



NON-DISCRIMINATION/HARASSMENT POLICY

Intent of Policy:

It is the policy of the CLCS Board to provide equal educational opportunities without regard to actual or perceived race or ethnicity, nationality, disability, gender, gender identity, gender expression, religion, sexual orientation, immigration status, or association with a person or group with one or more of these actual or perceived characteristics.

Discrimination/Harassment/Intimidation/ Bullying Prohibited in CLCS's Programs and Activities:

CLCS prohibits discrimination, harassment, intimidation, and bullying based on any of the following actual or perceived characteristics:

1. Disability:
2. Gender:
3. Gender identity;
4. Gender expression:
5. Nationality;
6. Race or Ethnicity:
7. Religion;
8. Sexual orientation;
9. Immigration Status; or
10. The association with a person or group with one or more of these actual or perceived characteristics.

Policy Applies to All CLCS Activities:

This policy applies to any and all acts related to a CLCS activity or attendance that occur in a CLCS school.

Protection of All Individuals:

This policy applies to any prohibited discrimination, harassment, intimidation, or bullying directed against any student, employee, or other individuals participating in a CLCS program or CLCS activity.

Definitions:

“Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a learner or group of learners which would be deemed hate violence or harassment, threats, or intimidation, which are directed toward one or more learners that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing a reasonable learner (defined as a learner, including, but is not limited to, a learner with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with exceptional needs) or learners in fear of harm to that learner’s or those learners’ person or property.
2. Causing a reasonable learner to experience a substantially detrimental effect on his or her physical or mental health.
3. Causing a reasonable learner to experience substantial interference with his or her academic performance.
4. Causing a reasonable learner to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by the CLC Schools.

“Electronic Act” means the creation and transmission originated on or off the school site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

1. A message, text, sound, or image.
2. Recording an individual without their permission
3. A post on a social network Internet Web site including, but not limited to:
 - a. Posting to or creating a burn page. A “burn page” means an Internet Web site created for the purpose of having one or more of the effects as listed in the definition of “bullying,” above.
 - b. Creating a credible impersonation of another actual learner for the purpose of having one or more of the effects listed in the definition of “bullying,” above. “Credible impersonation” means to knowingly and without consent impersonate a learner for the purpose of bullying the learner and such that another learner would

reasonably believe, or has reasonably believed, that the learner was or is the learner who was impersonated.

- c. Creating a false profile for the purpose of having one or more of the effects listed in the definition of “bullying,” above. “False profile” means a profile of a fictitious learner or a profile using the likeness or attributes of an actual learner other than the learner who created the false profile.
4. Notwithstanding the definitions of “bullying” and “electronic act” above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, of learners at CLCS or in school activities and to ensure equal access of all learners to the educational program, the Executive Director or designee shall implement the following measures:

1. Publicize CLCS’s nondiscrimination policy and related complaint procedures, including the coordinator/compliance officer's contact information, to learners, parents/guardians, employees, volunteers, and the general public by posting them in prominent locations and providing easy access to them through CLCS-supported communications.
2. Post CLCS policies and procedures prohibiting discrimination, harassment, learner sexual 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 CLCS website in a manner that is easily accessible to parents/guardians and learners (Education Code 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 CLCS website in a manner that is easily accessible to parents/guardians and learners (Education Code 234.6)
4. Post in a prominent location on the CLCS website in a manner that is easily accessible to parents/guardians and learners information regarding Title IX prohibitions against discrimination based on a learner's sex, gender, gender identity, pregnancy, and parental status, including the following: (Education Code 221.6, 221.61, 234.6)
 - a. The name and contact information of the CLCS Title IX Coordinator, including the phone number and email address
 - b. The rights of learners and the public and the responsibilities of CLCS 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 the 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. 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. Such resources shall be posted in a prominent location on the CLCS website in a manner that is easily accessible to parents/guardians and learners. (Education Code 234.5, 234.6)
6. Provide to learners a handbook that contains age-appropriate information that clearly describes CLCS's nondiscrimination policy, procedures for filing a complaint, and resources available to learners who feel that they have been the victim of any such behavior.
7. Annually notify all learners and parents/guardians of CLCS's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all learners. The notice shall inform learners 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 CLCS's implementation of its nondiscrimination policies. The notice shall also inform all learners and parents/guardians that, to the extent possible, CLCS will address any individual learner's interests and concerns in private.
8. Ensure that learners and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in CLCS's nondiscrimination policy and related complaint procedures, notices, and forms in a language they can understand. If 15 percent or more of learners enrolled in a particular CLCS school speak a single primary language other than English, CLCS 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, CLCS shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.
9. Provide to learners, employees, volunteers, and parents/guardians age-appropriate training and/or information regarding CLCS'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 learners when providing instruction, guidance,

supervision, or other services to them. Such training and information shall include details of guidelines CLCS may use to provide a discrimination-free environment for all CLCS learners.

10. 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 learner is required to intervene if it is safe to do so. (Education Code 234.1)
11. At the beginning of each school year, inform each Lead Facilitator or designee of their responsibility to provide appropriate assistance or resources to protect learners from threatened or potentially discriminatory behavior and ensure their privacy rights.

Enforcement of CLCS Policy

The Executive Director or designee shall take appropriate actions to reinforce BP 5145.3 - Nondiscrimination/Harassment. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti
2. Providing training to learners, staff, and parents/guardians about how to recognize unlawful discrimination, how to report it or file a complaint, and how to respond
3. Disseminating and/or summarizing CLCS's policy and regulation regarding unlawful discrimination
4. Consistent with laws regarding the confidentiality of learner and personnel records, communicating to learners, parents/guardians, and the community the school's response plan to unlawful discrimination or harassment
5. Taking appropriate disciplinary action against learners, employees, and anyone determined to have engaged in wrongdoing in violation of CLCS policy, including any learner who is found to have filed a complaint of discrimination that the learner knew was not true

Process for Initiating and Responding to Complaints

Learners who feel that they have been subjected to unlawful discrimination described above or in CLCS policy are strongly encouraged to immediately contact the compliance officer, lead facilitator, or any other staff member. In addition, learners who observe any such incident are strongly encouraged to report the incident to the compliance officer or lead facilitator, whether or not 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 or lead facilitator within a school day, whether or not 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 lead facilitator or compliance officer, the lead facilitator or compliance officer shall notify the learner or parent/guardian of the right to file a formal complaint in accordance with AR 1312.3 - Uniform Complaint Procedures or, for complaints of sexual harassment that meet the federal Title IX definition, AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Once notified verbally or in writing, the compliance officer shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all learners 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 learner who is the victim of the alleged unlawful discrimination.

Any report or complaint alleging unlawful discrimination by the lead facilitator, compliance officer, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the Executive Director or designee who shall determine how the complaint will be investigated.

Issues Unique to Intersex, Nonbinary, Transgender and Gender-Nonconforming learners

Gender identity of a learner means the learner's gender-related identity, appearance, or behavior as determined from the learner's internal sense, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the learner's physiology or assigned sex at birth.

Gender expression means a learner's gender-related appearance and behavior, whether stereotypically associated with the learner's assigned sex at birth. (Education Code 210.7)

Gender transition refers to the process in which a learner changes from living and identifying as the sex assigned to the learner at birth to living and identifying as the sex that corresponds to the learner's gender identity.

Gender-nonconforming learner means a learner whose gender expression differs from stereotypical expectations.

Intersex learner means a learner with natural bodily variations in anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with female and male bodies.

Nonbinary learner means a learner whose gender identity falls outside the traditional conception of strictly either female or male, regardless of whether or not the learner 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 learner means a learner whose gender identity is different from the gender assigned at birth.

CLCS prohibits acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the learner'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 which are prohibited at CLCS and which may constitute gender-based harassment include, but are not limited to:

1. Refusing to address a learner by a name and the pronouns consistent with the learner's gender identity
2. Disciplining or disparaging a learner or excluding the learner from participating in activities, for behavior or appearance that is consistent with the learner's gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable
3. Blocking a learner's entry to the restroom that corresponds to the learner's gender identity
4. Taunting a learner because the learner participates in an athletic activity more typically favored by a learner of the other sex
5. Revealing a learner's gender identity to individuals who do not have a legitimate need for the information, without the learner's consent
6. Using gender-specific slurs
7. Physically assaulting a learner motivated by hostility toward the learner because of the learner's gender, gender identity, or gender expression

CLCS's uniform complaint procedures or Title IX sexual harassment procedures, as applicable, shall be used to report and resolve complaints alleging discrimination against intersex, nonbinary, transgender, and gender-nonconforming learners.

Examples of bases for complaints include, but are not limited to, the above list, as well as improper rejection by CLCS of a learner's asserted gender identity, denial of access to facilities that correspond with a learner's gender identity, improper disclosure of a learner's gender identity, discriminatory enforcement of a dress code, and other instances of gender-based harassment.

To ensure that intersex, nonbinary, transgender, and gender-nonconforming learners are afforded the same rights, benefits, and protections provided to all learners by law and Board policy, CLCS shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. **Right to privacy:** A learner's intersex, nonbinary, transgender, or gender-nonconforming status is the learner's private information. CLCS shall develop strategies to prevent unauthorized disclosure of learners' private information. Such strategies may include, but are not limited to, collecting or maintaining information about learner gender only when relevant to the educational program or activity, protecting or revealing a learner's gender identity as necessary to protect the health or safety of the learner, and keeping a learner's unofficial record separate from the official record.

CLCS shall only disclose the information to others with the learner's prior written consent, except when the disclosure is otherwise required by law or when CLCS has compelling evidence that disclosure is necessary to preserve the learner's physical or mental well-being. In any case, CLCS shall only allow disclosure of a learner's personally identifiable information to employees with a legitimate educational interest as determined by CLCS pursuant to 34 CFR 99.31. Any CLCS employee to whom a learner's intersex, nonbinary, transgender, or gender-nonconforming status is disclosed shall keep the learner's information confidential. When disclosure of a learner's gender identity is made to a CLCS employee by a learner, the employee shall seek the learner's permission to notify the compliance officer. If the learner refuses to give permission, the employee shall keep the learner's information confidential, unless the employee is required to disclose or report the learner's information pursuant to this administrative regulation, and shall inform the learner that honoring the learner's request may limit CLCS's ability to meet the learner's needs related to the learner's status as an intersex, nonbinary, transgender, or gender-nonconforming learner. If the learner permits the employee to notify the compliance officer, the employee shall do so within three school days.

As appropriate given the learner's need for support, the compliance officer may discuss with the learner any need to disclose the learner's intersex, nonbinary, transgender, or gender-nonconformity status or gender identity or gender expression to the learner's parents/guardians and/or others, including other learners, teacher(s), or other adults on campus. CLCS shall offer support services, such as counseling, to learners who wish to inform their parents/guardians of their status and desire assistance in doing so.

2. **Determining a Learner's Gender Identity:** The compliance officer shall accept the learner's assertion of gender identity and begin to treat the learner consistent with that gender identity unless CLCS personnel present a credible and supportable basis for believing that the learner's assertion is for an improper purpose.

3. Addressing a Learner's Transition Needs: The compliance officer shall arrange a meeting with the learner and, if appropriate, the learner's parents/guardians to identify and develop strategies for ensuring that the learner's access to educational programs and activities is maintained. The meeting shall discuss the intersex, nonbinary, transgender, or gender-nonconforming learner's rights and how those rights may affect and be affected by the rights of other learners and shall address specific subjects related to the learner'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 learner may report any problem related to the learner'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 learner, the school may form a support team for the learner that will meet periodically to assess whether the arrangements for the learner are meeting the learner's educational needs and providing equal access to programs and activities, educate appropriate staff about the learner's transition, and serve as a resource to the learner to better protect the learner from gender-based discrimination.

4. Accessibility to Sex-Segregated Facilities, Programs, and Activities: When CLCS maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, intramural sports, and interscholastic athletic programs, learners shall be permitted to access facilities and participate in programs and activities consistent with their gender identity. To address any learner's privacy concerns in using sex-segregated facilities, CLCS 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 learners. However, CLCS shall not require a learner to utilize these options because the learner is intersex, nonbinary, transgender, or gender-nonconforming. In addition, a learner shall be permitted to participate in accordance with the learner's gender identity in other circumstances where learners are separated by gender, such as for class discussions, yearbook pictures, and field trips. A learner's right to participate in a sex-segregated activity in accordance with the learner's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

5. Learner Records: Upon each learner's enrollment, CLCS is required to maintain a mandatory permanent learner record (official record) that includes the learner's gender and legal name.

A learner's legal name as entered on the mandatory learner record required pursuant to 5 CCR 432 shall only be changed with proper documentation. A learner's gender as entered on the learner'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 learner. (Education Code 49061)

However, when proper documentation or authorization, as applicable, is not submitted with a request to change a learner's legal name or gender, any change to the learner's record shall be limited to the learner's unofficial records such as attendance sheets, report cards, and school identification.

6. Names and Pronouns: If a learner so chooses, CLCS personnel shall be required to address the learner by a name and the pronoun(s) consistent with the learner's gender identity, without the necessity of a court order or a change to the learner's official CLCS record. However, inadvertent slips or honest mistakes by CLCS personnel in the use of the learner's name and/or consistent pronouns will, in general, not constitute a violation of this administrative regulation or the accompanying CLCS policy.
7. Dress Code: A learner has the right to dress in a manner consistent with the learner's gender identity, subject to any dress code adopted on a school site.

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