

STUDENTS

SUBJECT: Nondiscrimination/Harassment

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in the County Office of Education's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any County Office of Education school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression or association with a person or group with one or more of these actual or perceived characteristics.

This policy shall apply to all acts related to school activity or to school attendance occurring within a County Office of Education school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

(cf. 0410.3 - Nondiscrimination in Programs and Activities)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.9 - Hate-Motivated Behavior)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 6164.6 - Identification and Education Under Section 504)

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 includes the creation of a hostile environment through prohibited conduct that is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

The County Office of Education 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 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 County Office of Education's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. He/she shall provide training and information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the County Office of Education's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the County Office of Education's educational program.

- (cf. 1312.3 - Uniform Complaint Procedures)
- (cf. 1330 - Use of Facilities)
- (cf. 4131 - Staff Development)
- (cf. 4231 - Staff Development)
- (cf. 4331 - Staff Development)
- (cf. 6145 - Extracurricular and Cocurricular Activities)
- (cf. 6145.2 - Athletic Competition)
- (cf. 6164.2 - Guidance/Counseling Services)

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.

- (cf. 4118 - Suspension/Disciplinary Action)
- (cf. 4119.21/4219.21/4319.21 - Professional Standards)
- (cf. 4218 - Dismissal/Suspension/Disciplinary Action)
- (cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 5145.2 - Freedom of Speech/Expression)

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 County Office of Education to monitor, address, and prevent repetitive prohibited behavior in County Office of Education schools.

(cf. 3580 - County Office of Education Records)

The County Office of Education shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The County Office of Education may provide male and female students with separate shower rooms and sexual health and HIV/AIDS prevention classes in order to protect student modesty.

(cf. 1240 - Volunteer Assistance)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6162.5 – Standardized Testing/Questionnaires)

In physical education, when objective standards have an adverse effect on students because of their gender, race, ethnic group or disability, other standards shall be used to measure achievement and create comparable educational opportunities.

The County Office of Education prohibits intimidation or harassment of any student by any employee, student or other person. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

The County Office of Education hereby designates the following position as Coordinator for Nondiscrimination to handle complaints regarding discrimination and inquiries regarding the County Office of Education's nondiscrimination policies:

Executive Director, Personnel Services
3939 Thirteenth St.
Riverside, CA 92502
951-826-6673

(cf. 1312.1 - Complaints Concerning County Office Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

Any student who feels that he/she is being harassed should immediately contact the Coordinator for Nondiscrimination, site administrator or designee or any other staff member. Any student who observes an incident of harassment should report the harassment to a school employee, whether or not the victim files a complaint. If a situation involving harassment is not promptly remedied by the site administrator or designee, a complaint can be filed in accordance with administrative regulations. The Superintendent or designee shall determine which complaint procedure is appropriate.

(cf. 1312.1 - Complaints Concerning County Office Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

Employees who become aware of an act of harassment shall immediately report the incident to the Coordinator for Nondiscrimination. Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment. Where the Coordinator finds that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim.

The Coordinator shall also advise the victim of any other remedies that may be available. The Coordinator shall file a report with the County Superintendent or designee and refer the matter to law enforcement where required.

Legal Reference:

CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

EDUCATION CODE

221.5 Prohibited sex discrimination

221.7 School-sponsored athletic programs; prohibited sex discrimination

200-262 Prohibition of discrimination on the basis of sex

48900.3 Suspension or expulsion for act of hate violence

48900.4 Suspension or expulsion for threats or harassment

48904 Liability of parent/guardian for willful student misconduct

48907 Student exercise of free expression

48950 Freedom of speech

49020-49023 Athletic programs

51006-51007 Equitable access to technological education programs

51500 Prohibited instruction or activity

51501 Prohibited means of instruction

60044 Prohibited instructional materials

CODE OF REGULATIONS, TITLE 5

4621 County Office of Education policies and procedures

4622 Notice requirements

PENAL CODE

422.6 Interference with constitutional right or privilege

UNITED STATES CODE, TITLE 42

2000d - 2000D-7 Title VI, Civil Rights Act of 1964

2000e - 2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h - 2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3a Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

COURT DECISIONS

Flores v. Morgan Hill Unified School County Office of Education, (2003) 324 F.3d 1130