2. The victim's reasonable safety concerns regarding initiation of a complaint
3. The risk that additional acts of sex discrimination, including sex-based harassment, would occur if a complaint is not initiated
4. The severity of the alleged sex discrimination or sex-based harassment, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence
5. The age and relationship of the parties, including whether the respondent is an employee of the district
6. The scope of the alleged sex discrimination, including information suggesting a pattern; ongoing sex discrimination, including sex-based harassment; or sex discrimination, including sex-based harassment, alleged to have impacted multiple individuals
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination, including sexbased harassment, occurred
8. Whether the district could end the alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX grievance procedures

If, after considering these factors, the Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant or another person, or that the conduct as alleged prevents the district from ensuring equal access to a district program or activity on the basis of sex, the Title IX Coordinator may initiate a complaint.



If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall provide the alleged victim notice of the complaint as well as other notices as required by the Title IX regulations at specific points in the complaint process. The Title IX Coordinator shall also address reasonable concerns about the victim's safety or the safety of others, including providing supportive measures as described in "Supportive Measures" below, and taking other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district. (34 CFR 106.44)

The Title IX Coordinator or designee, investigator, decisionmaker, other person who is responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.8. (34 CFR 106.44)

In order to ensure that employees are not barred from reporting information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, the Title IX Coordinator shall monitor the district for barriers to reporting and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

### **Supportive Measures**

Upon receipt of a report of Title IX sex discrimination or sex-based harassment, the Title IX Coordinator or designee shall offer and coordinate supportive measures. Supportive measures may vary depending on what the district determines to be reasonably available and shall not unreasonably burden either the complainant or respondent. Supportive measures shall be provided without charging a fee to the complainant or respondent and be designed to protect the safety of the complainant, respondent, and the district's educational environment, and to provide support during any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44. The district shall not impose such measures for punitive or disciplinary reasons. Supportive measures may include, but are not limited to, counseling; extensions of deadlines and other course- or work-related adjustment; changes in class, work, housing, or extracurricular or any other activity regardless of whether there is a comparable alternative; campus escort services; modifications of class or work schedules; mutual restrictions on contact; changes in class or work locations; leaves of absence; increased security; monitoring of certain areas of the campus; and, training and education programs related to sex-based harassment. (34 CFR 106.2, 106.44)

Unless there is an allegation of sex-based harassment or retaliation, the district may provide supportive measures without altering the alleged discriminatory conduct. (34 CFR 106.44)

Upon the conclusion of any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44, the district may continue with the supportive measures, or modify or terminate such measures, as appropriate. (34 CFR 106.44)

The district shall provide a complainant or respondent for whom supportive measures have been implemented with a timely opportunity to seek, from an impartial employee with authority to modify or reverse the supportive measures, modification or reversal of the district's decision to provide, deny, modify, or terminate such measures, and to seek additional modification or termination of the supportive measures if circumstances materially change. (34 CFR 106.44)

The district shall not disclose information about supportive measures to any person other than the person to whom they apply, including informing one party of supportive measures provided to another party,

unless the disclosure is necessary to providing the supportive measures, or restoring or preserving a party's access to the district's education program or activity. (34 CFR 106.44)

### **Emergency Removal**

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

If the respondent is a student, the district may, on an emergency basis, remove the student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an imminent and serious threat to the health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the IDEA or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44) **Dismissal of Complaint**

The Title IX Coordinator or designee may dismiss a complaint if: (34 CFR 106.45)

1. The district is unable to identify the respondent after taking reasonable steps to do so
2. The respondent is not participating in the district's education program or activity and is not employed by the district
3. The district determines that the conduct alleged in the complaint, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX

Before dismissing the complaint, the Title IX Coordinator shall make reasonable efforts to clarify the allegations with the complainant.

4. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination, including sex-based harassment, under Title IX, even if proven

The Title IX Coordinator shall determine whether to dismiss or investigate any complaint of sex discrimination, including sex-based harassment, within \_\_\_\_\_ days, unless such timeline is extended in accordance with this administrative regulation.

Upon dismissal, the Title IX Coordinator shall promptly notify the complainant of the dismissal and the reasons for the dismissal. Additionally, if the dismissal occurs after the respondent has been notified of the allegations, the Title IX Coordinator shall provide such notification to the respondent, which shall occur simultaneously to both parties if the notification is in writing. The Title IX Coordinator shall also inform the complainant, and the respondent if the dismissal occurs after the respondent has been notified of the allegations, of their right to appeal. Dismissals may be appealed on the following bases: (34 CFR 106.45)

1. A procedural irregularity that would change the outcome
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made

3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome

If the dismissal is appealed, the district shall: (34 CFR 106.45)

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent
2. Implement appeal procedures equally for the parties
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome
6. Notify the parties of the result of the appeal and the rationale for the result

If a complaint is dismissed, the Title IX Coordinator or designee shall offer supportive measures as described above in "Supportive Measures" to the complainant. Additionally, the respondent shall be offered supportive measures if the complaint was dismissed because the complainant voluntarily withdrew any or all of the allegations in the complaint and the district determined that without the withdrawn allegations the conduct, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX, or if the complaint was dismissed because the district determined, after taking reasonable efforts to clarify the allegations of the complaint, that the alleged conduct would not constitute sex discrimination, including sex-based harassment, even if proven. The Title IX Coordinator shall also take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to Administrative Regulation 4030 Nondiscrimination in Employment as applicable.

### **Informal Resolution Process**

At any time prior to determining whether sex discrimination, including sex-based harassment, occurred under the complaint procedures specified in 34 CFR 106.45, the district may offer, if it is determined to be appropriate upon receiving information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made, an informal resolution process, such as mediation, to the complainant and respondent. However, the district shall not offer an informal resolution process if the complaint alleges that an employee engaged in sex-based harassment of an elementary or secondary school student or that such process would conflict with federal, state, or local law. (34 CFR 106.44)

The district shall not require or pressure a party to participate in the informal resolution process, or to waive the right to an investigation and determination of a complaint as a condition of employment or continuing employment, or exercise of any other right. The district may decline to offer an informal resolution process including, but not limited to, when the district determines that the alleged conduct would present a future risk of harm to others. (34 CFR 106.44)

The district may facilitate an informal resolution process provided that the district, prior to initiating such process:

(34 CFR 106.44)

1. Provides the parties with written notice disclosing the allegations; the requirements of the informal resolution process; the right to withdraw from the informal process and resume the formal complaint process; the inability to initiate or resume complaint procedures arising from the same allegations once the informal resolution process is concluded; the potential terms that may be requested or offered in an informal resolution agreement, including that the agreement would only be binding on the parties; and the information that the district will maintain and whether and how the district could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed
2. Obtains the parties' voluntary consent to the informal resolution process

The Title IX Coordinator or designee shall ensure that the facilitator of the informal resolution process is not the same person as the investigator or decisionmaker of any ongoing or newly initiated complaint process specified in 34 CFR 106.45, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and receives training in accordance with 34 CFR 106.8. (34 CFR 106.44)

If the district facilitates an informal resolution process, the Title IX Coordinator shall, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district' education program or activity. (34 CFR 106.45)

### **Notice of Allegations**

If the district initiates a formal Title IX investigation, the Title IX Coordinator or designee shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process
2. Sufficient information, available at the time, to allow the parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident(s), the conduct allegedly constituting sex discrimination, including sex-based harassment, and the date(s) and location(s) of the alleged incident. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. A statement that retaliation is prohibited
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of such evidence, as specified

The above notice may also include the name of the investigator, facilitator of an informal process, and decisionmaker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator or designee.

## Consolidation of Complaints

The district may consolidate complaints of sex discrimination, including sex-based harassment, against more than one respondent; by more than one complainant against one or more respondents; or by one party against another party, when the allegations of sex discrimination, including sex-based harassment, arise out of the same facts or circumstances. (34 CFR 106.45)

## Investigation Procedures

The district shall provide for adequate, reliable, and impartial investigation of complaints. (34 CFR 106.45)

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible
2. Review all evidence gathered through the investigation and determine which evidence is relevant and which evidence is impermissible regardless of relevance
3. Provide each party with an equal opportunity to access evidence that is relevant, and not otherwise impermissible, to the allegations of sex discrimination, including sex-based harassment, by:

- a. Providing an equal opportunity to access either the relevant and not otherwise impermissible evidence or an accurate description of such evidence

If an accurate description is provided, the district shall, upon request of any party, provide the parties with an equal opportunity to access the relevant and permissible evidence.

- b. Providing a reasonable opportunity to respond to the evidence or to the accurate description of the evidence
  - c. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures
4. Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of the parties to obtain and present evidence, including, by speaking to witnesses; consulting with family members, confidential resources, or advisors; or otherwise preparing for or participating in the grievance procedures
  5. Objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence, including that credibility determinations will not be based on a person's status as complainant, respondent, or witness
  6. Exclude as impermissible the following types of evidence, and questions seeking that evidence:
    - a. Evidence that is protected under a privilege recognized by state or federal law or evidence that is provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege
    - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the district obtains that party's or witness's voluntary, written consent for use in its grievance procedures

Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment.

The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

The district shall ensure that the decisionmaker is able to question parties and witnesses adequately to assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. (34 CFR 106.45)

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

The investigator shall complete the investigation within \_\_\_\_ days after the Title IX Coordinator determines to proceed with an investigation, unless such timeline is extended in accordance with this administrative regulation.

### **Written Decision**

The Superintendent shall designate an employee as the decisionmaker to determine responsibility for the alleged conduct, who may be the Title IX Coordinator or designee or the investigator so long as there is no conflict of interest or bias. (34 CFR 106.45)

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall:

(34 CFR 106.45)

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has occurred
2. Notify the parties in writing of the determination of whether sex discrimination, including sex-based harassment, occurred

The notification shall include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.

The written decision shall be issued within \_\_\_\_ days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

### **Appeal of the Decision**

Either party may appeal the district's decision of a complaint or any allegation in the complaint. (34 CFR 106.45)

When conducting an appeal, the district shall follow the appeal process as specified in Administrative Regulation 4030 - Nondiscrimination in Employment.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable. **Extension of Timelines**

Any timelines specified in this administrative regulation may be extended by the district for good cause, with written notice to the parties. The written notice shall specify the reasons for the extension. (34 CFR 106.45)

### **Remedies**

When there is a determination that sex discrimination, including sex-based harassment, has occurred, the Title IX Coordinator shall coordinate the provision and implementation of remedies to the complainant and other persons the district identifies as having had equal access to the district's education program or activity limited or denied by sex discrimination, including sex-based harassment; coordinate the imposition of any disciplinary sanctions on a respondent as described in "Disciplinary Actions" below, including notification to the complainant of any such disciplinary sanctions; and take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)

### **Disciplinary Actions**

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44, 106.45)

When an employee is found to have committed sex discrimination, including sex-based harassment, or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district shall not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the district's determination of whether sex discrimination, including sex-based harassment, occurred. (34 CFR 106.45)

### **Record-Keeping**

The Superintendent or designee shall maintain, for at least a period of seven years: (34 CFR 106.45)

1. For each complaint of sex discrimination, including sex-based harassment, records documenting any informal resolution process or formal investigation procedures
2. For each notification the Title IX Coordinator or designee receives of information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, records documenting the actions taken to fulfill the district's obligations as specified in 34 CFR 106.44, including supportive measures offered and implemented
3. All materials used to train district employees; the Title IX Coordinator and designee(s); investigator(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person who facilitates an informal resolution process

The district shall make such training materials available upon request by members of the public.

For complaints containing allegations of childhood sexual assault, the Superintendent or designee shall also indefinitely maintain the following: (Code of Civil Procedure 340.1):

1. A record of the allegation(s)
2. A record of the investigation procedures followed
3. A record of the written determination
4. A record of the corrective action implemented, if any
5. A record of any appeals and the outcome of the same
6. All training materials addressing the prohibition and investigation of childhood sexual assault

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**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 References**

5 CCR 4600-4670

**Description**

Uniform complaint procedures

5 CCR 4900-4965

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Civ. Code 1714.1

Liability of parent or guardian for act of willful misconduct by a minor

Civ. Code 51.9

Liability for sexual harassment; business, service and professional relationships

Ed. Code 200-270

Prohibition of discrimination

Ed. Code 48900

Grounds for suspension or expulsion

Ed. Code 48900.2

Additional grounds for suspension or expulsion; sexual harassment

Ed. Code 48985

Notices to parents in language other than English

Gov. Code 12950.1

Sexual harassment training

**Federal References**

**Description**

20 USC 1092

Definition of sexual assault

20 USC 1221

Application of laws

20 USC 1681-1688

Title IX of the Education Amendments of 1972; discrimination based on sex

34 CFR 106.1-106.82

Nondiscrimination on the basis of sex in education programs

34 CFR 99.1-99.67

Family Educational Rights and Privacy

34 USC 12291

Definition of dating violence, domestic violence, and stalking

42 USC 1983

Civil action for deprivation of rights

42 USC 2000d-2000d-7

Title VI, Civil Rights Act of 1964

42 USC 2000e-2000e-17

Title VII, Civil Rights Act of 1964, as amended

U.S. DOJ, FBI Publication

National Incident-Based Reporting System

**Management Resources References**

**Description**

Court Decision

Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736

Court Decision

Davis v. Monroe County Board of Education (1999) 526 U.S. 629

Court Decision

Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274



Court Decision	<a href="#">Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473</a>
Court Decision	<a href="#">Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447</a>
Court Decision	<a href="#">Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567</a>
Court Decision	<a href="#">Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130</a>
Federal Register	<a href="#">Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</a>
Website	<a href="#">U.S. Department of Justice, Federal Bureau of Investigation</a>
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">CSBA</a>
Website	<a href="#">California Department of Education</a>
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>

**Cross References**

0410	<a href="#">Nondiscrimination In District Programs And Activities</a>
<b>Cross References</b>	<b>Description</b>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(1)	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(2)	<a href="#">Uniform Complaint Procedures</a>
1313	<a href="#">Civility</a>
3580	<a href="#">District Records</a>
3580	<a href="#">District Records</a>
3600	<a href="#">Consultants</a>
4030	<a href="#">Nondiscrimination In Employment</a>
4030	<a href="#">Nondiscrimination In Employment</a>
4033	<a href="#">Lactation Accommodation</a>
4117.7	<a href="#">Employment Status Reports</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4118	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4119.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4119.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4131	<a href="#">Staff Development</a>
4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4218	<a href="#">Dismissal/Suspension/Disciplinary Action</a>
4219.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4219.11	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
4317.7	<a href="#">Employment Status Reports</a>
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5145.7	<a href="#">Sex Discrimination and Sex-Based Harassment</a>
5145.7	<a href="#">Sex Discrimination and Sex-Based Harassment</a>

**Exhibit 4319.12-E(1): Title IX Sex Discrimination and Sex-Based Harassment  
Complaint Procedures**

Status: ADOPTED

Original Adopted Date: 10/01/2020 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

**NOTICE OF TITLE IX NONDISCRIMINATION**

The Code of Federal Regulations, Title 34, Section 106.8 requires the district to issue the following notification to employees, job applicants, and employee organizations:

The district does not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment, in any education program or activity that it operates. The prohibition against discrimination on the basis of sex is required by federal law (20 USC 1681-1688; 34 CFR Part 106) and extends to employment. The district also prohibits retaliation against any employee for filing a complaint or exercising any right granted under Title IX.

The district is required, as specified in Title IX, to take prompt and equitable action to address any potential Title IX violations that are brought to its attention. Any inquiries about the application of Title IX, this notice, and who is protected by Title IX may be referred to the district's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The district has designated and authorized the following employee(s) as the district's Title IX Coordinator, to address concerns or inquiries regarding discrimination on the basis of sex, including sex-based harassment:

\_\_\_\_\_  
(name and/or title/position)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(telephone number)

\_\_\_\_\_  
(email address)

Any individual may report sex discrimination, including sex-based harassment, to the Title IX Coordinator or any other school employee at any time, including during non-business hours, by mail, phone, or email. During district business hours, reports may also be made in person. Upon receiving an allegation of sex discrimination, including sexbased harassment, the Title IX Coordinator will promptly notify the parties, in writing, of the applicable district complaint procedure.

To view an electronic copy of the district's policies and administrative regulations on sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see Board Policy/Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment, and Administrative Regulation 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures on the district's website at \_\_\_\_\_(insert website link)\_\_\_\_\_.

To inspect or obtain a copy of the district's sex discrimination and sex-based harassment policies and administrative regulations, please contact: \_\_\_\_\_(insert location/phone/email of contact person) \_\_\_\_\_.

Materials used to train employees; the Title IX Coordinator; investigator(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person(s) who facilitates an informal resolution process, are available at the district office upon request.

**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.

<b>State References</b>	<b>Description</b>
5 CCR 4600-4670	Uniform complaint procedures
<b>State References</b>	<b>Description</b>
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	<u>Liability of parent or guardian for act of willful misconduct by a minor</u>
Civ. Code 51.9	<u>Liability for sexual harassment; business, service and professional relationships</u>
Ed. Code 200-270	Prohibition of discrimination
Ed. Code 48900	<u>Grounds for suspension or expulsion</u>
Ed. Code 48900.2	<u>Additional grounds for suspension or expulsion; sexual harassment</u>
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
<b>Federal References</b>	<b>Description</b>
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
U.S. DOJ, FBI Publication	<u>National Incident-Based Reporting System</u>
<b>Management Resources References</b>	<b>Description</b>
Court Decision	Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736
Court Decision	Davis v. Monroe County Board of Education (1999) 526 U.S. 629
Court Decision	Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473
Court Decision	Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130

Federal Register	<a href="#"><u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</u></a>
Website	<a href="#"><u>U.S. Department of Justice, Federal Bureau of Investigation</u></a>
Website	<a href="#"><u>CSBA District and County Office of Education Legal Services</u></a>
Website	<a href="#"><u>CSBA</u></a>
Website	<a href="#"><u>California Department of Education</u></a>
Website	<a href="#"><u>U.S. Department of Education, Office for Civil Rights</u></a>

**Cross References**

**Description**

0410	<a href="#"><u>Nondiscrimination In District Programs And Activities</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>

**Cross References**

**Description**

1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(1)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(2)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1313	<a href="#"><u>Civility</u></a>
3580	<a href="#"><u>District Records</u></a>
3580	<a href="#"><u>District Records</u></a>
3600	<a href="#"><u>Consultants</u></a>
4030	<a href="#"><u>Nondiscrimination In Employment</u></a>
4030	<a href="#"><u>Nondiscrimination In Employment</u></a>
4033	<a href="#"><u>Lactation Accommodation</u></a>
4117.7	<a href="#"><u>Employment Status Reports</u></a>
4118	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4118	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4119.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4119.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4131	<a href="#"><u>Staff Development</u></a>
4218	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4218	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4219.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4219.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4317.7	<a href="#"><u>Employment Status Reports</u></a>
4319.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
4319.11	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
5145.7	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>
5145.7	<a href="#"><u>Sex Discrimination and Sex-Based Harassment</u></a>

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, 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 Governing Board and the Superintendent in enacting policies and procedures that govern the district.

The Board desires to provide a welcoming, safe, and supportive 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, of 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; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; parental, marital, and family status; physical or mental disability; medical condition; sex; sex stereotypes; sex characteristics; 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.

Because unlawful discrimination could occur when disciplining students, including suspension and expulsion, the Superintendent or designee shall ensure that staff enforce discipline rules fairly, consistently and in a nondiscriminatory manner, as specified in Board Policy and Administrative Regulation 5144 - Discipline, Board Policy and Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process, and Administrative Regulation 5144.2 Suspension and Expulsion/Due Process (Students With Disabilities).

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, participates, or refuses to participate 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 website in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation. (Education Code 234.1, 234.6; 34 CFR 106.8)

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.

When a student has been suspended, or other means of correction have been implemented against the student for an incident of racist bullying, harassment, or intimidation, the principal or designee shall engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. The principal or designee shall also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and shall regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues. (Education Code 48900.5)

When appropriate based on the severity or pervasiveness of the bullying, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators and may contact law enforcement.

Allegations of unlawful discrimination in district programs and activities shall be brought, investigated, and resolved in accordance with Board Policy 1312.3 - Uniform Complaint Procedures, when required by law. However, complaints alleging sex discrimination, including sex-based harassment, under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

### **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.

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**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.

<b>State References</b>	<b>Description</b>
5 CCR 432	Student records
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	<u>Liability of parent or guardian for act of willful misconduct by a minor</u>
Ed. Code 17585	School modernization project; all-gender restroom

Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 33353	California Interscholastic Federation; standardized incident form
Ed. Code 35292.5	School restrooms; all-gender restrooms
Ed. Code 48900.3	<u>Suspension or expulsion for act of hate violence</u>
Ed. Code 48900.4	<u>Suspension or expulsion for harassment, threats, or intimidation</u>
Ed. Code 48900.5	Suspension; other means of correction
Ed. Code 48904	<u>Liability of parent/guardian for willful student misconduct</u>

**State References**

Ed. Code 48907  
 Ed. Code 48950  
 Ed. Code 48985  
 Ed. Code 49020-49023  
 Ed. Code 49060-49079  
 Ed. Code 51204.5  
 Ed. Code 51500  
 Ed. Code 51501  
 Ed. Code 60010  
 Ed. Code 60040-60052  
 Gov. Code 11135  
 Pen. Code 422.55  
 Pen. Code 422.6

**Federal References**

20 USC 1681-1688  
 28 CFR 35.107  
 29 USC 794  
 34 CFR 100.3  
 34 CFR 104.7  
 34 CFR 104.8  
 34 CFR 106.1-106.82  
 34 CFR 110.25  
 34 CFR 99.31  
 42 USC 12101-12213  
 42 USC 2000d-2000e-17  
 42 USC 2000h-2-2000h-6  
 42 USC 6101-6107

**Management Resources References**

34 CFR 106.30  
 CA Office of the Attorney General Publication  
 CA Office of the Attorney General Publication

**Description**

Exercise of free expression; time, place, and manner rules and regulations  
Speech and other communication  
Notices to parents in language other than English  
Athletic programs  
Student records  
Social sciences instruction; contributions of specified groups  
Prohibited instruction or activity  
Nondiscriminatory subject matter  
Instructional materials; definition  
Requirements for instructional materials  
Prohibition of discrimination  
Definition of hate crime  
Crimes; harassment

**Description**

Title IX of the Education Amendments of 1972; discrimination based on sex  
 Nondiscrimination on basis of disability; complaints  
 Rehabilitation Act of 1973; Section 504  
 Prohibition of discrimination on basis of race, color or national origin  
 Section 504; Designation of responsible employee and adoption of grievances procedures  
 Notice of Nondiscrimination on the Basis of Handicap  
 Discrimination on the basis of sex; effectuating Title IX  
 Prohibition of discrimination based on age  
 Disclosure of personally identifiable information  
 Americans with Disabilities Act  
 Title VI and Title VII Civil Rights Act of 1964, as amended  
 Title IX of the Civil Rights Act of 1964  
 Age Discrimination Act of 1975

**Description**

Discrimination on the basis of sex; definitions  
Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024  
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



**Cross References**

California Department of Education  
Publication

Court Decision

Court Decision

**Description**

California Longitudinal Pupil Achievement Data System (CALPADS)  
Update

FLASH #158: Guidance for Changing a Student’s Gender in CALPADS,  
July 2019

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

Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d  
1130

**Management Resources References**

CSBA Publication

Reference: State Roles, Responsibilities, and Process for Instructional  
Materials Adoption, February 2024

CSBA Publication

Fact Sheet: Instructional Materials Adoption: Local governing board  
responsibilities, February 2024

CSBA Publication

Instructional Materials Adoptions: State and local governing board  
processes, roles, and responsibilities, February 2024

CSBA Publication

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

Federal Register

Nondiscrimination on the Basis of Sex in Education Programs or

Activities Receiving Federal Financial Assistance, April 29, 2024, Vol.  
89, No. 83, pages 33474-33896

U.S DOE, 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. Department of Education Publication

Guidance on Constitutionally Protected Prayer and Religious  
Expression in

Public Elementary and Secondary Schools, May 2023

U.S. Dept. of Health & Human Services Publication  
Limited English

Guidance to Federal Financial Assistance Recipients Regarding Title VI

Prohibition Against National Origin Discrimination Affecting

Proficient Persons, August 2013

U.S. DOE & U.S. DOJ Civil Rights Divisions Pub

Dear Colleague Letter: Resource on Confronting Racial Discrimination  
in

Student Discipline, May 2023

U.S. DOE, Office for Civil Rights Publication

Dear Colleague Letter: Protecting Students from Discrimination, such  
as

Harassment, Based on Race, Color, or National Origin, Including  
Shared Ancestry or Ethnic Characteristics, May 2024

U.S. DOE, Office for Civil Rights Publication

Dear Colleague Letter: Discrimination, Including Harassment, Based  
on Shared Ancestry or Ethnic Characteristics, November 2023

U.S. DOE, Office for Civil Rights Publication

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

U.S. DOE, Office for Civil Rights Publication

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

U.S. DOE, Office for Civil Rights Publication

U.S. Department of Education Toolkit: Creating Inclusive and

Nondiscriminatory School Environments for LGBTQI+ Students, June  
2023

U.S. DOE, Office for Civil Rights Publication

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

	<b>Description</b>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973</u></a>
U.S. DOE, Office for Civil Rights Publication	<a href="#"><u>Dear Colleague Letter: Race and School Programming, August 2023</u></a>
Website	<a href="#"><u>CSBA District and County Office of Education Legal Services</u></a>
Website	<a href="#"><u>First Amendment Center</u></a>
Website	<a href="#"><u>California Interscholastic Federation</u></a>
Website	<a href="#"><u>California Office of the Attorney General</u></a>
Website	<a href="#"><u>California Safe Schools Coalition</u></a>
Website	<a href="#"><u>CSBA</u></a>
Website	<a href="#"><u>California Department of Education</u></a>
Website	<a href="#"><u>U.S. Department of Education, Office for Civil Rights</u></a>

**Cross References**

	<b>Description</b>
0410	<a href="#"><u>Nondiscrimination In District Programs And Activities</u></a>
0415	<a href="#"><u>Equity</u></a>
0450	<a href="#"><u>Comprehensive Safety Plan</u></a>
0450	<a href="#"><u>Comprehensive Safety Plan</u></a>
1114	<a href="#"><u>District-Sponsored Social Media</u></a>
1114	<a href="#"><u>District-Sponsored Social Media</u></a>
1240	<a href="#"><u>Volunteer Assistance</u></a>
1240	<a href="#"><u>Volunteer Assistance</u></a>
1312.1	<a href="#"><u>Complaints Concerning District Employees</u></a>
1312.1	<a href="#"><u>Complaints Concerning District Employees</u></a>
1312.2	<a href="#"><u>Complaints Concerning Instructional Materials</u></a>
1312.2	<a href="#"><u>Complaints Concerning Instructional Materials</u></a>
1312.2-E(1)	<a href="#"><u>Complaints Concerning Instructional Materials</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(1)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E(2)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.4	<a href="#"><u>Williams Uniform Complaint Procedures</u></a>
1312.4-E(1)	<a href="#"><u>Williams Uniform Complaint Procedures</u></a>
1312.4-E(2)	<a href="#"><u>Williams Uniform Complaint Procedures</u></a>
1313	<a href="#"><u>Civility</u></a>
1340	<a href="#"><u>Access To District Records</u></a>
1340	<a href="#"><u>Access To District Records</u></a>
3515.4	<a href="#"><u>Recovery For Property Loss Or Damage</u></a>
3515.4	<a href="#"><u>Recovery For Property Loss Or Damage</u></a>
3530	<a href="#"><u>Risk Management/Insurance</u></a>

**Cross References**

3530

3553

3553

3580

3580

4112.6

4112.9

4112.9-E(1)

4118

4118

4119.11

4119.11

4119.21

4119.21-E(1)

4119.23

**Description**Risk Management/InsuranceFree And Reduced Price MealsFree And Reduced Price MealsDistrict RecordsDistrict RecordsPersonnel FilesEmployee NotificationsEmployee NotificationsDismissal/Suspension/Disciplinary ActionDismissal/Suspension/Disciplinary ActionSex Discrimination and Sex-Based HarassmentSex Discrimination and Sex-Based HarassmentProfessional StandardsProfessional StandardsUnauthorized Release Of Confidential/Privileged Information

<b>Cross References</b>	<b>Description</b>
4131	<u>Staff Development</u>
4212.6	<u>Personnel Files</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4231	<u>Staff Development</u>
4312.6	<u>Personnel Files</u>
4312.9	<u>Employee Notifications</u>
4312.9-E(1)	<u>Employee Notifications</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4331	<u>Staff Development</u>
5000	<u>Concepts And Roles</u>
5030	<u>Student Wellness</u>
5111	<u>Admission</u>
5111	<u>Admission</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.12	<u>District School Attendance Review Board</u>
5113.12	<u>District School Attendance Review Board</u>
5116.2	<u>Involuntary Student Transfers</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5125.1	<u>Release Of Directory Information</u>
5125.1	<u>Release Of Directory Information</u>
5125.1-E(1)	<u>Release Of Directory Information</u>
5125.3	<u>Challenging Student Records</u>
5131	<u>Conduct</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>

**Cross References****Description**

5131.5	<u>Vandalism And Graffiti</u>
5132	<u>Dress And Grooming</u>
5132	<u>Dress And Grooming</u>
5137	<u>Positive School Climate</u>
5138	<u>Conflict Resolution/Peer Mediation</u>
5141.22	<u>Infectious Diseases</u>
5141.22	<u>Infectious Diseases</u>
5141.27	<u>Food Allergies/Special Dietary Needs</u>
5141.27	<u>Food Allergies/Special Dietary Needs</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.52	<u>Suicide Prevention</u>
5141.52	<u>Suicide Prevention</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.2	<u>Suspension And Expulsion/Due Process (Students With Disabilities)</u>
5145.12	<u>Search And Seizure</u>
5145.12	<u>Search And Seizure</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u> <u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/Pregnant/Parenting Students</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.8	<u>Comprehensive Health Education</u>
6142.8	<u>Comprehensive Health Education</u>
6143	<u>Courses Of Study</u>

**Cross References**

	<b>Description</b>
6143	<u>Courses Of Study</u>
6144	<u>Controversial Issues</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6153	<u>School-Sponsored Trips</u>
6153	<u>School-Sponsored Trips</u>
6159.4	<u>Behavioral Interventions For Special Education Students</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
6161.11	<u>Supplementary Instructional Materials</u>
6163.1	<u>Library Media Centers</u>
6163.4	<u>Student Use Of Technology</u>
6163.4-E(1)	<u>Student Use Of Technology</u>
6164.2	<u>Guidance/Counseling Services</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>
7110	<u>Facilities Master Plan</u>

**Regulation 5145.3: Nondiscrimination/Harassment**

Status: ADOPTED

Original Adopted Date: 09/01/2016 | Last Revised Date: 07/01/2024 | Last Reviewed Date: 07/01/2024

The district designates the individual(s) identified below as the Compliance Officer(s). The employee(s) is responsible for coordinating the district's efforts to comply with applicable state and federal civil rights laws and to answer inquiries regarding the district's nondiscrimination policies. The individual(s) shall also serve as the Compliance Officer(s) specified in Administrative Regulation 1312.3 - Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination of a student, and the Title IX Coordinator specified in Administrative Regulation 5145.7 - Sex Discrimination and Sex-Based Harassment as the responsible employee to handle complaints alleging unlawful sex discrimination and sex-based harassment, as permitted by law. The Compliance Officer(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

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(title or position)

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(address)

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(telephone number)

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(email)

**Measures to Prevent Discrimination**

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, 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. Publicize the district's nondiscrimination policy and related complaint procedures, including the Compliance Officer's contact information, to students, parents/guardians, employees, volunteers, and the general public by posting them in prominent locations and providing easy access to them through district-supported communications
2. Post the district's policies and procedures prohibiting discrimination, harassment, student sex-based harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media, in a prominent location on the district's website in a manner that is easily accessible to parents/guardians and students (Education Code 234.1, 234.6)
3. Post the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on the district's website in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)
4. Post in a prominent location on the district website in a manner that is easily accessible to parents/guardians and students information regarding Title IX prohibitions against discrimination based on a student's sex; sex characteristics; sexual orientation; gender; gender identity; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions

or recovery; and parental, marital, and family status, including the following: (Education Code 221.6, 221.61, 234.6)

- a. The name and contact information of the district's Title IX Coordinator, including the phone number and email address
  - b. The rights of students and the public and the responsibilities of the district under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the websites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights (OCR)
  - c. A description of how to file a complaint of noncompliance under Title IX, which shall include:
    - i. An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred and how a complaint may be filed beyond the statute of limitations
    - ii. An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including web links to this information on OCR's website
    - iii. A web link to the OCR complaints form and the contact information for the office, including the phone number and email address for the office
  - d. A link to the Title IX information included on the California Department of Education's (CDE) website
5. By April 1, 2025, post CDE's standardized incident form to track racial discrimination, harassment, or hazing that occurs at high school sporting games or events, including information on how to submit a completed incident form to the district (Education Code 33353)
  6. Post in a prominent location on the district's website and include in each handbook, catalog, announcement, bulletin, and application form for students, parents/guardians or other authorized legal representative, and employees, the Title IX notice of nondiscrimination which includes the following: (34 CFR 106.8)
    - a. The district does not discriminate on the basis of sex in any education program or activity that it operates
    - b. Inquiries about the application of Title IX may be referred to the district's Title IX Coordinator and/or  
OCR
    - c. The name or title, office and email address, and telephone number of the district's Title IX Coordinator
    - d. How to locate the district's nondiscrimination policy and the district's grievance procedures for Title IX complaints
    - e. How to report conduct that may constitute sex discrimination under Title IX
    - f. How to make a complaint of Title IX sex discrimination



If necessary due to the format or size of any publication specified above, the district may include only the statement that the district prohibits sex discrimination in any education program or activity that it operates, that individuals may report concerns or questions to the Title IX Coordinator, and the location of the complete notice on the district's website.

The district shall not distribute a publication stating that the district treats students, employees or applicants differently on the basis of sex, unless such treatment is permitted by Title IX.

7. Post a link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families (Education Code 234.5)

Such resources shall be posted in a prominent location on the district's website in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

8. 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
9. Annually notify all students and parents/guardians of the district's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all students

The notice shall inform students and parents/guardians that they may request to meet with the Compliance Officer to determine how best to accommodate or resolve concerns that may arise from the district's implementation of its nondiscrimination policies. The notice shall also inform all students and

parents/guardians that, to the extent possible, the district will address any individual student's interests and concerns in private.

10. Ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the district's nondiscrimination policy and related complaint procedures, notices, and forms in a language they can understand

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning nondiscrimination shall be translated into that language in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

11. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and/or information regarding the district's nondiscrimination policy; what constitutes prohibited discrimination, including discriminatory harassment, intimidation, retaliation, 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 details of guidelines the district may use to provide a discriminationfree environment for all district students.

12. Provide to certificated employees serving students in grades 7-12 information on existing school and community resources related to the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ+) students, or related to the support of students who may face bias or bullying on the basis of any of the actual or perceived characteristics in Penal Code 422.55, including immigration status; Education Code 220; and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation; or association with a person or group with one or more of these actual or perceived characteristics (Education Code 234.1)

13. For the 2025-2026 school year through the 2029-2030 school year, provide annually to certificated employees serving students in grades 7-12 at least one hour of training to support LGBTQ+ cultural competency in accordance with Education Code 218.3
14. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, against a student is required to intervene if it is safe to do so (Education Code 234.1)
15. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate assistance or resources to protect students from threatened or potentially discriminatory behavior and ensure their privacy rights

### **Process for Initiating and Responding to Complaints**

Students who feel that they have been subjected to unlawful discrimination described above or in district policy are strongly encouraged to immediately contact the Compliance Officer, Title IX Coordinator, principal, or any other staff member. In addition, students who observe any such incident are strongly encouraged to report the incident to the Compliance Officer, Title IX Coordinator, or principal, regardless of whether the alleged victim files a complaint.

Any school employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall report the incident to the Compliance Officer, Title IX Coordinator, or principal within one workday, regardless of whether the alleged victim files a complaint.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so.  
(Education Code 234.1)

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the principal, Compliance Officer, or Title IX Coordinator, the principal, Compliance officer,

or Title IX Coordinator shall notify the student or parent/guardian of the right to file a formal complaint in accordance with Administrative Regulation 1312.3 - Uniform Complaint Procedures or, for complaints of sex discrimination, including sex-based harassment, the right to initiate the Title IX grievance procedures as specified in Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. Once notified verbally or in writing, the Compliance Officer or Title IX Coordinator shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment. Any interim measures adopted to address unlawful discrimination shall, to the extent possible, not disadvantage the complainant or a student who is the victim of the alleged unlawful discrimination.

Any report or complaint alleging unlawful discrimination by the principal, Compliance Officer, Title IX Coordinator, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the Superintendent or designee who shall determine how the complaint will be investigated.

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**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 References**

5 CCR 432  
5 CCR 4600-4670  
5 CCR 4900-4965  
Civ. Code 1714.1  
Ed. Code 17585  
Ed. Code 200-262.4  
Ed. Code 33353  
Ed. Code 35292.5  
Ed. Code 48900.3  
Ed. Code 48900.4  
Ed. Code 48900.5  
Ed. Code 48904  
Ed. Code 48907  
  
Ed. Code 48950  
Ed. Code 48985  
Ed. Code 49020-49023  
Ed. Code 49060-49079  
Ed. Code 51204.5  
Ed. Code 51500  
Ed. Code 51501  
Ed. Code 60010  
Ed. Code 60040-60052  
Gov. Code 11135  
Pen. Code 422.55  
Pen. Code 422.6

**Federal References**

20 USC 1681-1688

**Description**

Student records  
Uniform complaint procedures  
Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance  
Liability of parent or guardian for act of willful misconduct by a minor  
School modernization project; all-gender restroom  
Prohibition of discrimination  
California Interscholastic Federation; standardized incident form  
School restrooms; all-gender restrooms  
Suspension or expulsion for act of hate violence  
Suspension or expulsion for harassment, threats, or intimidation  
Suspension; other means of correction  
Liability of parent/guardian for willful student misconduct  
Exercise of free expression; time, place, and manner rules and regulations  
Speech and other communication  
Notices to parents in language other than English  
Athletic programs  
Student records  
Social sciences instruction; contributions of specified groups  
Prohibited instruction or activity  
Nondiscriminatory subject matter  
Instructional materials; definition  
Requirements for instructional materials  
Prohibition of discrimination  
Definition of hate crime  
Crimes; harassment

**Description**

Title IX of the Education Amendments of 1972; discrimination based on sex

**Federal References**

28 CFR 35.107  
29 USC 794  
34 CFR 100.3  
34 CFR 104.7  
34 CFR 104.8  
34 CFR 106.1-106.82  
34 CFR 110.25  
34 CFR 99.31  
42 USC 12101-12213  
42 USC 2000d-2000e-17  
42 USC 2000h-2-2000h-6  
42 USC 6101-6107

**Description**

Nondiscrimination on basis of disability; complaints  
Rehabilitation Act of 1973; Section 504  
Prohibition of discrimination on basis of race, color or national origin  
Section 504; Designation of responsible employee and adoption of  
grievances procedures  
Notice of Nondiscrimination on the Basis of Handicap  
Discrimination on the basis of sex; effectuating Title IX  
Prohibition of discrimination based on age  
Disclosure of personally identifiable information  
Americans with Disabilities Act  
Title VI and Title VII Civil Rights Act of 1964, as amended  
Title IX of the Civil Rights Act of 1964  
Age Discrimination Act of 1975

**Management Resources References**

34 CFR 106.30  
CA Office of the Attorney General Publication  
CA Office of the Attorney General Publication  
California Department of Education  
Publication  
Court Decision  
Court Decision  
CSBA Publication  
CSBA Publication  
CSBA Publication  
CSBA Publication  
Federal Register  
U.S DOE, Office for Civil Rights Publication  
U.S. Department of Education Publication

**Description**

Discrimination on the basis of sex; definitions  
Guidance to School Officials re: Legal Requirements for Providing  
Inclusive Curricula and Books, January 2024  
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 Longitudinal Pupil Achievement Data System (CALPADS)  
Update  
FLASH #158: Guidance for Changing a Student’s Gender in CALPADS,  
July 2019  
Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567  
Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d  
1130  
Reference: State Roles, Responsibilities, and Process for Instructional  
Materials Adoption, February 2024  
Fact Sheet: Instructional Materials Adoption: Local governing board  
responsibilities, February 2024  
Instructional Materials Adoptions: State and local governing board  
processes, roles, and responsibilities, February 2024  
Legal Guidance on Rights of Transgender and Gender Nonconforming  
Students in Schools, October 2022  
Nondiscrimination on the Basis of Sex in Education Programs or  
Activities Receiving Federal Financial Assistance, April 29, 2024, Vol.  
89, No. 83, pages 33474-33896  
Resolution Agreement Between the Arcadia USD, US Dept of Ed,  
OCR, & the US DOJ, CRD (2013) OCR 09-12-1020, DOJ 169-12C-70  
Guidance on Constitutionally Protected Prayer and Religious  
Expression in  
Public Elementary and Secondary Schools, May 2023

**Cross References**

U.S. Dept. of Health & Human Services Publication <u>Limited English</u>	<b>Description</b> <u>Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Proficient Persons, August 2013</u>
U.S. DOE & U.S. DOJ Civil Rights Divisions Pub	<u>Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023</u>

**Management Resources References**

U.S. DOE, Office for Civil Rights Publication	<u>Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics, May 2024</u>
U.S. DOE, Office for Civil Rights Publication	<u>Dear Colleague Letter: Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023</u>
U.S. DOE, Office for Civil Rights Publication	<u>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</u>
U.S. DOE, Office for Civil Rights Publication	<u>Dear Colleague Letter: Addressing Discrimination Against Jewish Students, May 2023</u>
U.S. DOE, Office for Civil Rights Publication	<u>U.S. Department of Education Toolkit: Creating Inclusive and Nondiscriminatory School Environments for LGBTQI+ Students, June 2023</u>
U.S. DOE, Office for Civil Rights Publication	<u>Questions and Answers on the Title IX Regulations on Sexual Harassment, June 2022</u>
U.S. DOE, Office for Civil Rights Publication	<u>Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973</u>
U.S. DOE, Office for Civil Rights Publication	<u>Dear Colleague Letter: Race and School Programming, August 2023</u>
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>First Amendment Center</u>
Website	<u>California Interscholastic Federation</u>
Website	<u>California Office of the Attorney General</u>
Website	<u>California Safe Schools Coalition</u>
Website	<u>CSBA</u>
Website	<u>California Department of Education</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>

**Cross References**

0410	<b>Description</b> <u>Nondiscrimination In District Programs And Activities</u>
0415	<u>Equity</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>

	<b>Description</b>
1240	<u>Volunteer Assistance</u>
1240	<u>Volunteer Assistance</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.2	<u>Complaints Concerning Instructional Materials</u>
1312.2-E(1)	<u>Complaints Concerning Instructional Materials</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1312.4	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(1)	<u>Williams Uniform Complaint Procedures</u>
1312.4-E(2)	<u>Williams Uniform Complaint Procedures</u>
1313	<u>Civility</u>
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
3515.4	<u>Recovery For Property Loss Or Damage</u>
3515.4	<u>Recovery For Property Loss Or Damage</u>
3530	<u>Risk Management/Insurance</u>
3530	<u>Risk Management/Insurance</u>
3553	<u>Free And Reduced Price Meals</u>
3553	<u>Free And Reduced Price Meals</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
4112.6	<u>Personnel Files</u>
4112.9	<u>Employee Notifications</u>
4112.9-E(1)	<u>Employee Notifications</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.21	<u>Professional Standards</u>
4119.21-E(1)	<u>Professional Standards</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4131	<u>Staff Development</u>
4212.6	<u>Personnel Files</u>
4212.9	<u>Employee Notifications</u>
4212.9-E(1)	<u>Employee Notifications</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>

**Cross References**

4218

**Description**Dismissal/Suspension/Disciplinary Action

4219.11

Sex Discrimination and Sex-Based Harassment

4219.11

Sex Discrimination and Sex-Based Harassment

4219.21

Professional Standards

4219.21-E(1)

Professional Standards

4219.23

Unauthorized Release Of Confidential/Privileged Information

4231

Staff Development

4312.6

Personnel Files

4312.9

Employee Notifications

4312.9-E(1)

Employee Notifications

4319.11

Sex Discrimination and Sex-Based Harassment

<b>Cross References</b>	<b>Description</b>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4331	<u>Staff Development</u>
5000	<u>Concepts And Roles</u>
5030	<u>Student Wellness</u>
5111	<u>Admission</u>
5111	<u>Admission</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.12	<u>District School Attendance Review Board</u>
5113.12	<u>District School Attendance Review Board</u>
5116.2	<u>Involuntary Student Transfers</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5125.1	<u>Release Of Directory Information</u>
5125.1	<u>Release Of Directory Information</u>
5125.1-E(1)	<u>Release Of Directory Information</u>
5125.3	<u>Challenging Student Records</u>
5131	<u>Conduct</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5131.5	<u>Vandalism And Graffiti</u>
5132	<u>Dress And Grooming</u>
5132	<u>Dress And Grooming</u>
5137	<u>Positive School Climate</u>
5138	<u>Conflict Resolution/Peer Mediation</u>
5141.22	<u>Infectious Diseases</u>
5141.22	<u>Infectious Diseases</u>
5141.27	<u>Food Allergies/Special Dietary Needs</u>
5141.27	<u>Food Allergies/Special Dietary Needs</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.52	<u>Suicide Prevention</u>
5141.52	<u>Suicide Prevention</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>



Cross References	Description
5144.2	<u>Suspension And Expulsion/Due Process (Students With Disabilities)</u>
5145.12	<u>Search And Seizure</u>
5145.12	<u>Search And Seizure</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u>
5145.9	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5146	<u>Procedures</u>
6142.1	<u>Hate-Motivated Behavior</u>
6142.1	<u>Married/Pregnant/Parenting Students</u>
6142.8	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.8	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6143	<u>Comprehensive Health Education</u>
6142.8	<u>Comprehensive Health Education</u>
6143	<u>Courses Of Study</u>
6143	<u>Courses Of Study</u>
6144	<u>Controversial Issues</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6153	<u>School-Sponsored Trips</u>
6153	<u>School-Sponsored Trips</u>
6159.4	<u>Behavioral Interventions For Special Education Students</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
6161.11	<u>Supplementary Instructional Materials</u>
6163.1	<u>Library Media Centers</u>
6163.4	<u>Student Use Of Technology</u>
6163.4-E(1)	<u>Student Use Of Technology</u>
6164.2	<u>Guidance/Counseling Services</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>

**Policy 5145.7: Sex Discrimination and Sex-Based Harassment**

Status: ADOPTED

Original Adopted Date: 03/01/2012 | Last Revised Date: 07/01/2024 | Last Reviewed Date: 07/01/2024

The Governing Board is committed to maintaining a welcoming, safe, and supportive school environment that is free from discrimination and harassment. The Board prohibits at school or at school-sponsored or school-related activities, sex discrimination and sex-based harassment, as defined in the accompanying administrative regulation, targeted at any student, based on the student's actual or perceived sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; and, parental, marital, and family status.

Additionally, the Board prohibits retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy. (Education Code 220.1; 34 CFR 106.71)

The district strongly encourages students who feel that they are being or have experienced sex discrimination, including sex-based harassment, on school grounds or at a school-sponsored or school-related activity, or off-campus when the conduct has a continuing effect on campus, to immediately contact their teacher, the principal, the district's Title IX Coordinator, or any other available school employee.

Any employee who receives a report or observes an incident of sex discrimination, including sex-based harassment, by or against a student in a district education program or activity shall report the incident to the Title IX Coordinator within one workday.

Once notified, the Title IX Coordinator shall ensure the complaint or allegation is addressed through Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the district has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.

The Superintendent or designee shall ensure that all district staff are trained regarding the district's sex discrimination and sex-based harassment policy, and that all employees receive training related to their duties under Title IX as specified in Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment. (34 CFR 106.8)

**Instruction/Information**

The Superintendent or designee shall ensure that all district students receive age-appropriate information on sex discrimination and sex-based harassment. Such instruction and information shall include:

**Cross References****Description**

1. What acts and behavior constitute sex discrimination and sex-based harassment, including the fact that sex discrimination and sex-based harassment could occur between people of the same sex and could involve sexual violence
2. A clear message that students do not have to endure sex discrimination or sex-based harassment under any circumstance
3. Encouragement to report observed incidents of sex discrimination and sex-based harassment even when the alleged victim of the discrimination or harassment has not complained
4. A clear message that student safety is the district's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sex discrimination or sex-based harassment incident

will be addressed separately and will not affect the manner in which the sex discrimination or sex-based harassment complaint will be received, investigated, or resolved

5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sex discrimination and sex-based harassment allegation that involves a student, whether as the complainant, respondent, or victim of the discrimination or harassment, shall be investigated and action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students
6. Information about the district's procedures for investigating complaints and the person(s) to whom a report of sex discrimination and/or sex-based harassment should be made
7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the district investigation of a sex discrimination or sex-based harassment complaint continues
8. A clear message that, when needed, the district will implement supportive measures to ensure a safe school environment for a student who is the complainant or victim of sex discrimination or sex-based harassment and/or other students during an investigation

### **Disciplinary Actions**

Upon completion of an investigation of sex discrimination and/or sex-based harassment, any student found to have engaged in sex discrimination, and/or sex-based harassment or sexual violence, in violation of this policy, shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

Upon investigation of sex discrimination and/or sex-based harassment, any employee found to have engaged in sex discrimination against, and/or sex-based harassment or sexual violence toward, any student, shall be subject to disciplinary action, up to and including dismissal, in accordance with law and the applicable collective bargaining agreement.

### **Record-Keeping**

The Superintendent or designee shall maintain records in accordance with law, including in accordance with 34 CFR

106.8 as specified in Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and district policies and regulations, of all reported cases of sex-based harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in district schools.

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**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 References**

5 CCR 432

5 CCR 4600-4670

5 CCR 4900-4965

#### **Description**

Student records

Uniform complaint procedures

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

## Description

Civ. Code 1714.1	<u>Liability of parent or guardian for act of willful misconduct by a minor</u>
Civ. Code 51.9	<u>Liability for sexual harassment; business, service and professional relationships</u>
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 220.1	Prohibition of retaliation related to educational equity
Ed. Code 220.3	Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression

## State References

Ed. Code 220.5	Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 35292.5	School restrooms; all-gender restrooms
Ed. Code 48900	<u>Grounds for suspension or expulsion</u>
Ed. Code 48900.2	<u>Additional grounds for suspension or expulsion; sexual harassment</u>
Ed. Code 48904	<u>Liability of parent/guardian for willful student misconduct</u>
Ed. Code 48980	<u>Parent/Guardian notifications</u>
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Ed. Code 49060-49079	<u>Student records</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>

## Federal References

20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended

## Description

## Management Resources References

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
Court Decision	Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473
Court Decision	Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736
Court Decision	Davis v. Monroe County Board of Education (1999) 526 U.S. 629

## Description

Court Decision	<a href="#">Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447</a>
Court Decision	<a href="#">Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567</a>
Court Decision	<a href="#">Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130</a>
CSBA Publication	<a href="#">Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011</a>
CSBA Publication	<a href="#">Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014</a>
CSBA Publication	<a href="#">Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022</a>
Federal Register	<a href="#">Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</a>
U.S. DOE, Office for Civil Rights Publication	<a href="#">Sexual Harassment: It's Not Academic, September 2008</a>

## Management Resources References

	<a href="#">Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001</a>
U.S. DOE, Office for Civil Rights Publication	<a href="#">Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016</a>
U.S. DOE, Office for Civil Rights Publication	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">California Department of Education</a>
Website	<a href="#">CSBA</a>
Website	<a href="#">U.S. Department of Education, Office for Civil Rights</a>

## Cross References

## Description

0410	<a href="#">Nondiscrimination In District Programs And Activities</a>
0450	<a href="#">Comprehensive Safety Plan</a>
0450	<a href="#">Comprehensive Safety Plan</a>
1114	<a href="#">District-Sponsored Social Media</a>
1114	<a href="#">District-Sponsored Social Media</a>
1312.1	<a href="#">Complaints Concerning District Employees</a>
1312.1	<a href="#">Complaints Concerning District Employees</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(1)	<a href="#">Uniform Complaint Procedures</a>
1312.3-E(2)	<a href="#">Uniform Complaint Procedures</a>
1313	<a href="#">Civility</a>
3515.4	<a href="#">Recovery For Property Loss Or Damage</a>
3515.4	<a href="#">Recovery For Property Loss Or Damage</a>
3530	<a href="#">Risk Management/Insurance</a>
3530	<a href="#">Risk Management/Insurance</a>
3580	<a href="#">District Records</a>
3580	<a href="#">District Records</a>

## Description

4117.7	<u>Employment Status Reports</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.12	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
4119.12-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
4131	<u>Staff Development</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
<b>Cross References</b>	
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	<u>Procedures</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4231	<u>Staff Development</u>
4317.7	<u>Employment Status Reports</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	<u>Procedures</u>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5131	<u>Conduct</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5131.5	<u>Vandalism And Graffiti</u>
5132	<u>Dress And Grooming</u>
5132	<u>Dress And Grooming</u>

## **Description**

5137	<u>Positive School Climate</u>
5138	<u>Conflict Resolution/Peer Mediation</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.52	<u>Suicide Prevention</u>
5141.52	<u>Suicide Prevention</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.2	<u>Suspension And Expulsion/Due Process (Students With Disabilities)</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
<b>Cross References</b>	
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/Pregnant/Parenting Students</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.8	<u>Comprehensive Health Education</u>
6142.8	<u>Comprehensive Health Education</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6163.4	<u>Student Use Of Technology</u>
6163.4-E(1)	<u>Student Use Of Technology</u>



## Regulation 5145.7: Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 10/01/2014 | Last Revised Date: 07/01/2024 | Last Reviewed Date: 07/01/2024

The district does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations. Sex discrimination, including sex-based harassment, is prohibited in district education programs and activities.

### Definitions

*Sex discrimination* includes treating a student differently with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services based on the student's sex, sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or the student's association with a person or group with one or more of these actual or perceived characteristics.

Sex discrimination, including sex-based harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct and 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.

*Sex-based harassment* is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, or other bases specified above. Conduct will constitute sex-based harassment when it takes the form of: (34 CFR 106.2, 106.11)

1. **Quid pro quo harassment:** A district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service in the district's education program or activity conditioning the provision of district aid, benefit, or service on a student's participation in unwelcome sexual conduct
2. **Hostile environment harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the district's education program or activity

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sex-based harassment in violation of district policy if it has a continuing effect on a student's ability to participate in or benefit from district educational programs or activities.

3. **Sexual assault, dating violence, domestic violence, or stalking** as defined in 34 CFR 106.2

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student

3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity

### **Examples of Sex Discrimination and Sex-Based Harassment**

Examples of types of conduct which are prohibited in the district and which may constitute sex-based harassment, under state and/or federal law, in accordance with the definitions above, include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sex-based slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sex-based jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sex-based rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

### **Title IX Coordinator/Compliance Officer**

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX. The individual(s) shall also serve as the Compliance Officer(s) specified in Administrative Regulation 1312.3 - Uniform Complaint Procedures and Administrative Regulation 5145.3 - Nondiscrimination/Harassment as the responsible employee(s) to handle student complaints alleging unlawful discrimination, as permitted by law. The Title IX Coordinator(s) may be contacted at:

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(title or position)

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(address)

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(telephone number)

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(email)

### **Notifications**

To prevent unlawful sex discrimination and sex-based harassment in district programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 5145.3 - Nondiscrimination/Harassment.

In addition to the measures to prevent discrimination specified in Administrative Regulation 5145.3 Nondiscrimination/Harassment, the Superintendent or designee shall ensure that a copy of the district's sex discrimination and sex-based harassment policy and regulation:

1. Is displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
2. Is summarized on a poster, which shall be prominently and conspicuously displayed in each bathroom and locker room at each school

The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)

3. Is provided as part of any orientation program conducted for new and continuing students at the time the student is enrolled or at the beginning of each quarter, semester, or summer session (Education Code 231.5)
4. Appears in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

### **Reports and Complaints**

A student or a student's parent(s)/guardian(s) who believes that the student has been subjected to sex discrimination, including sex-based harassment, in a district program or activity or who has witnessed sex discrimination, including sex-based harassment, is strongly encouraged to report the incident to the district's Title IX Coordinator, a teacher, the principal, or any other available school employee. Within one workday of receiving such a report, the principal or other school employee shall forward the report to the district's Title IX Coordinator. Any school employee who observes sex discrimination or sex-based harassment shall, within one workday, report the observation to the Title IX Coordinator as specified in the accompanying board policy. The report shall be made regardless of whether the alleged victim files a formal complaint or requests confidentiality.

When a report or complaint of sex discrimination or sex-based harassment involves off-campus conduct, the Title IX Coordinator shall assess whether the conduct may create or contribute to the creation of a hostile school environment. If the Title IX Coordinator determines that a hostile environment may be

created, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

### **Complaint Procedures**

All complaints and allegations of sex discrimination and sex-based harassment shall be investigated and resolved in accordance with 34 CFR 106.44 and 106.45 and Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

### **Issues Unique to Intersex, Nonbinary, Transgender and Gender-Nonconforming Students**

*Gender identity of a student* means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense, regardless of whether that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

*Gender expression* means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth. (Education Code 210.7)

*Gender transition* refers to the process in which a student changes from living and identifying as the sex assigned to the student at birth to living and identifying as the sex that corresponds to the student's gender identity.

*Gender-nonconforming student* means a student whose gender expression differs from stereotypical expectations.

*Intersex student* means a student with natural bodily variations in anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with female and male bodies.

*Nonbinary student* means a student whose gender identity falls outside of the traditional conception of strictly either female or male, regardless of whether the student identifies as transgender, was born with intersex traits, uses gender-neutral pronouns, or uses agender, genderqueer, pangender, gender nonconforming, gender variant, or such other more specific term to describe their gender.

*Transgender student* means a student whose gender identity is different from the gender assigned at birth.

The district prohibits acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, sex stereotypes, sex characteristics, sexual orientation, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment, regardless of whether the acts are sexual in nature. Examples of the types of conduct that are prohibited in the district and which may constitute sex-based hostile environment harassment include, but are not limited to:

1. Refusing to address a student by a name and the pronouns consistent with the student's gender identity
2. Disciplining or disparaging a student or excluding the student from participating in activities, for behavior or appearance that is consistent with the student's gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable
3. Blocking a student's entry to the restroom that corresponds to the student's gender identity

4. Taunting a student because the student participates in an athletic activity more typically favored by a student of the other sex
5. Revealing a student's gender identity to individuals who do not have a legitimate need for the information, without the student's consent
6. Using gender-specific slurs
7. Assaulting a student because of the student's gender, sex characteristic, sexual orientation, gender identity, or gender expression

To ensure that intersex, nonbinary, transgender, and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Board policy, the district shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. Right to privacy: A student's intersex, nonbinary, transgender, or gender-nonconforming status is the student's private information

The district shall develop strategies to prevent unauthorized disclosure of students' private information. Such strategies may include, but are not limited to, collecting or maintaining information about student gender only when relevant to the educational program or activity, protecting or revealing a student's gender identity as necessary to protect the health or safety of the student, and keeping a student's unofficial record separate from the official record.

The district shall only disclose the information to others with the student's prior written consent, except when the disclosure is otherwise required by law or when the district has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. (Education Code 220.3, 220.5; 34 CFR 99.31, 99.36)

The district shall only allow disclosure of a student's personally identifiable information to employees in accordance with law. Any district employee to whom a student's intersex, nonbinary, transgender, or gender-nonconforming status is disclosed shall keep the student's information confidential. When disclosure of a student's gender identity is made to a district employee by a student, the employee shall seek the student's permission to notify the Compliance Officer. If the student refuses to give permission, the employee shall keep the student's information confidential, unless the employee is required to disclose or report the student's information pursuant to this administrative regulation, and shall inform the student that honoring the student's request may limit the district's ability to meet the student's needs related to the student's status as an intersex, nonbinary, transgender, or gender-nonconforming student. If the student permits the employee to notify the Compliance Officer, the employee shall do so within three school days.

As appropriate given the student's need for support, the Compliance Officer may discuss with the student any

need to disclose the student's intersex, nonbinary, transgender, or gender-nonconformity status or gender identity or gender expression to the student's parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The district shall offer support services, such as counseling, to students who wish to inform their parents/guardians of their status and request assistance in doing so.

2. Determining a Student's Gender Identity: The Compliance Officer shall accept the student's assertion of gender identity and begin to treat the student consistent with that gender identity unless district personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose

3. Addressing a Student's Transition Needs: The Compliance Officer shall arrange a meeting with the student and, if appropriate, the student's parents/guardians to identify and develop strategies for ensuring that the student's access to educational programs and activities is maintained

The meeting shall discuss the intersex, nonbinary, transgender, or gender-nonconforming student's rights and how those rights may affect and be affected by the rights of other students and shall address specific subjects related to the student's access to facilities and to academic or educational support programs, services, or activities, including, but not limited to, sports and other competitive endeavors. In addition, the Compliance Officer shall identify specific school site employee(s) to whom the student may report any problem related to the student's status as an intersex, nonbinary, transgender, or gender-nonconforming individual, so that prompt action can be taken to address it. Alternatively, if appropriate and desired by the student, the school may form a support team for the student that will meet periodically to assess whether the arrangements for the student are meeting the student's educational needs and providing equal access to programs and activities, educate appropriate staff about the student's transition, and serve as a resource to the student to better protect the student from gender-based discrimination.

4. Accessibility to Sex-Segregated Facilities, Programs, and Activities: When the district maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be permitted to access facilities and participate in programs and activities consistent with their gender identity

To address any student's privacy concerns in using sex-segregated facilities, the district shall offer available options such as a gender-neutral or single-use restroom or changing area, a bathroom stall with a door, an area in the locker room separated by a curtain or screen, or use of the locker room before or after the other students. However, the district shall not require a student to utilize these options because the student is intersex, nonbinary, transgender, or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with the student's gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. A student's right to participate in a sex-segregated activity in accordance with the student's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

Beginning July 1, 2026, each school shall provide and maintain at least one all-gender restroom for student use that meets the requirements of Education Code 35292.5.

5. Student Records: Upon each student's enrollment, the district is required to maintain a mandatory permanent student record (official record) that includes the student's gender and legal name

A student's legal name as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed with proper documentation. A student's gender as entered on the student's official record required pursuant to 5 CCR 432 shall only be changed with written authorization of a parent/guardian having legal custody of the student. (Education Code 49061)

However, when proper documentation or authorization, as applicable, is not submitted with a request to change a student's legal name or gender, any change to the student's record shall be limited to the student's unofficial records such as attendance sheets, report cards, and school identification.

6. Names and Pronouns: If a student so chooses, district personnel shall be required to address the student by a name and the pronoun(s) consistent with the student's gender identity, without the necessity of a court order or a change to the student's official district record

However, inadvertent slips or honest mistakes by district personnel in the use of the student's name and/or consistent pronouns will, in general, not constitute a violation of this administrative regulation or the accompanying board policy.

7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with the student's gender identity, subject to any dress code adopted on a school site

**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.

<b>State References</b>	<b>Description</b>
5 CCR 432	Student records
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	<u>Liability of parent or guardian for act of willful misconduct by a minor</u>
Civ. Code 51.9	<u>Liability for sexual harassment; business, service and professional relationships</u>
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 220.1	Prohibition of retaliation related to educational equity
Ed. Code 220.3	Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 220.5	Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
Ed. Code 35292.5	School restrooms; all-gender restrooms
Ed. Code 48900	<u>Grounds for suspension or expulsion</u>
Ed. Code 48900.2	<u>Additional grounds for suspension or expulsion; sexual harassment</u>
Ed. Code 48904	<u>Liability of parent/guardian for willful student misconduct</u>
Ed. Code 48980	<u>Parent/Guardian notifications</u>
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Ed. Code 49060-49079	<u>Student records</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
<b>Federal References</b>	<b>Description</b>
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended

**Management Resources References**

**Description**



	Description
<b>Management Resources References</b>	
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
Court Decision	Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473
Court Decision	Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736
Court Decision	Davis v. Monroe County Board of Education (1999) 526 U.S. 629
Court Decision	Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130
CSBA Publication	<u>Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011</u>
CSBA Publication	<u>Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014</u>
CSBA Publication	<u>Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022</u>
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896</u>
U.S. DOE, Office for Civil Rights Publication	<u>Sexual Harassment: It's Not Academic, September 2008</u>
U.S. DOE, Office for Civil Rights Publication	<u>Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001</u>
U.S. DOE, Office for Civil Rights Publication	<u>Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016</u>
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>California Department of Education</u>
Website	<u>CSBA</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>
<b>Cross References</b>	<b>Description</b>
0410	<u>Nondiscrimination In District Programs And Activities</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.1	<u>Complaints Concerning District Employees</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>

	<b>Description</b>
1313	<u>Civility</u>
3515.4	<u>Recovery For Property Loss Or Damage</u>
3515.4	<u>Recovery For Property Loss Or Damage</u>
<b>Cross References</b>	
3530	<u>Risk Management/Insurance</u>
3530	<u>Risk Management/Insurance</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
4117.7	<u>Employment Status Reports</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12	
	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4119.12-E(1)	
	<u>Procedures</u>
4131	<u>Staff Development</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12	
	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4219.12-E(1)	
	<u>Procedures</u>
4219.21	<u>Professional Standards</u>
4219.21-E(1)	<u>Professional Standards</u>
4231	<u>Staff Development</u>
4317.7	<u>Employment Status Reports</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12	
	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
4319.12-E(1)	
	<u>Procedures</u>

	<b>Description</b>
4319.21	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5131	<u>Conduct</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5131.5	<u>Vandalism And Graffiti</u>
5132	<u>Dress And Grooming</u>
5132	<u>Dress And Grooming</u>
<b>Cross References</b>	
5137	<u>Positive School Climate</u>
5138	<u>Conflict Resolution/Peer Mediation</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.52	<u>Suicide Prevention</u>
5141.52	<u>Suicide Prevention</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.2	<u>Suspension And Expulsion/Due Process (Students With Disabilities)</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71	<u>Procedures</u>
	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint</u>
5145.71-E(1)	<u>Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/Pregnant/Parenting Students</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.1	<u>Sexual Health And HIV/AIDS Prevention Instruction</u>
6142.8	<u>Comprehensive Health Education</u>

	<b>Description</b>
6142.8	<u>Comprehensive Health Education</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6163.4	<u>Student Use Of Technology</u>
6163.4-E(1)	<u>Student Use Of Technology</u>

**Regulation 5145.71: Title IX Sex Discrimination and Sex-Based Harassment  
Complaint Procedures**

Status: ADOPTED

Original Adopted Date: 07/01/2020 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

The complaint procedures described in this administrative regulation shall be used to address any complaint governed by Title IX of the Education Amendments of 1972 alleging that a district student, while in an education program or activity, was subjected to conduct on or after August 1, 2024, including, but not limited to, conduct that is under the authority of the district, that constitutes sex discrimination, including sex-based harassment. For conduct that occurred prior to this date, the district should utilize its policies in place at the time the alleged sex discrimination, including sex-based harassment, occurred, so long as they are in accordance with the applicable statutes and regulations.

Sex discrimination and sex-based harassment include, but are not limited to, sex-based conduct as specified in Administrative Regulation 5145.7 - Sex Discrimination and Sex-Based Harassment.

**Basic Requirements**

When implementing Title IX grievance procedures, the district shall: (34 CFR 106.45)

1. Treat complainants and respondents equitably
2. Ensure that the Title IX Coordinator or designee, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent

The investigator and the decisionmaker may be the same person as the Title IX Coordinator or designee.

3. Presume that the respondent is not responsible for the alleged sex discrimination, including sex-based harassment, until a determination is made at the conclusion of the grievance procedures
4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, such as evaluation of whether to dismiss or investigate a complaint, investigation, decision, and appeals if any
5. Establish a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay

Additionally, the district shall not disclose personally identifiable information obtained while implementing Title IX complaint procedures unless the district has obtained prior written consent from a person with the legal right to consent to the disclosure; the information is disclosed to a parent/guardian or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; to take action to address conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, in the district's education program or activity; as required by federal law, regulations, or as a condition to a federal award; as required by state or local law; or to the extent such disclosures are not otherwise in conflict with Title IX. (34 CFR 106.44)

If either party is a student with a disability, the Title IX Coordinator or designee shall consult with one or more members, as appropriate, of the student's individualized education program or 504 team, to

determine how to comply with the requirements of the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973.

### **Filing a Complaint**

Upon receiving information from an allegation of sex discrimination, including sex-based harassment, the Title IX Coordinator or designee shall notify the individual(s) specified in law of the Title IX grievance procedures, and of the informal resolution process, if available and appropriate.

A *complaint* is an oral or written request that can objectively be understood by the Title IX Coordinator or designee

as a request for the district to investigate and make a determination about alleged sex discrimination, including sex-based harassment. (34 CFR 106.21)

Complaints of sex discrimination and sex-based harassment may only be brought by a student, or former student, who was participating or attempting to participate in the district's education program or activity at the time of the alleged sex-based harassment, a parent/guardian or other authorized legal representative with the legal right to act on behalf of the student, or the Title IX Coordinator or designee. (34 CFR 106.45)

If the alleged victim chooses not to bring a complaint, or withdraws any or all of the allegations in a complaint, and in the absence or termination of an information resolution process, the Title IX Coordinator or designee shall consider whether to initiate a complaint. To do so, the Title IX Coordinator or designee shall first consider the following factors: (34 CFR 106.44)

1. The victim's request not to proceed with initiation of a complaint
2. The victim's reasonable safety concerns regarding initiation of a complaint
3. The risk that additional acts of sex discrimination, including sex-based harassment, would occur if a complaint is not initiated
4. The severity of the alleged sex discrimination or sex-based harassment, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence
5. The age and relationship of the parties, including whether the respondent is an employee of the district
6. The scope of the alleged sex discrimination, including information suggesting a pattern; ongoing sex discrimination, including sex-based harassment; or sex discrimination, including sex-based harassment, alleged to have impacted multiple individuals
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination, including sex-based harassment, occurred
8. Whether the district could end the alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX grievance procedures

If, after considering these factors, the Title IX Coordinator determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant or another person, or that the

conduct as alleged prevents the district from ensuring equal access to a district program or activity on the basis of sex, the Title IX Coordinator may initiate a complaint.

If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall provide the alleged victim notice of the complaint, as well as other notices as required by the Title IX regulations at specific points in the complaint process. The Title IX Coordinator shall also address reasonable concerns about the victim's safety or the safety of others, including providing supportive measures as described in "Supportive Measures" below, and taking other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district. (34 CFR 106.44)

The Title IX Coordinator or designee, investigator, decisionmaker, other person who is responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.8. (34 CFR 106.44)

The Title IX Coordinator shall monitor the district for barriers to reporting information about conduct that reasonably may constitute sex discrimination, including sex-based harassment, under Title IX, and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

### **Supportive Measures**

Upon receipt of a report of Title IX sex discrimination or sex-based harassment, the Title IX Coordinator or designee shall offer and coordinate supportive measures. Supportive measures may vary depending on what the district determines to be reasonably available and shall not unreasonably burden either the complainant or respondent. Supportive measures shall be provided without charging a fee to the complainant or respondent and be designed to protect the safety of the complainant, respondent, and the district's educational environment, and to provide support during any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44. The district shall not impose such measures for punitive or disciplinary reasons. Supportive measures may include, but are not limited to, counseling; extensions of deadlines and other courserelated adjustments; changes in class, work, housing, or extracurricular or any other activity regardless of whether there is a comparable alternative; campus escort services; modifications of class schedules; mutual restrictions on contact; changes in class locations; increased security; monitoring of certain areas of the campus; and, training and education programs related to sex-based harassment. (34 CFR 106.2, 106.44)

Unless there is an allegation of sex-based harassment or retaliation, the district may provide supportive measures without altering the alleged discriminatory conduct. (34 CFR 106.44)

Upon the conclusion of any grievance procedures implemented as specified in 34 CFR 106.45 or informal resolution process as specified in 34 CFR 106.44, the district may continue with the supportive measures, or modify or terminate such measures, as appropriate. (34 CFR 106.44)

The district shall provide a complainant or respondent for whom supportive measures have been implemented with a timely opportunity to seek, from an impartial employee with authority to modify or reverse the supportive measures, modification or reversal of the district's decision to provide, deny, modify, or terminate such measures, and to seek additional modification or termination of the supportive measures if circumstances materially change. (34 CFR 106.44)

The district shall not disclose information about supportive measures to any person other than the person to whom they apply, including informing one party of supportive measures provided to another party,

unless the disclosure is necessary to providing the supportive measures, or restoring or preserving a party's access to the district's education program or activity. (34 CFR 106.44)

### **Emergency Removal from School**

A student shall not be disciplined for alleged sex discrimination, including sex-based harassment, under Title IX until the investigation has been completed. However, on an emergency basis, the district may remove a student from the district's education program or activity, provided that the district conducts an individualized safety and risk analysis, determines that removal is justified due to an imminent and serious threat to the health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the IDEA or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

If a district employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)

### **Dismissal of Complaint**

The Title IX Coordinator or designee may dismiss a complaint if: (34 CFR 106.45)

1. The district is unable to identify the respondent after taking reasonable steps to do so
2. The respondent is not participating in the district's education program or activity and is not employed by the district
3. The district determines that the conduct alleged in the complaint, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX

Before dismissing the complaint, the Title IX Coordinator shall make reasonable efforts to clarify the allegations with the complainant.

4. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination, including sex-based harassment, under Title IX, even if proven

The Title IX Coordinator shall determine whether to dismiss or investigate any complaint of sex discrimination, including sex-based harassment, within \_\_\_\_\_ days, unless such timeline is extended in accordance with this administrative regulation.

Upon dismissal, the Title IX Coordinator shall promptly notify the complainant of the dismissal and the reasons for the dismissal. Additionally, if the dismissal occurs after the respondent has been notified of the allegations, the Title IX Coordinator shall provide such notification to the respondent, which shall occur simultaneously to both parties if the notification is in writing. The Title IX Coordinator shall also inform the complainant, and the respondent if the dismissal occurs after the respondent has been notified of the allegations, of their right to appeal. Dismissals may be appealed on the following bases: (34 CFR 106.45)

1. A procedural irregularity that would change the outcome
2. New evidence that would change the outcome and that was not reasonably available when dismissal was made



3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome

If the dismissal is appealed, the district shall: (34 CFR 106.45)

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent
2. Implement appeal procedures equally for the parties
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome
6. Notify the parties of the result of the appeal and the rationale for the result

If a complaint is dismissed, the Title IX Coordinator or designee shall offer supportive measures as described above in "Supportive Measures" to the complainant. Additionally, the respondent shall be offered supportive measures if the complaint was dismissed because the complainant voluntarily withdrew any or all of the allegations in the complaint and the district determined that without the withdrawn allegations the conduct, even if proven, would not constitute sex discrimination, including sex-based harassment, under Title IX, or if the complaint was dismissed because the district determined, after taking reasonable efforts to clarify the allegations of the complaint, that the alleged conduct would not constitute sex discrimination, including sex-based harassment, even if proven. The Title IX Coordinator shall also take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)

If a complaint is dismissed, the conduct may still be addressed pursuant to Board Policy/Administrative Regulation 1312.3 - Uniform Complaint Procedures as applicable.

### **Informal Resolution Process**

At any time prior to determining whether sex discrimination, including sex-based harassment, occurred under the complaint procedures specified in 34 CFR 106.45, the district may offer, if it is determined to be appropriate upon receiving information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made, an informal resolution process, such as mediation, to the complainant and respondent. However, the district shall not offer an informal resolution process if the complaint alleges that an employee engaged in sex-based harassment of an elementary or secondary school student or that such process would conflict with federal, state, or local law. (34 CFR 106.44)

The district shall not require or pressure a party to participate in the informal resolution process, or to waive the right to an investigation and determination of a complaint as a condition of participation in the district's education program or activity, or exercise of any other right. The district may decline to offer an informal resolution process including, but not limited to, when the district determines that the alleged conduct would present a future risk of harm to others. (34 CFR 106.44)

The district may facilitate an informal resolution process provided that the district, prior to initiating such process:

(34 CFR 106.44)

1. Provides the parties with written notice disclosing the allegations; the requirements of the informal resolution process; the right to withdraw from the informal process and resume the formal complaint process; the inability to initiate or resume complaint procedures arising from the same allegations once the informal resolution process is concluded; the potential terms that may be requested or offered in an informal resolution agreement, including that the agreement would only be binding on the parties; and the information that the district will maintain and whether and how the district could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed
2. Obtains the parties' voluntary consent to the informal resolution process
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student

The Title IX Coordinator or designee shall ensure that the facilitator of the informal resolution process is not the same person as the investigator or decisionmaker of any ongoing or newly initiated complaint process specified in 34 CFR 106.45, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and receives training in accordance with 34 CFR 106.8. (34 CFR 106.44) If the district facilitates an informal resolution process, the Title IX Coordinator shall, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district' education program or activity. (34 CFR 106.45)

### **Notice of Allegations**

If the district initiates a formal Title IX investigation, the Title IX Coordinator or designee shall provide the known parties with written notice of the following: (34 CFR 106.45)

1. The district's complaint process, including any informal resolution process
2. Sufficient information, available at the time, to allow parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident(s), the conduct allegedly constituting sex discrimination, including sex-based harassment, and the date(s) and location(s) of the alleged incident

Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.

3. A statement that retaliation is prohibited
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of such evidence, as specified

The above notice may also include the name of the investigator, facilitator of an informal process, and decisionmaker and shall inform the parties that, if at any time a party has concerns regarding conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator or designee.

## Consolidation of Complaints

The district may consolidate complaints of sex discrimination, including sex-based harassment, against more than one respondent; by more than one complainant against one or more respondents; or by one party against another party, when the allegations of sex discrimination, including sex-based harassment, arise out of the same facts or circumstances. (34 CFR 106.45)

## Investigation Procedures

The district shall provide for adequate, reliable, and impartial investigation of complaints. (34 CFR 106.45)

During the investigation process, the district's designated investigator shall: (34 CFR 106.45)

1. 1. Provide an equal opportunity for the parties to present fact witnesses, and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible
2. 2. Review all evidence gathered through the investigation and determine which evidence is relevant and which evidence is impermissible regardless of relevance
3. 3. Provide each party with an equal opportunity to access evidence that is relevant, and not otherwise impermissible, to the allegations of sex discrimination, including sex-based harassment, by:
  - a. Providing an equal opportunity to access either the relevant and not otherwise impermissible evidence or an accurate description of such evidence  

If an accurate description is provided, the district shall, upon request of any party, provide the parties with an equal opportunity to access the relevant and permissible evidence.
  - b. Providing a reasonable opportunity to respond to the evidence or to the accurate description of the evidence
  - c. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures
4. Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of the parties to obtain and present evidence, including, by speaking to witnesses; consulting with family members, confidential resources, or advisors; or otherwise preparing for or participating in the grievance procedures
5. Objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence, including that credibility determinations will not be based on a person's status as complainant, respondent, or witness
6. Exclude as impermissible the following types of evidence, and questions seeking that evidence:
  - a. Evidence that is protected under a privilege recognized by state or federal law or evidence that is provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege
  - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of

treatment to the party or witness, unless the district obtains that party's or witness's voluntary, written consent for use in its grievance procedures

- c. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment

The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

The district shall ensure that the decisionmaker is able to question parties and witnesses adequately to assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. (34 CFR 106.45)

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with the Title IX requirements.

The investigator shall complete the investigation within \_\_\_\_ days after the Title IX Coordinator determines to proceed with an investigation, unless such timeline is extended in accordance with this administrative regulation.

### **Written Decision**

The Superintendent shall designate an employee as the decisionmaker to determine responsibility for the alleged conduct, who may be the Title IX Coordinator or designee or the investigator so long as there is no conflict of interest or bias. (34 CFR 106.45)

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall:

(34 CFR 106.45)

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has occurred
2. Notify the parties in writing of the determination of whether sex discrimination, including sex-based harassment, occurred

The notification shall include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.

The written decision shall be issued within \_\_\_\_ days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

### **Appeal of the Decision**

Either party may appeal the district's decision of a complaint or any allegation in the complaint. (34 CFR 106.45)

When conducting an appeal, the district shall permit a final appeal to the Governing Board using a process that is in accordance with law and otherwise consistent with the appeal process as specified in Administrative Regulation 1312.3 - Uniform Complaint Procedures.

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

### **Extension of Timelines**

Any timelines specified in this administrative regulation may be extended by the district for good cause, with written notice to the parties. The written notice shall specify the reasons for the extension. (34 CFR 106.45) **Remedies**

When there is a determination that sex discrimination, including sex-based harassment, has occurred, the Title IX Coordinator shall coordinate the provision and implementation of remedies to the complainant and other persons the district identifies as having had equal access to the district's education program or activity limited or denied by sex discrimination, including sex-based harassment; coordinate the imposition of any disciplinary sanctions on a respondent described in "Disciplinary Actions" below, including notification to the complainant of any such disciplinary actions; and take other appropriate prompt and effective steps to ensure that sex discrimination, including sex-based harassment, does not continue or recur within the district's education program or activity. (34 CFR 106.45)

### **Corrective/Disciplinary Actions**

The district shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the complaint procedure has been completed and a determination of responsibility has been made. (34 CFR 106.44, 106.45)

For students in grades 4-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the complaint procedure, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Education Code 48900.2, 48915)

Other actions that may be taken with a student who is determined to be responsible for sex discrimination and/or sex-based harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others
4. Positive behavior support
5. Referral of the student to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

When an employee is found to have committed sex discrimination, including sex-based harassment, or retaliation, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district shall not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the district's determination of whether sex discrimination, including sex-based harassment, occurred. (34 CFR 106.45)

### **Record-Keeping**

The Superintendent or designee shall maintain, for at least a period of seven years: (34 CFR 106.45)

1. For each complaint of sex discrimination, including sex-based harassment, records documenting any informal resolution process or formal investigation procedures
2. For each notification the Title IX Coordinator or designee receives of information about conduct that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, records documenting the actions taken to fulfill the district's obligations as specified in 34 CFR 106.44, including supportive measures offered and implemented
3. All materials used to train district employees; the Title IX Coordinator and designee(s); investigator(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person who facilitates an informal resolution process

The district shall make such training materials available upon request by members of the public.

For complaints containing allegations of childhood sexual assault, the Superintendent or designee shall also indefinitely maintain the following: (Code of Civil Procedure 340.1):

1. A record of the allegation(s)
2. A record of the investigation procedures followed
3. A record of the written determination
4. A record of the corrective action implemented, if any
5. A record of any appeals and the outcome of the same
6. All training materials addressing the prohibition and investigation of childhood sexual assault

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**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 References**

5 CCR 4600-4670

5 CCR 4900-4965

Civ. Code 1714.1

Civ. Code 51.9

#### **Description**

Uniform complaint procedures

Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance

Liability of parent or guardian for act of willful misconduct by a minor

Liability for sexual harassment; business, service and professional relationships

Ed. Code 200-262.4  
Ed. Code 200-270  
Ed. Code 48900  
Ed. Code 48900.2  
Ed. Code 48985  
Gov. Code 12950.1

#### **Federal References**

20 USC 1092  
20 USC 1221  
20 USC 1232g  
20 USC 1681-1688  
  
34 CFR 106.1-106.82  
34 CFR 99.1-99.67  
34 USC 12291  
42 USC 1983  
42 USC 2000d-2000d-7  
42 USC 2000e-2000e-17  
U.S. DOJ, FBI Publication

#### **Management Resources References**

Court Decision  
Court Decision  
Court Decision  
Court Decision  
Court Decision  
Court Decision  
Court Decision  
  
CSBA Publication  
  
CSBA Publication  
  
Federal Register  
  
U.S. DOE, Office for Civil Rights Publication  
U.S. DOE, Office for Civil Rights Publication  
U.S. DOE, Office for Civil Rights Publication  
Website  
Website  
Website

[Prohibition of discrimination](#)  
Prohibition of discrimination  
[Grounds for suspension or expulsion](#)  
[Additional grounds for suspension or expulsion; sexual harassment](#)  
[Notices to parents in language other than English](#)  
[Sexual harassment training](#)

#### **Description**

Definition of sexual assault  
Application of laws  
Family Educational Rights and Privacy Act (FERPA) of 1974  
Title IX of the Education Amendments of 1972; discrimination based on sex  
Nondiscrimination on the basis of sex in education programs  
Family Educational Rights and Privacy  
Definition of dating violence, domestic violence, and stalking  
Civil action for deprivation of rights  
Title VI, Civil Rights Act of 1964  
Title VII, Civil Rights Act of 1964, as amended  
[National Incident-Based Reporting System](#)

#### **Description**

Davis v. Monroe County Board of Education (1999) 526 U.S. 629  
Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447  
Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274  
Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473  
Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736  
Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567  
Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130  
[Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014](#)  
[Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011](#)  
[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)  
[Sexual Harassment: It's Not Academic, September 2008](#)  
[Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001](#)  
[Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016](#)  
[U.S. Department of Justice, Federal Bureau of Investigation](#)  
[CSBA District and County Office of Education Legal Services](#)  
[California Department of Education](#)

Website

CSBA

Website

U.S. Department of Education, Office for Civil Rights

**Cross References**

**Description**

0410	<u>Nondiscrimination In District Programs And Activities</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1313	<u>Civility</u>
3552	<u>Summer Meal Program</u>
3552	<u>Summer Meal Program</u>
3580	<u>District Records</u>
3580	<u>District Records</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4117.7	<u>Employment Status Reports</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4118	<u>Dismissal/Suspension/Disciplinary Action</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4119.11	<u>Sex Discrimination and Sex-Based Harassment</u>



**Cross References**

**Description**

4131	<u>Staff Development</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4218	<u>Dismissal/Suspension/Disciplinary Action</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4317.7	<u>Employment Status Reports</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u>
5030	<u>Student Wellness</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.52	<u>Suicide Prevention</u>
5141.52	<u>Suicide Prevention</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.9	<u>Hate-Motivated Behavior</u>
5146	<u>Married/Pregnant/Parenting Students</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6159	<u>Individualized Education Program</u>
6159	<u>Individualized Education Program</u>
6164.5	<u>Student Success Teams</u>
6164.5	<u>Student Success Teams</u>
6164.6	<u>Identification And Education Under Section 504</u>
6164.6	<u>Identification And Education Under Section 504</u>

**CSBA Sample District Policy Manual  
CSBA Policy Management Console**

**Exhibit 5145.71-E(1): Title IX Sex Discrimination and Sex-Based Harassment  
Complaint Procedures**

Status: ADOPTED

Original Adopted Date: 10/01/2020 | Last Revised Date: 07/01/2024 | Last Reviewed Date:  
07/01/2024

**NOTICE OF TITLE IX NONDISCRIMINATION**

The Code of Federal Regulations, Title 34, Section 106.8 requires the district to issue the following notification to students at all grade levels, and their parents/guardians or other authorized legal representative:

The district does not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment, in any education program or activity that it operates. The prohibition against discrimination on the basis of sex is required by federal law (20 USC 1681-1688; 34 CFR Part 106) and extends to employment. The district also prohibits retaliation against any student for filing a complaint or exercising any right granted under Title IX.

The district is required, as specified in Title IX, to take prompt and equitable action to address any potential Title IX violations that are brought to its attention. Any inquiries about the application of Title IX, this notice, and who is protected by Title IX may be referred to the district's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The district has designated and authorized the following employee(s) as the district's Title IX Coordinator to address concerns or inquiries regarding discrimination on the basis of sex, including sex-based harassment:

\_\_\_\_\_ (name and/or title/position)

\_\_\_\_\_ (address)

\_\_\_\_\_ (telephone number)

\_\_\_\_\_ (email address)

Any individual may report sex discrimination, including sex-based harassment, to the Title IX Coordinator or any other school employee at any time, including during non-business hours, by mail, phone, or email. During district business hours, reports may also be made in person. Upon receiving an allegation of sex harassment, including sexbased harassment, the Title IX Coordinator will promptly notify the parties, in writing, of the applicable district complaint procedure.

To view an electronic copy of the district's policies and administrative regulations on sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see Board Policy/Administrative Regulation 5145.7 - Sex Discrimination and Sex-Based Harassment and Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures on the district's website at \_\_\_\_\_ (insert website link) \_\_\_\_\_.

To inspect or obtain a copy of the district's sex discrimination and sex-based harassment policies and administrative regulations, please contact: \_\_\_\_\_ (insert location/phone/email of contact person) \_\_\_\_\_.

Materials used to train employees; the Title IX Coordinator; investigator(s), decisionmaker(s), and other person(s) who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures; and any person(s) who facilitates an informal resolution process, are available at the district office upon request.

**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 References**

5 CCR 4600-4670

**Description**

Uniform complaint procedures

	<b>Description</b>
<b>State References</b>	
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	<u>Liability of parent or guardian for act of willful misconduct by a minor</u>
Civ. Code 51.9	<u>Liability for sexual harassment; business, service and professional relationships</u>
Ed. Code 200-262.4	<u>Prohibition of discrimination</u>
Ed. Code 200-270	Prohibition of discrimination
Ed. Code 48900	<u>Grounds for suspension or expulsion</u>
Ed. Code 48900.2	<u>Additional grounds for suspension or expulsion; sexual harassment</u>
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Gov. Code 12950.1	<u>Sexual harassment training</u>
<b>Federal References</b>	<b>Description</b>
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
U.S. DOJ, FBI Publication	<u>National Incident-Based Reporting System</u>
<b>Management Resources References</b>	<b>Description</b>
Court Decision	Davis v. Monroe County Board of Education (1999) 526 U.S. 629
Court Decision	Doe v. Petaluma City School District (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Gebser v. Lago Vista Independent School District (1998) 524 U.S. 274
Court Decision	Oona by Kate S. v. McCaffrey (1998, 9th Cir.) 143 F.3d 473
Court Decision	Reese v. Jefferson School District (2000, 9th Cir.) 208 F.3d 736
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District (2003, 9th Cir.) 324 F.3d 1130
CSBA Publication	<u>Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014</u>
CSBA Publication	<u>Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011</u>
Federal Register	<u>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2012, Vol. 89, No. 83, pages 33474-33896</u>
U.S. DOE, Office for Civil Rights Publication	<u>Sexual Harassment: It's Not Academic, September 2008</u>

U.S. DOE, Office for Civil Rights Publication

Revised Sexual Harassment Guidance: Harassment of Students by  
School  
Employees, Other Students, or Third Parties, January 2001

	<b>Description</b>
<b>Management Resources References</b>	<u>Examples of Policies and Emerging Practices for Supporting Transgender</u>
U.S. DOE, Office for Civil Rights Publication	<u>Students, May 2016</u>
Website	<u>U.S. Department of Justice, Federal Bureau of Investigation</u>
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>California Department of Education</u>
Website	<u>CSBA</u>
Website	<u>U.S. Department of Education, Office for Civil Rights</u>

	<b>Description</b>
<b>Cross References</b>	
0410	<u>Nondiscrimination In District Programs And Activities</u>
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5141.52	<u>Suicide Prevention</u>
5141.52	<u>Suicide Prevention</u>
5144	<u>Discipline</u>

5144

Discipline

**Cross References**

5144.1

Suspension And Expulsion/Due Process

5144.1

Suspension And Expulsion/Due Process

5145.3

Nondiscrimination/Harassment

5145.3

Nondiscrimination/Harassment

5145.7

Sex Discrimination and Sex-Based Harassment

5145.7

Sex Discrimination and Sex-Based Harassment

5145.9

Hate-Motivated Behavior

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Married/Pregnant/Parenting Students

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Extracurricular And Cocurricular Activities

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Extracurricular And Cocurricular Activities

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Individualized Education Program

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Individualized Education Program

6164.5

Student Success Teams

6164.5

Student Success Teams

6164.6

Identification And Education Under Section 504

6164.6

Identification And Education Under Section 504