

Students

NONDISCRIMINATION/HARASSMENT

BP 5145.3

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, targeted at 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, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, 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 may 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

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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 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 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)

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

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harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

All 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.

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.

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	Description
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 200-262.4	<u>Prohibition of discrimination</u>
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 48904	<u>Liability of parent/guardian for willful student misconduct</u>
Ed. Code 48907	<u>Exercise of free expression; time, place and manner rules and regulations</u>
Ed. Code 48950	<u>Speech and other communication</u>
Ed. Code 48985	<u>Notices to parents in language other than English</u>
Ed. Code 49020-49023	<u>Athletic programs</u>
Ed. Code 49060-49079	<u>Student records</u>
Ed. Code 51204.5	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51500	<u>Prohibited instruction or activity</u>
Ed. Code 51501	<u>Nondiscriminatory subject matter</u>
Ed. Code 60010	<u>Instructional materials; definition</u>

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Ed. Code 60040-60052

Gov. Code 11135

Pen. Code 422.55

Pen. Code 422.6

Federal

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 106.45

34 CFR 106.8

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

34 CFR 106.30

*CA Office of the Attorney General
Publication*

*California Department of Education
Publication*

Court Decision

Court Decision

CSBA Publication

*U.S DOE, Office for Civil Rights
Publication*

*U.S. Dept. of Health & Human
Services Publication*

[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

*Grievance process for formal complaints of sexual
harassment*

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

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

[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*

[Legal Guidance on Rights of Transgender and Gender
Nonconforming Students in Schools, October 2022](#)

[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 to Federal Financial Assistance Recipients
Regarding Title VI Prohibition Against National Origin](#)

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U.S. DOE & U.S. DOJ Civil Rights Divisions Pub U.S. DOE Publication	<u>Discrimination Affecting Limited English Proficient Persons, August 2013</u> <u>Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023</u> <u>Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 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>Dear Colleague Letter: Addressing Discrimination Against Jewish Students, May 2023</u>
U.S. DOE, Office for Civil Rights Publication 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>Questions and Answers on the Title IX Regulations on Sexual Harassment, June 2022</u>
U.S. DOE, Office for Civil Rights Publication 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, July 2022</u> <u>Dear Colleague Letter: Race and School Programming, August 2023</u>
U.S. DOE, Office for Civil Rights Publication U.S. DOE, Office for Civil Rights Publication Website	<u>Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016</u> <u>CSBA District and County Office of Education Legal Services</u> <u>First Amendment Center</u>
Website Website Website Website Website Website	<u>California Office of the Attorney General</u> <u>California Safe Schools Coalition</u> <u>CSBA</u> <u>California Department of Education</u> <u>U.S. Department of Education, Office for Civil Rights</u>

Cross References

Policy	Description
0410	<u>Nondiscrimination In District Programs And Activities</u>
0415	<u>Equity</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
0470	<u>COVID-19 Mitigation Plan</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1240	<u>Volunteer Assistance</u>
1240	<u>Volunteer Assistance</u>

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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>
4119.21	<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>
4218	<u>Dismissal/ Suspension/ Disciplinary Action</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>

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4312.9-E(1)	<u>Employee Notifications</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>
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>

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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>Sexual Harassment</u>
5145.7	<u>Sexual Harassment</u>
5145.71	<u>Title IX Sexual Harassment Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sexual Harassment Complaint 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>
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>
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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>

Policy

PASADENA UNIFIED SCHOOL DISTRICT

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Pasadena, California

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