

NONDISCRIMINATION/HARASSMENT

The Governing 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.

This policy shall apply to all acts constituting unlawful discrimination or harassment related to district activity or, to acts which occur off campus or outside of district-related or outside of district-related or district-sponsored activities but which may have an impact or create a hostile environment at school, and to all acts of the Board and the Superintendent in enacting policies and procedures that govern the district.

The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, against an individual or group based on one, or a combination of two or more, protected characteristics, which include, but may not be limited to, race or ethnicity; ancestry; color; ethnic group identification; nationality; national origin; immigration status; sex; sexual orientation; sex stereotypes; gender; gender identity; gender expression; religion; disability; medical condition; genetic information; pregnancy, false pregnancy, childbirth, termination of pregnancy, or related conditions or recovery; and parental, marital, and family status; 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. (Education Code 200, 210.1, 210.2, 212, 212.1, 220, 221.51, 230, 260; Government Code 11135, 12926; 20 USC 1681-1688, 42 USC 2000d-2000d-7)

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 district 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 non-discriminatory 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).

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The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates 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 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 may engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. The principal or designee may also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and

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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.

Complaints alleging unlawful discrimination in district programs and activities shall be investigated and resolved in accordance with Board Policy 1312.3 - Uniform Complaint Procedures, when required by law. However, complaints alleging sexual harassment under Title IX shall be investigated and resolved in accordance with the procedures specified in Administrative Regulation 5145.71 - Title IX Sexual 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.

State

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: Liability of parent/guardian for act of willful misconduct by a minor

Ed. Code 17585: School modernization project; all-gender restroom

Ed. Code 200-262.4: Prohibition of discrimination

Ed. Code 33353: California Interscholastic Federation; standardized incident form

Ed. Code 35292.5: School restrooms; all-gender restrooms

Ed. Code 48900.3: Suspension or expulsion for act of hate violence

Ed. Code 48900.4: Suspension or expulsion for harassment, threats, or intimidation

Ed. Code 48900.5: Suspension; other means of correction

Ed. Code 48904: Liability of parent/guardian for willful student misconduct

Ed. Code 48907: Exercise of free expression; time, place, and manner rules and regulations

Ed. Code 48950A: Speech and other communication

Ed. Code 48985: Notices to parents in language other than English

Ed. Code 49020-49023: Athletic programs

Ed. Code 49060-49079: Student records

Ed. Code 51204.5: Social sciences instruction; contributions of specified groups

Ed. Code 51500: Prohibited instruction or activity

Ed. Code 51501: Nondiscriminatory subject matter

Ed. Code 60010: Instructional materials; definition

Ed. Code 60040-60052: Requirements for instructional materials

Gov. Code 11135: Prohibition of discrimination

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Gov. Code 12926: Prohibition of discrimination; definitions

Pen. Code 422.55: Definition of hate crime

Pen. Code 422.6: Crimes; harassment

Federal

20 USC 1681-1688: Title IX of the Education Amendments of 1972; discrimination based on sex

28 CFR 35.107: Nondiscrimination on basis of disability; complaints

29 USC 794: Rehabilitation Act of 1973; Section 504

34 CFR 100.3; Prohibition of discrimination on basis of race, color or national origin

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 106.30: Discrimination on the basis of sex; definitions

34 CFR 110.25: Prohibition of discrimination based on age

34 CFR 99.31: Disclosure of personally identifiable information

42 USC 12101-12213: Americans with Disabilities Act

42 USC 2000d-2000e-17: Title VI and Title VII Civil Rights Act of 1964, as amended

42 USC 2000h-2-2000h-6: Title IX of the Civil Rights Act of 1964

42 USC 6101-6107: Age Discrimination Act of 1975

Management Resources

CA Office of the Attorney General Publication: Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024

CA Office of the Attorney General Publication: Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, December 2024

California Department of Education Publication: Protection for LGBTQ+ Students: AB 1955

Court Decision: Burlington Northern and Santa Fe Ry. Co. v. White (2006) 548 U.S. 53

Court Decision: Tennessee v. Cardona (2024) 737 F.Supp.3d 510

Court Decision: Students for Fair Admissions v. Harvard (2024) 600 U.S. 181

Court Decision: Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581

Court Decision: McDonnell Douglas Corp v. Green (1973) 411 U.S. 792

Court Decision: John T. D. v. River Delta Joint Unified School District (2021) WL 5176356

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: 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

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

U.S. Department of Education Publication: Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023

U.S. DOE, Office for Civil Rights Publication: Frequently Asked Questions About Racial Preferences and Stereotypes Under Title VI of the Civil Rights Act, February 28, 2025

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U.S. DOE, Office for Civil Rights Publication: Dear Colleague Letter: Title VI of the Civil Rights Act in Light of Students For Fair Admissions v. Harvard, February 14, 2025

U.S. DOE, Office for Civil Rights Publication: Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025

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

Website: CSBA District and County Office of Education Legal Services

Website: First Amendment Center

Website: California Interscholastic Federation

Website: California Office of the Attorney General

Website: California Safe Schools Coalition

Website: CSBA

Website: California Department of Education

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

Policy Adopted: 10/8/2025

ORCUTT UNION SCHOOL DISTRICT
Orcutt, California