"Our Community is Committed to Success for Every Child, Every Day"

HAPPY VALLEY Est.1954
UNION SCHOOL DISTRICT

Happy Valley Elementary School District
Board of Trustees

Regular Board Meeting Agenda

November 13, 2024
Happy Valley Elementary Principal's Office – Open Session – 5:00 p.m./Closed Session 5:05 p.m.
Happy Valley Elementary School Cafeteria – Open Session - 6:00 p.m.
17480 Palm Avenue, Anderson, CA 96007

OPEN SESSION – 5:00 PM Elementary Principal's Office

1.0 Call to Order

2.0 Roll Call

3.0 Approval of Closed Session Agenda

4.0 Public Comment on Closed Session

The public is invited to address the Board regarding items that are listed under the closed session agenda. Speakers are limited to three minutes each. The Board is not allowed under law to act on matters that are not on the Agenda.

5.0 Adjourn Open Session and Convene Closed Session

CLOSED SESSION - 5:05 PM Elementary Principal's Office

6.0 Closed Session

6.1 Public Employee Discipline/Dismissal Release (§54957)
6.2 Public Employee Performance Evaluation (§54957) Title: Superintendent/Principal
6.3 Conference Regarding Labor Negotiations (GC §54957.6) Certificated

7.0 Adjourn Closed Session and Convene Open Session

OPEN SESSION – 6:00 PM Elementary Cafeteria

8.0 Call to Order

9.0 Pledge of Allegiance

10.0 Report from Closed Session

11.0 Approval of Agenda

12.0 Presentation – Students/Staff

13.0 Information/Discussion Items (Updates; Community Events; Staff Announcements)

13.1 Community/Staff/District

a) Community
b) Certificated Staff
c) Classified Staff
d) Board Members
e) Primary Site Update
f) Elementary Site Update

14.0 Communication to the Board – None

15.0 Public Comment – Public Session Items **not on the agenda**, but within the jurisdiction of this body, may be addressed at this time or be submitted to the Superintendent in writing for Board consideration as an agenda item. Items not on the agenda are restricted in response and action by the Board and its members. A three-minute limit is set for each speaker on all items. The total time for public input on each item is limited to 20 minutes (Government Code 54952). In order to protect the rights of all involved, complaints about employees should be addressed through the District complaint process. Speaking about a personnel issue at a Board meeting may prevent the Board from being able to act on it. Please see an administrator to initiate the complaint process.

15.1 Public Comment Session Opened
15.2 Items on the Agenda
15.3 Items not on the Agenda
15.4 Public Comment Session Closed

16.0 Consent Agenda - Consent Agenda items are expected to be routine and non-controversial. They will be acted upon by the Board at one time **without discussion**. **Board Members may request that an item be removed from the Consent Agenda for later discussion**.

16.1 Approval of Minutes for Regular Board Meeting October 9, 2024; Special Board Meetings October 17 and 25, 2024 **(Pg.4)**
16.2 Approval of Warrants Oct. 5 – Nov. 8, 2024 **(Pg.13)**

17.0 Personnel:

17.1 Approve Personnel Action Report **(Pg.20)**

18.0 Discussion/Action Items

18.1 Discussion: Notice of the Annual Organizational Meeting of the Board. Annual meeting to be held December 17, 2024 with the Date, Time, and Location of board meetings to be set at this time **(No action is required. For notification purposes only).** **(Pg.21)**
18.2 Discussion/Action: Approve 2024/25 CEA Waiver Request **(Pg.22)**
18.3 Discussion: Sunshine of HVTA Contract Bargaining Openers **(Pg.28)**
18.4 Discussion/Action: Approve Generator Purchase
18.5 Discussion/Action: Approve Basketball Tournament - Weed (Out of County - January)
18.6 Discussion/Action: Approve July Special Board Policy Updates, September Board Policy Updates **(Pg.29)**

19.0 Superintendent Update
20.0 Business Manager Update
21.0 Enrollment Update as of November 8, 2024: 469 - Grades TK – 8 (includes CDS and Independent Study/Homeschool) **(Pg.612)**

22.0 Next Meetings

December 17, 2024 (December meeting must be held no later than 15 days after of the 2nd Friday in December)
January 2025 (Pending based on Organizational Meeting in December)

Board Meeting Times:
5:00 p.m. – 5:05 p.m. – Open Session – Community Comments on Closed Session – Elementary School Principal's Office
5:05 p.m. – 6:00 p.m. – Closed Session – Elementary School Principal's Office
6:00 p.m. – Open Session – Regular Board Meeting – Elementary Cafeteria

23.0 Adjourn Open Session

HAPPY VALLEY UNION SCHOOL DISTRICT Est. 1954

Happy Valley Elementary School District
Board of Trustees

Regular Board Meeting Minutes

October 9, 2024
Happy Valley Elementary Principal's Office – Open Session – 5:00 p.m./Closed Session 5:05 p.m.
Happy Valley Elementary School Cafeteria – Open Session - 6:00 p.m.
17480 Palm Avenue, Anderson, CA 96007

OPEN SESSION – 5:00 PM Elementary Principal's Office

1.0 Call to Order @ 5:01 p.m.

2.0 Roll Call – Jodi Shearman, Cheryl Best, Billy Soksoda, Mike Arey – Present
Nate Echols - Absent

3.0 Public Comment on Closed Session

The public is invited to address the Board regarding items that are listed under the closed session agenda. Speakers are limited to three minutes each. The Board is not allowed under law to act on matters that are not on the Agenda.

3.1 Public Comment Session Opened @ 5:01 p.m.
3.2 Person wishing to address the Board – None
3.2 Public Comment Session Closed @ 5:01 p.m.

On a motion by Cheryl Best, seconded by Billy Soksoda, the board voted 4-0 to adjourn Open Session and convene Closed Session at 5:01 p.m.

CLOSED SESSION - 5:05 PM Elementary Principal's Office

4.0 Closed Session

4.1 Public Employee Discipline/Dismissal Release (§54957)
4.2 Conference Regarding Labor Negotiations (GC §54957.6) Certificated & Classified
4.3 Public Employee Performance Evaluation (§54957) Title: Superintendent/Primary School Principal

5.0 Adjourn Closed Session and Convene Open Session

On a motion by Cheryl Best, seconded by Billy Soksoda, the board voted 4-0 to adjourn Closed Session and convene Open Session at 5:56 p.m.

OPEN SESSION – 6:00 PM Elementary Cafeteria

6.0 Call to Order at 6:01 p.m.

7.0 Pledge of Allegiance – Led by Jodi Shearman

8.0 Report from Closed Session – Nothing to report

9.0 Approval of Agenda –

On a motion by Cheryl Best, seconded by Billy Soksoda, the board voted 4-0 to approve the agenda.

10.0 Presentation – Students & Staff

Students: Jacob Outcalt, Adan Venaegas, Skylynn Black, Daleyza Espino
Staff: Kari Piazza, Kristen Morgan, Jessie Avila, Tammy Jacobs

11.0 Information/Discussion Items

11.1 Community/Staff/District (suggested 2 minutes maximum per presenter)

a) Community – None
b) Certificated Staff – None
c) Classified Staff – None
d) Board Members – Billy Soksoda mentioned his West Valley girl's tennis team is undefeated at 6-0.
Cheryl Best reported that mandarin sales forms will be handed out to the 4-H students at the October meeting; the 8th grade graduation committee has met already and planning is underway; the Harvest Festival is coming up at the end of the month.
e) Primary Site Update – Gina Murphy reported the following: Parent/Teacher Conferences are underway this week; candy collection for the Harvest Festival is underway; the book fair is going on this week and the students participated in field day which was part of a fundraiser with PTO to raise money for t-shirts.
f) Elementary Site Update – Chris Nelson commented on the following: Student Council is up and running; the first dance of the school year is going to be held on October 11th; Fall sports are winding down; basketball season is gearing up and students participated in Walk to School Day

12.0 Communications to the Board – None

13.0 Public Comment – Public Session Items not on the agenda, but within the jurisdiction of this body, may be addressed at this time or be submitted to the Superintendent in writing for Board consideration as an agenda item. Items not on the agenda are restricted in response and action by the Board and its members. A three-minute limit is set for each speaker on all items. The total time for public input on each item is limited to 20 minutes (Government Code 54952). In order to protect the rights of all involved, complaints about employees should be addressed through the District complaint process. Speaking about a personnel issue at a Board meeting may prevent the Board from being able to act on it. Please see an administrator to initiate the complaint process.

13.1 Public Comment Session Opened @ 6:22 p.m.
13.2 Items on the Agenda – None
13.3 Items not on the Agenda – None
13.4 Public Comment Session Closed @ 6:23 p.m.

14.0 Consent Agenda - Consent Agenda items are expected to be routine and non-controversial. They will be acted upon by the Board at one time without discussion. **Board Members may request that an item be removed from the Consent Agenda for later discussion.**

14.1 Approval of Minutes for Regular Board Meeting September 11, 2024 & Special Board Meeting September 20, 2024
14.2 Approval of Warrants Sept. 7th – Oct. 4th, 2024
14.3 Approve Williams Quarterly Report – July – Sept. 2024

On a motion by Cheryl Best, seconded by Billy Soksoda, the board voted 4-0 to approve the Consent Agenda.

15.0 Personnel:

15.1 Approve Personnel Action Report

On a motion by Cheryl Best, seconded by Billy Soksoda, the board voted 4-0 to approve the the Personnel Action Report.

16.0 Discussion/Action Items

16.1 Discussion/Action: Approve Suicide Prevention Plan

Jodi Shearman pointed out some requirements in the plan including that the plan needs to be displayed prominently on the website and is required to be in the parent handbook.

There was discussion in regards to where the plan should be moved to from its original location on the website. After discussion it was decided the plan would be moved to the health tab on the front page.

There was also discussion in regards to the plan being included in the parent handbook. The district does not have a parent handbook, only student handbooks. After several several minutes of discussion, it was decided to change the name of the student handbook to the parent/student handbook.

On a motion by Jodi Shearman, seconded by Mike Arey, the board voted 4-0 to approve the Suicide Prevention Plan.

16.2 Discussion/Action: Approve SPSA (School Plan for Student Achievement)

Gina Murphy mentioned the plan need to be approved by Site Council prior to being approved by the board. Site Council had to cancel its meeting therefore the plan could not be approved. Gina asked the board table the plan until the November meeting.

On a motion by Cheryl Best, seconded by Mike Arey, the board voted 4-0 to table the SPSA until the November meeting.

16.3 Discussion/Action: Approve Updated ELOP Plan

Beth Roberts explained the plan that is on the district's website is the ELOP plan for Share. This plan is establishing one for Happy Valley and what we are doing with our funds.

There was mention the name of the contact person needed to be changed as that person has resigned from the district. Board members felt that Gina should be listed as the contact for the ELOP plan.

On a motion by Cheryl Best, seconded by Mike Arey, the board voted 4-0 to approve the updated ELOP Plan with the contact name changed.

16.4 Discussion/Action: Approve ELOP Coordinator & Reading Specialist Positions

On a motion by Cheryl Best, seconded by Billy Soksoda, the board voted 4-0 to approve the ELOP Coordinator & Reading Specialist positions.

16.5 Discussion/Action: Approved Memorial Bench for Carla Perry

Darcy Weekley told the board the Happy Valley Foundation has donated $1000 for a bench to be installed at the primary school next to the drums placed in memory of Dianne Knapick.

On a motion by Jodi Shearman, seconded by Cheryl Best, the board voted 4-0 to approve the memorial bench for Carla Perry.

16.6 Discussion: 2023/24 Title III Immigrant Student Program Subgrant Budget (Con App)

Beth told the board this is for informational purposes only. No action needs to be taken.

16.7 Discussion: July Special Board Policy Updates, September Board Policy Updates (1st Read)

17.0 Superintendent Update – Mrs. Murphy commented on the following: the TK/K Facilities Grant planning is on schedule; most of the certificated staff and paraprofessionals are participating in a program called Getting Reading Right.

18.0 Business Manager Update – Beth Roberts reported the following: 1st Interim will be brought to the board in December; Lamara Kingston from Gateway will be attending our board meeting in November in her place due to both Gateway and Happy Valley's board meetings being on the same night.

19.0 Enrollment Update as of October 4, 2024: 471 - Grades TK – 8 (includes CDS and Independent Study/Homeschool)

20.0 Next Meetings

November 13, 2024
December 17, 2024 (December meeting must be within 15 days after the 2nd Friday in December)
January 2025 (Pending based on Organizational Meeting in December)

A Special board meeting will be held on Oct. 17th at 5:00 pm in the Elem. Cafeteria to discuss the Early TK/K admissions and the corresponding Board Policy.

Board Meeting Times:
5:00 p.m. – 5:05 p.m. – Open Session – Community Comments on Closed Session – Principal's Office
5:05 p.m. – 6:00 p.m. – Closed Session – Principal's Office
6:00 p.m. – Open Session – Regular Board Meeting – Elementary Cafeteria

21.0 Adjourn Open Session

On a motion by Cheryl Best, seconded by Billy Soksoda, the board voted 4-0 to adjourn open session @ 7:15 p.m.

Approved November 13, 2024

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Clerk of the Board

HAPPY VALLEY UNION SCHOOL DISTRICT Est.1954

Happy Valley Elementary School District
Board of Trustees

Special Board Meeting Minutes

October 17, 2024 @ 5:00 p.m.
Happy Valley Elementary Cafeteria
17480 Palm Ave., Anderson, CA 96007

OPEN SESSION – 5:00 PM

1.0 Call to Order @ 5:00 p.m.

2.0 Roll Call – Nate Echols, Jodi Shearman, Cheryl Best, Billy Soksoda, Mike Arey – Present

3.0 Pledge of Allegiance led by Nate Echols

4.0 Approval of Agenda

On a motion by Jodi Shearman, seconded by Cheryl Best the board voted 5-0 to approve the agenda.

5.0 Public Comment – Public Session Items not on the agenda, but within the jurisdiction of this body, may be addressed at this time or be submitted to the Superintendent in writing for Board consideration as an agenda item. Items not on the agenda are restricted in response and action by the Board and its members. A three-minute limit is set for each speaker on all items. The total time for public input on each item is limited to 20 minutes (Government Code 54952). In order to protect the rights of all involved, complaints about employees should be addressed through the District complaint process. Speaking about a personnel issue at a Board meeting may prevent the Board from being able to act on it. Please see an administrator to initiate the complaint process.

5.1 Public Comment Session Opened @ 5:02 p.m.
5.2 Items on the Agenda - None
5.3 Items not on the Agenda - None
5.4 Public Comment Session Closed @ 5:02 p.m.

6.0 Discussion/Action Items:

6.1 Discussion/Action: Review Board Policy 6170.1 – Transitional Kindergarten

After discussion regarding the policy the board agreed on the following updates:

Eligibility:

First paragraph:

The district's TK program shall admit children whose fifth birthday **is in alignment with current state standards (new wording)**

Fourth paragraph:

~~**At any time during the school year**~~ The district may admit into the TK program a child whose fifth birthday is **after the date defined by current state standards (new wording)** of that same school year, provided that the Superintendent or designee recommends that enrollment in a TK program is in the child's best interest, the child's parents/guardians approve **and that the **District Early Admission Process for Transitional Kindergarten is followed (new wording).** Prior to such enrollment, the child's parents/guardians shall be provided information regarding the advantages and disadvantages and any other explanatory information about the effective early admittance.

****District Early Admission Process for TK and Kindergarten need to be added to the exhibits for each policy.**

On a motion by Jodi Shearman, seconded by Cheryl Best, the board voted 5-0 to approve updates to Board Policy 6170.1 – Transitional Kindergarten

6.2 Discussion/Action: Review Board Policy/Regulation 5111 – Admissions

After discussion from the board in regards to admission into school based on a student's age at admission, they agreed on the following updates to the regulation:

1) strike any reference to TK

2) third paragraph to read as follows:

On a case-by-case basis, a child who will turn five years old by the last day of the 1st Trimester may be enrolled in kindergarten with the approval of the child's parent/guardian, provided that:

- The Superintendent/designee shall determine that admittance is in the best interest of the child
- The Early Kindergarten Enrollment Policy is followed
- The parent/guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance

On a motion by Jodi Shearman, seconded by Cheryl Best, the board voted 5-0 to approve updates to Board Regulation 5111 – Admissions.

7.0 Adjournment of Special Board Meeting

On a motion by Cheryl Best, seconded by Billy Soksoda, the board voted 5-0 to adjourn the special board meeting at 6:36 p.m.

Approved November 13, 2024

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Clerk of the Board

HAPPY VALLEY UNION SCHOOL DISTRICT Est.1954

Happy Valley Elementary School District
Board of Trustees

Special Board Meeting Minutes

October 25, 2024 @ 4:15 p.m.
Happy Valley Elementary School Principals Office
17480 Palm Ave., Anderson, CA 96007

OPEN SESSION – 4:15 PM

1.0 Call to Order @ 4:15 p.m.

2.0 Roll Call – Cheryl Best, Mike Arey, Jodi Shearman – Present
Nate Echols, Billy Soksoda - Absent

3.0 Pledge of Allegiance led by Jodi Shearman

4.0 Approval of Agenda

On a motion by Cheryl Best, seconded by Mike Arey the board voted 3-0 to approve the agenda.

5.0 Public Comment – Public Session Items not on the agenda, but within the jurisdiction of this body, may be addressed at this time or be submitted to the Superintendent in writing for Board consideration as an agenda item. Items not on the agenda are restricted in response and action by the Board and its members. A three-minute limit is set for each speaker on all items. The total time for public input on each item is limited to 20 minutes (Government Code 54952). In order to protect the rights of all involved, complaints about employees should be addressed through the District complaint process. Speaking about a personnel issue at a Board meeting may prevent the Board from being able to act on it. Please see an administrator to initiate the complaint process.

5.1 Public Comment Session Opened @ 4:16 p.m.
5.2 Items on the Agenda - None
5.3 Items not on the Agenda - None
5.4 Public Comment Session Closed @ 4:16 p.m.

6.0 Discussion/Action Items:

6.1 Discussion/Action: Approve 8th Grade Girls Basketball Tournament (Out of County)

On a motion by Cheryl Best, seconded by Mike Arey, the board voted 3-0 to approve the out of county 8th grade girls' basketball tournament.

7.0 Adjournment of Special Board Meeting

On a motion by Cheryl Best, seconded by Mike Arey, the board voted 3-0 to adjourn the special board meeting at 4:17 p.m.

Clerk of the Board

Checks Dated 10/05/2024 through 11/08/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
9011016001	10/08/2024	ACCU-PRINT	01-5801	FINGERPRINTING DOZIER/OUTCALT		36.00
9011016002	10/08/2024	ACE HARDWARE #12204	01-4510	MAINT. SUPPLIES	84.87	
				SOFTBALL FIELD PARTS-ELOP	46.05	130.92
9011016003	10/08/2024	Amazon Capital Services	01-4310	7312024-C. NELSON/MATT ORDER	43.08	
			01-4510	7292024- DIST. OFFICE SUPPLIES	154.58	
				7292024- ELEM. STAFF RM	162.32	
				7292024-ELEM. MEDICAL SUPPLIES	209.09	
				7292024-ELEM. OFFICE SUPPLIES	87.55	
				812024-ELEM. STAFF ROOM	40.70	
				822024- DO SUPPLIES	26.47	
				D.O.- GINA MURPHY	62.08	
				KP CLASSROOM/HARVEST FESTIVAL	383.49	
				M. ALVIS-DISTRICT FUNDS	393.95	
				PORTABLE FOLDING WHEELCHAIR	240.23	1,803.54
9011016004	10/08/2024	CALIFORNIA'S VALUED TRUST ATTN: FIN DEPT	01-9550	OCTOBER 24' COVERAGE H & D	37,039.00	
			01-9551	OCTOBER 24' COVERAGE H & D	3,043.31	
			01-9559	OCTOBER 24' COVERAGE H & D	1,729.67	41,811.98
9011016005	10/08/2024	CHAMBERS, PAIGE M	01-5211	MONTHLY MILEAGE REIMBURSEMENT		33.21
9011016006	10/08/2024	CLEAR CREEK COMMUNITY SERVICE	01-5550	BUS BARN WATER SVCS	21.09	
				ELEM./PARKING LOT WATER SVCS	253.19	
				ELEM/BALL PARK WATER SVCS	739.43	
				PRIMARY WATER SVCS	153.14	1,166.85
9011016007	10/08/2024	DUNLAP, JESSICA G	01-5211	MONTHLY MILEAGE REIMBURSEMENT		101.84
9011016008	10/08/2024	HEGGERTY	01-4140	PRIMARY CURRICULUM 2022		105.45
9011016009	10/08/2024	HUBERT	13-4510	CAMBRO CAMWARE CEFETERIA TRAYS		4,008.61
9011016010	10/08/2024	JACK SCHREDER & ASSOC., INC.	35-6245	AUG 2024 ACTIVITES-TK FUNDING PROGRAM		277.50
9011016011	10/08/2024	JW PEPPER	01-5630	MUSIC SUPPLIES		150.95
9011016012	10/08/2024	MANNION, LANA	01-5211	MONTHLY MILEAGE REIMBURSEMENT		18.76
9011016013	10/08/2024	MENDES SUPPLY COMPANY	01-4510	MAINT/CUSTODIAN SUPPLIES		337.53
9011016014	10/08/2024	MMA Happy Valley Power, L.P. c /o EDPR NA Distr. Gen	01-5515	ELEM. ENERGY PRODUCTION	4,253.17	
				PRIM. ENERGY PRODUCTION	4,162.35	8,415.52
9011016015	10/08/2024	MYSTERY SCIENCE INC C/O DISCOV ERY EDUCATION, INC	01-4310	K-3 SCIENCE PKS		3,646.50
9011016016	10/08/2024	N.C.G.T. SECURITY FUND	01-9500	#075-19769 PEREGRIN HEBERT UNDERPAYM.		728.00
9011016017	10/08/2024	NCS PEARSON, INC.	01-4310	Q-GLOBAL KTEA-3 RENEWAL		150.00

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

Checks Dated 10/05/2024 through 11/08/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
9011016018	10/08/2024	OMNILOGIC INC	01-5940	ANNUAL TRUNKING REPEATER SERVICES		2,310.00
9011016019	10/08/2024	POULTON, KARA A	01-5211	MONTHLY MILEAGE REIMBURSMENT		62.71
9011016020	10/08/2024	PRO TRAININGS LLC	01-5801	J. AVILA FIRSTAID CERTIFICATE		39.95
9011016021	10/08/2024	PROPACIFIC FRESH	13-4710	FOOS SVCS-MEAL SUPPLY		469.01
9011016022	10/08/2024	STEVIE LOTT	01-5805	PRIM. BRAIN BUSTERS CLUB-SET UP/CARE		270.00
9011016023	10/08/2024	SYSCO - SACRAMENTO	13-4710	STUDENT MEAL SUPPLY		1,146.35
9011016024	10/08/2024	TAYLOR AUTO PARTS	01-4510	GENERATOR BATTERIES		293.41
9011016025	10/08/2024	VALLEY PACIFIC PETROLEUM SVCS	01-4601	BUS FUEL		861.06
9011016583	10/15/2024	BUSWEST, LLC	01-4510	BUS PARTS- SWITCH/STOP PAD & FREIGHT	402.69	
				BUS PARTS: SWITCH-W/S WIPER W & FREIGHT	220.62	623.31
9011016584	10/15/2024	CALIF SAFETY - ANNA SCHWA RTZ	01-5620	ALARM MONITORING	50.00	
			01-5801	ALARM MONITORING	570.64	620.64
9011016585	10/15/2024	CALIFORNIA GEOLOGICAL SURVEY S CHOOL REVIEW UNIT	35-6211	TK/K PROJECT-GEOTECH REP.		4,800.00
9011016586	10/15/2024	GATEWAY UNIFIED SCHOOL DIST	01-5801	BUSINESS SVCS PAYROLL/CBO SUP. 24		15,500.00
9011016587	10/15/2024	MOUNTAIN VALLEY SPED JPA	01-5101	ERICS CLASS	2,383.54	
				ERMHS COUNSELOR	4,185.74	
				K-8 ALL SDC	14,977.14	
				MEDICALLY FRAGILE	6,130.62-	
				OT SERVICES	7,032.57	
				PHYCH SERVICES	7,776.32	
				PRESCHOOL MOD SEVERE	3,697.03	
				SPECIAL ED ADMIN COSTS	1,451.35	
				SPEECH SERVICES	18,124.93	
				STUDENT SUPPORT SVCS-BCBA	1,082.59	
			01-5805	FACILITY FEE	606.59-	
				NURSING SVCS 50/50	2,030.60	
			01-7221	ADA PASS THRU	3,984.30	59,988.90
9011016588	10/15/2024	NASH RANCH	01-5801	NASH RANCH PUMPKIN PATCH		684.00
9011016589	10/15/2024	PG&E	01-5515	BUS BARN ELECTRICITY SVCS	182.16	
				CREDIT-ELEM CLASSROOMS	55.17-	
				ELEM. ELECT SVCS-CLASSROOM	217.65	
				ELEM. MAIN ELECT SVCS	34,240.31	
				ELEM. ST LIGHTING	65.17	

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

Checks Dated 10/05/2024 through 11/08/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
9011016589	10/15/2024	PG&E	01-5515	PRIM. ST. LIGHTING	10.86	
				PRIMARY PEAK DAY ELECT.SVCS	28.49	34,689.47
9011016590	10/15/2024	PRODUCERS DAIRY FOODS, INC.	13-4710	CREDIT-OVERPAY	193.93-	
				PRIM. CAFE/KITCHEN SPLY	691.91	497.98
9011016591	10/15/2024	PROPACIFIC FRESH	13-4710	FOOD SVCS-MEAL SPLY		135.14
9011016592	10/15/2024	SYSCO - SACRAMENTO	13-4710	CREDIT-RETURNED FOOD	41.04-	
				STUDENT MEAL SPLY	1,243.68	1,202.64
9011016593	10/15/2024	THE DANIELSEN COMPANY	13-4710	STUDENT MEAL SPLY		1,292.74
9011016594	10/15/2024	U.S. BANK CORP PAYMENT SYSTEMS	01-4310	INSTRUCTIONAL RESOURCES/SPLY	259.55	
			01-4510	LIFEVAC SUPPLY	161.58	
				MAINT. VEHICLE PARTS	28.27	
			01-5210	ACSA HOTEL EXPENSES	2,844.38	
				SSCAL CONFERENCE	275.00	
			01-5310	ADOBE SUBSCRIPTION	29.99	
				AMAZON PRIME MEMBERSHIP	16.08	
			01-5805	DOCTRANSLATOR	14.99	
			01-5814	BOARD POSTING	88.34	
			01-5930	USPS ENVELOPE MAILING	14.80	
			13-4710	FOOD SUPPLIES	135.53	3,868.51
9011016595	10/15/2024	WASTE MANAGEMENT ANDERSON COTTONWOOD DISPOSAL	01-5545	GARBAGE SVCS-PRIM		537.00
9011017651	10/22/2024	AT&T	01-5910	PHONE SVCS		728.80
9011017652	10/22/2024	CMC-N TREASURER	01-5210	CMC NORTH MATH CONFERENCE - A. YOUMAN		220.00
9011017653	10/22/2024	DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	01-5801	FINGERPRINT APPS (2)		64.00
9011017654	10/22/2024	HAPPY STOP MARKET	01-4601	BUS/TRANSPORTATION FUEL	1,322.06	
			13-4510	BUS/TRANSPORTATION FUEL	92.72	1,414.78
9011017655	10/22/2024	HAPPY VALLEY FRESH FTS	13-4710	FOOD SVCS-FRUIT		769.00
9011017656	10/22/2024	JASON RUBIN, SCSAA TREASURER	01-5310	SCSAA-WELCOME BACK		130.00
9011017657	10/22/2024	KEVIN KURTZ	01-5210	MTSS TIER 1 TRAINING/MATERIALS (4)		400.00
9011017658	10/22/2024	KRISTINA BARBER	01-5211	MONTHLY MILEAGE REIMBURS.		348.40
9011017659	10/22/2024	LOZANO SMITH	01-5210	LOZANO SMITH WORKSHOP WEBINAR		195.00
9011017660	10/22/2024	NEWSELA	01-4310	ELEM. CURRICULUM		3,566.22
9011017661	10/22/2024	PRODUCERS DAIRY FOODS, INC.	13-4710	ELEM. CAFE/KITCHEN SPLY	410.95	
				PRIM. CAFE/KITCHEN SPLY	582.16	993.11
9011017662	10/22/2024	Professional Exterminators	01-5510	ELEM. PEST TREATMENT	270.00	
				PRIM. PEST TREATMENT	210.00	480.00
9011017663	10/22/2024	PROPACIFIC FRESH	13-4710	CREDIT/RETURNED ITEMS	104.70-	

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Checks Dated 10/05/2024 through 11/08/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
9011017663	10/22/2024	PROPACIFIC FRESH	13-4710	FOOD SVCS- MEAL SUPPLY	558.88	454.18
9011017664	10/22/2024	SHASTA TRINITY SCHLS INS GROUP	01-9552	NOV. 24' VISION	640.00	
			01-9559	NOV. 24' VISION	125.00	765.00
9011017665	10/22/2024	SHASTA WELDING SUPPLY INC	01-5610	CYLINDER RENTAL		25.00
9011017666	10/22/2024	SYNCB/AMAZON	01-4310	UNPAID INVOICES FROM 2022		10,882.87
9011017667	10/22/2024	TPX COMMUNICATIONS	01-5910	PHONE SVCS		473.84
9011017668	10/22/2024	US BANK EQUIPMENT FINANCE	01-5801	COPIER SVCS/LEASES	968.88	
			01-7439	COPIER SVCS/LEASES	1,431.84	2,400.72
9011017669	10/22/2024	US OMNI & TSACG COMPL SVCS INC	01-5801	RETIREMENT PLAN SVCS		15.00
9011017670	10/22/2024	VALLEY PACIFIC PETROLEUM SVCS	01-4601	BUS FUEL		856.59
9011017671	10/22/2024	WASTE MANAGEMENT ANDERSON COTTONWOOD DISPOSAL	01-5545	ELEM. GARBAGE SVCS		1,128.57
9011017996	10/24/2024	SHASTA COUNTY ENVIRONMENTAL HEALTH DIVISION	13-5801	PERMIT TO OPERATE FOOD FACILITY-ELEM		402.38
9011017997	10/24/2024	HAWES RANCH AND FARM SUPPLY	01-5801	1ST GRADE FIELD TRIP		828.00
9011018884	10/31/2024	ASSOC FOR CALIF SCHOOL ADMIN	01-5210	24/25 NEW SUPERINTENDENTS SEMINAR SERIES		2,900.00
9011018885	10/31/2024	BLEVINS, ROSANNE A	01-4510	IPL PUMPKIN PATCH F.TRIP REIMB.		82.40
9011018886	10/31/2024	BUSWEST, LLC	01-4510	BUS REPAIRS; A/C & ROOF LEAK		1,121.08
9011018887	10/31/2024	CA DEPT OF EDUCATION CASHIER'S OFFICE	13-4710	STATE FOOD DELIVERY		132.60
9011018888	10/31/2024	CA DEPT OF TAX AND FEE ADMIN	01-4601	DIESEL FUEL EXCEMPT BUS OPERATOR		21.00
9011018889	10/31/2024	CALIFORNIA'S VALUED TRUST ATTN: FIN DEPT	01-9550	NOV 24' COVERAGE H & D	36,570.00	
			01-9551	NOV 24' COVERAGE H & D	2,906.21	
			01-9559	NOV 24' COVERAGE H & D	1,729.67	41,205.88
9011018890	10/31/2024	CHRISTY WHITE, INC.	01-5812	AUDIT SERVICES		12,116.25
9011018891	10/31/2024	CHROMEBOOKPARTS.COM	01-4510	ASUS CHROMEBOOK TOUCHSCREEN RPLCMT.		498.66
9011018892	10/31/2024	COLUMBIA ESD	01-5805	ASST. SUPERINT. SVCS		5,435.25
9011018893	10/31/2024	HAPPY VALLEY FRESH FTS	13-4710	FOOD SVCS-FRUIT		797.80
9011018894	10/31/2024	JACK SCHREDER & ASSOC., INC.	35-6245	SEPT 24' ACTIVITIES-TK FUNDING PROGRAM		277.50
9011018895	10/31/2024	JW PEPPER	01-4310	INSTRUEMENT SUPPLIES	58.99	
				INSTRUMENT SUPPLIES	73.99	132.98
9011018896	10/31/2024	LAUNDRY WORLD	01-4510	JANITORIAL SUPPLIES		1,829.22
9011018897	10/31/2024	LEAVING THE VILLAGE LLC	01-5210	DISCIPLINE DECISION-MAKERS BOOTCAMP CONFERENCE		375.00
9011018898	10/31/2024	LOZANO SMITH	01-5210	ETHICS TRAINING SCHOOL BOARD MEMBERS		290.00

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Checks Dated 10/05/2024 through 11/08/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
9011018899	10/31/2024	MATHCOUNTS FOUNDATION	01-5801	MATHCOUNTS REG		200.00
9011018900	10/31/2024	MENDES SUPPLY COMPANY	01-4510	JANITORIAL SUPPLIES		121.28
9011018901	10/31/2024	N.C.G.T. SECURITY FUND	01-9500	HEALTH & WELFARE		17,924.00
9011018902	10/31/2024	NORCAL FOOD EQUIPMENT, INC.	01-5630	DISHWASHER REPAIR-ELEM.		303.75
9011018903	10/31/2024	NORMAC	01-4510	ELEM. SOFTBALL FIELD SUPPLIES		739.97
9011018904	10/31/2024	PG&E	01-5515	PRIM. ST LIGHTING		21.91
9011018905	10/31/2024	PITNEY BOWES	01-5620	POSTAGE/SUPPLIES		52.10
9011018906	10/31/2024	PRODUCERS DAIRY FOODS, INC.	13-4710	ELEM. CAFE/KITCHEN SPLY	206.39	
				PRIM. CAFE/KITCHEN SPLY	111.86	318.25
9011018907	10/31/2024	PROPACIFIC FRESH	13-4710	FOOD SVCS-MEAL SUPPLY		576.44
9011018908	10/31/2024	RENTAL GUYS	01-5610	RENTAL/FUEL BASEB. FIELD-ELEM		852.88
9011018909	10/31/2024	SCHOLASTIC BOOK FAIRS	01-4310	PRIMARY BOOK FAIR		2,904.59
9011018910	10/31/2024	SEMINGSON ARCHITECTS INC.	35-6211	10% COMPLETED COSTS-TK PROJECT		33,750.00
9011018911	10/31/2024	SYSCO - SACRAMENTO	13-4710	CREDIT-EXP. FOOD	60.16-	
				STUDENT MEAL SPLY	609.09	
				STUDENT MEAL SPLY-ELEM.	907.40	1,456.33
9011018912	10/31/2024	TAYLOR AUTO PARTS	01-4510	TRANSPORTATION SUPPLIES		172.32
9011018913	10/31/2024	TEAMSTERS RETIREE TRUST	01-9559	RENEE WADOWSKI H & W- NOV 24'		480.00
9011018914	10/31/2024	The Brass Reed	01-5630	MUSIC SUPPLIES/INSTRUMENTS		1,276.28
9011018915	10/31/2024	THE DANIELSEN COMPANY	13-4710	STUDENT MEAL SPLY		724.20
9011019697	11/07/2024	ACE HARDWARE #12204	01-4510	ELEM. & MAINT SPLY	66.52	
				PRIM. & ELEM. MAINT. SPLY	99.08	
			01-5610	CARPET EXTRACTOR RENTAL	212.35	377.95
9011019698	11/07/2024	Amazon Capital Services	01-4310	082824 SPED SENSORY ROOM	241.28	
				082824-SPED SENSORY ROOM 2	272.82	
				BCOOK-TITLE ONE FUNDS	55.27	
			01-4510	09122024-DIST. OFFICE	14.69	
				CREDIT- KP CLASSROOM/HARVEST FEST.	44.96-	
				D.O. SUPPLIES	50.49	
				DISTRICT FUNDS	128.87	
				DISTRICT OFFICE SUPPLIES	51.35	
				DO- RHONDA EXT DRIVE	46.10	
				ELEM. OFFICE SPLY RETURN/CREDIT	316.42-	
				ELEM. ORDERS-LNEESMITH	2,095.59	
				ELOP	763.79	
				ES FRONT OFFICE-LWILLIAMS	20.32	
				ES RM 6 DISPLAY TV	45.03	

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Checks Dated 10/05/2024 through 11/08/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
9011019698	11/07/2024	Amazon Capital Services	01-4510	ES-LNEESMITH	201.93	
				HVES-BALDWIN RETURN CREDIT	32.96-	
				HVES-SCREENS	858.99	
				HVPS-CDS SOUNDBAR INSTALL	54.43	
				KP-CLSRM/HARVEST FEST. RETURN/CREDIT	7.49-	
				PS KEYBOARD COMBO (MALVIS)	48.25	
				PS-SHELBY THOMAS	42.87	
				SANDI/JAMIE M./PRIM. OFFICE	973.56	
			01-4710	ELOP-AFTERSCHOOL CLUBS	579.74	6,143.54
9011019699	11/07/2024	ANDERSON UNION HIGH SCHOOL	01-5805	JOSHUA WOHLRABE SHARED SERVICES		6,359.93
9011019700	11/07/2024	HAPPY VALLEY FRESH FTS	13-4710	FOOD SVCS-FRUIT		292.00
9011019701	11/07/2024	MURPHY, GINA	01-5210	ACSA-NEW SUPERINT. SEMINAR		234.40
9011019702	11/07/2024	NELSON, CHRISTOPHER J	01-5210	DISCIPLINE DECISON CONFERENCE		336.46
9011019703	11/07/2024	POULTON, KARA A	01-5211	MONTHLY MILEAGE CLAIM		87.70
9011019704	11/07/2024	PRODUCERS DAIRY FOODS, INC.	13-4710	ELEM. CAFE/KITCHEN SPLY	867.27	
				PRIM. CAFE/KITCHEN SPLY	963.33	1,830.60
9011019705	11/07/2024	PROPACIFIC FRESH	13-4710	FOOD SVCS-MEAL SUPPLY		573.12
9011019706	11/07/2024	SNYDER, LARRA	01-5210	CSNA CONFERENCE-EMPL. ADVANCE		379.40
9011019707	11/07/2024	STEVIE LOTT	01-5805	PRIM. BRAIN BUSTERS CLUB-SET UP/CARE		405.00
9011019708	11/07/2024	SYSCO - SACRAMENTO	13-4510	STUDENT MEAL SPLY	270.09	
			13-4710	STUDENT MEAL SPLY	984.80	1,254.89
9011019709	11/07/2024	THE DANIELSEN COMPANY	13-4510	STUDENT MEAL SUPPLY	306.12	
			13-4710	STUDENT MEAL SUPPLY	1,175.31	1,481.43
9011019710	11/07/2024	U.S. BANK CORP PAYMENT SYSTEMS	01-4310	STUDENT INCENTIVES	175.65	
			01-4510	ELOP-AFTERSCHOOL CLUBS	293.16	
				HOMELESS/FOSTER SHOES	362.07	
				SOFTBALL FIELD PARTS-MAINT	31.27	
			01-5310	1 YR QUICKEN RENEWAL	95.88	
				AMAZON PRIME SUBSCRIPTION	16.08	
			01-5801	DOCTRANSLATOR-DOCS FROM ENGLISH-SPANISH	14.99	
			13-4510	KITCHEN SUPPLIES	244.37	
			13-4710	KITCHEN FOOD SUPPLY	230.57	
			13-5210	L. SNYDER CSNA CONFERENCE	365.00	
			13-5801	TAY-VAN/KITCHEN VAN WASH	16.00	1,845.04

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Checks Dated 10/05/2024 through 11/08/2024

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
				Total Number of Checks	**107**	**371,048.82**

Fund Summary

Fund	Description	Check Count	Expensed Amount
01	General	81	310,050.83
13	CafeFoodSvc	25	21,892.99
35	CountySchoolFacilities	4	39,105.00
	Total Number of Checks	**107**	371,048.82
	Less Unpaid Sales Tax Liability		.00
	Net (Check Amount)		**371,048.82**

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

HAPPY VALLEY UNION ELEMENTARY SCHOOL DISTRICT

PERSONNEL ACTION REPORT – AGENDA ITEM #17.1

NAME OF EMPLOYEE	EMPLOYEE POSITION	EMPLOYMENT STATUS	EFFECTIVE DATE
Jessica Guillen	Instructional Aide	New Hire	10/14/2024
Brittany Nuzum	Instructional Aide	New Hire	11/01/2024
Tera Gregston	Instructional Aide	New Hire	11/01/2024
Sandi Garcia	Family Liaison	Resignation	10/10/2024
Sandi Garcia	Community Schools Coordinator	New Hire	10/11/2024
Kara Poulton	Business Services Clerk	New Hire	11/06/2024

NOTICE OF THE

ANNUAL ORGANIZATIONAL MEETING OF THE BOARD

Happy Valley Union Elementary School District

School District

December 17, 2024

Date

6:00 p.m.

Time

Happy Valley Elementary Cafeteria

Location

Return by November 30th to Shasta County Office of Education, Attn: Superintendent's Office, Box 8

HAPPY VALLEY UNION SCHOOL DISTRICT
Est. 1954

Happy Valley District Office
16300 Cloverdale Rd
Anderson, CA 96007
P: (530)357-2134 | F: (530)357-2135

Happy Valley Primary School
16300 Cloverdale Rd.
Anderson, CA 96007
P: (530)357-2131 | F: (530)357-2138

Happy Valley Elementary School
17480 Palm Ave.
Anderson, CA 96007
P: (530)357-2111 | F: (530)357-4193

Gina Murphy, Superintendent/Principal

Board of Trustees: Nate Echols, Cheryl Best, Jodi Shearman, Billy Soksoda, Mike Arey

November 13, 2024

Donell Evans
Shasta County Office of Education
1644 Magnolia Avenue
Redding, CA 96001

Dear Donell,

Happy Valley Union Elementary School District is requesting a waiver for our CEA requirement for the 2023-24 fiscal year based on the financial hardship it would place on the District. As I know you are aware, Districts continue to spend reserves, which are restricted one-time monies and block grants, and are not a planned source for ongoing expenses. We are also experiencing declining enrollment which has added an additional financial hardship to our already stretched resources.

Going forward, we are continuing to look at ways to address the CEA requirement.

I respectfully request that you consider approval of our waiver for the 2023-2024 fiscal year.

Sincerely,

Gina Murphy
Superintendent

enc

California Department of Education
Sample Form (Rev 03/2024)

Application for Exemption from the Required Expenditures for Classroom Teachers' Salaries

Pursuant to Education Code Section 41372

To: County Superintendent of Schools

For 2023-24 fiscal year, the Happy Valley Union Elementary School District did not spend the minimum percentage of its budget on classroom teacher salaries as required by *Education Code (EC)* Section 41372. We are requesting an exemption from this requirement as provided by law.

Reason for request (Check one):

☑ Serious hardship to the school district (Please attach a written explanation, the district's latest interim report, and a multiyear projection for the current and two subsequent fiscal years that reflects the financial impact of meeting the requirement of *EC* 41372.)

☐ Payment of classroom teacher salaries that are in excess of those paid by other comparable school districts (Please attach a classroom teacher salary & benefits comparison for at least three other comparable school districts. The comparison should include annual classroom teacher salaries paid at the beginning, average, and maximum salary levels plus the average annual employer contributions for health & welfare benefits.)

☐ Deficiency is less than $1,000.00 (exemption is automatically approved)

A. Deficiency Amount

(Source: Form CEA)

1. Enter the minimum percentage for your district type. (60% Elementary/ 50% High School/ 55% Unified)	60 %
2. Enter the percentage spent by your district.	56.54 %
3. Percentage below the minimum. (Line 1 minus line 2)	3.46 %
4. Enter the district's current expense of education (Form CEA)	$ 5,948,885.44
5. Deficiency Amount. (Line 3 times line 4)	$ 205,831.44

B. Certification of the School District Governing Board
It is hereby certified that the information contained in this application is true and correct.

_____ _____
Signature of Authorized Official Title

_____
Print Name of Authorized Official Date

C. Decision of the County Superintendent of Schools
(Completed by the County Superintendent of Schools or Designee)

Based on my review of the information contained with this application, I have taken the following action with respect to the school district named on this application (Check one):

☐ I am granting the request for exemption from the requirements of *Education Code* Section 41372.

☐ I am granting a partial exemption from the requirements of *Education Code* Section 41372. The amount not exempted is $_____(A written explanation of the reason(s) for approving a partial exemption is attached.)

☐ I am denying the request for exemption from the requirements of *Education Code* Section 41372. (A written explanation of the reason(s) for denying the exemption is attached.)

It is hereby certified that the information contained in this application has been reviewed and is true and correct.

_____ _____/_____
Signature of County Superintendent County Office/Date

_____ _____/_____
Signature of Authorized Designee Title of Authorized Designee/Date

PART I - CURRENT EXPENSE FORMULA	Total Expense for Year (1)	EDP No.	Reductions (See Note 1) (2)	EDP No.	Current Expense of Education (Col 1 - Col 2) (3)	EDP No.	Reductions (Extracted) (See Note 2) (4a)	Reductions (Overrides)* (See Note 2) (4b)	EDP No.	Current Expense-Part II (Col 3 - Col 4) (5)	EDP No.
1000 - Certificated Salaries	2,509,735.98	301	0.00	303	2,509,735.98	305	0.00	63,251.15	307	2,446,484.83	309
2000 - Classified Salaries	1,396,928.50	311	45,652.21	313	1,351,276.29	315	161,396.81	289,144.30	317	1,062,131.99	319
3000 - Employee Benefits	1,781,236.49	321	39,118.71	323	1,742,117.78	325	97,892.17	164,357.10	327	1,577,760.68	329
4000 - Books, Supplies Equip Replace. (6500)	584,217.93	331	31,801.54	333	552,416.39	335	100,012.11	301,940.20	337	250,476.19	339
5000 - Services. . . & 7300 - Indirect Costs	1,971,761.71	341	9,719.23	343	1,962,042.48	345	146,481.99	1,350,010.73	347	612,031.75	349
			TOTAL		8,117,588.92	365		TOTAL		5,948,885.44	369

Note 1 - In Column 2, report expenditures for the following programs: Nonagency (Goals 7100-7199), Community Services (Goal 8100), Food Services (Function 3700), Fringe Benefits for Retired Persons (Objects 3701-3702), and Facilities Acquisition & Construction (Function 8500).

Note 2 - In Column 4, report expenditures for: Transportation (Function 3600), Lottery Expenditures (Resource 1100), Special Education Students in Nonpublic Schools (Function 1180), and other federal or state categorical aid in which funds were granted for expenditures in a program not incurring any teacher salary expenditures or requiring disbursement of the funds without regard to the requirements of EC Section 41372.

* If an amount (even zero) is entered in any row of Column 4b or in Line 13b, the form uses only the values in Column 4b and Line 13b rather than the values in Column 4a and Line 13a.

PART II: MINIMUM CLASSROOM COMPENSATION (Instruction, Functions 1000-1999)	Object		EDP No.
1. Teacher Salaries as Per EC 41011	1100	2,029,002.46	375
2. Salaries of Instructional Aides Per EC 41011	2100	286,443.54	380
3. STRS	3101 & 3102	439,701.46	382
4. PERS	3201 & 3202	159,457.11	383
5. OASDI - Regular, Medicare and Alternative	3301 & 3302	75,206.06	384
6. Health & Welfare Benefits (EC 41372) (Include Health, Dental, Vision, Pharmaceutical, and Annuity Plans)	3401 & 3402	325,470.28	385
7. Unemployment Insurance	3501 & 3502	4,857.31	390
8. Workers' Compensation Insurance	3601 & 3602	43,381.42	392
9. OPEB, Active Employees (EC 41372)	3751 & 3752	0.00	
10. Other Benefits (EC 22310)	3901 & 3902	0.00	393
11. SUBTOTAL Salaries and Benefits (Sum Lines 1 - 10)		3,363,519.64	395
12. Less: Teacher and Instructional Aide Salaries and Benefits deducted in Column 2		0.00	
13a. Less: Teacher and Instructional Aide Salaries and Benefits (other than Lottery) deducted in Column 4a (Extracted)		0.00	396
b. Less: Teacher and Instructional Aide Salaries and Benefits (other than Lottery) deducted in Column 4b (Overrides)*		0.00	396
14. TOTAL SALARIES AND BENEFITS		3,363,519.64	397
15. Percent of Current Cost of Education Expended for Classroom Compensation (EDP 397 divided by EDP 369) Line 15 must equal or exceed 60% for elementary, 55% for unified and 50% for high school districts to avoid penalty under provisions of EC 41372		56.54%	
16. District is exempt from EC 41372 because it meets the provisions of EC 41374. (If exempt, enter 'X')			

PART III: DEFICIENCY AMOUNT

A deficiency amount (Line 5) is only applicable to districts not meeting the minimum classroom compensation percentage required under EC 41372 and not exempt under the provisions of EC 41374.

1. Minimum percentage required (60% elementary, 55% unified, 50% high)	60.00%
2. Percentage spent by this district (Part II, Line 15)	56.54%
3. Percentage below the minimum (Part III, Line 1 minus Line 2)	3.46%
4. District's Current Expense of Education after reductions in columns 4a or 4b (Part I, EDP 369)	5,948,885.44
5. Deficiency Amount (Part III, Line 3 times Line 4)	205,831.44

PART IV: Explanation for adjustments entered in Part I, Column 4b (required)

Reductions for contracted Special Education services, Assistant Superintendent Services, Federal Resources with no salaries (RS 4035, 4127, 4203, 5634, and 5810. Also have reductions for expenses due to after school programs in RS 2600. Reductions for expenses in District restricted revenues - programs that are funded through special grants.

2024-25 ADOPTED BUDGET MULTI-YEAR PROJECTIONS

6/25/2024

Happy Valley Union Elementary School District

		2024-25 Adopted Budget			2025-26 Projected			2026-27 Projected		
		Unrestricted	**Restricted**	**Total**	**Unrestricted**	**Restricted**	**Total**	**Unrestricted**	**Restricted**	**Total**
REVENUES	**Object**									
LCFF Revenue Sources	8010 - 8099	6,441,473	0	6,441,473	6,382,027	0	6,382,027	6,248,900	0	6,248,900
Federal Revenues	8100 - 8299	9,000	366,451	375,451	8,550	365,421	373,971	8,123	366,421	374,544
Other State Revenues	8300 - 8599	102,432	882,121	984,553	100,201	881,545	981,746	101,450	880,969	982,419
Other Local Revenues	8600 - 8799	61,422	491,158	552,580	46,422	485,158	531,580	36,422	480,158	516,580
Interfund Transfers In	8910 - 8929	0	0	0	0	0	0	0	0	0
Other Sources	8930 - 8979	0	0	0	0	0	0	0	0	0
Contributions	8980 - 8999	(1,393,701)	1,393,701	0	(1,396,518)	1,396,518	0	(1,428,551)	1,428,551	0
TOTAL REVENUES		**5,220,626**	**3,133,431**	**8,354,057**	**5,140,682**	**3,128,642**	**8,269,324**	**4,966,344**	**3,156,099**	**8,122,443**
EXPENDITURES	**Object**									
Certificated Salaries	1000 - 1999	1,721,087	689,718	2,410,805	1,838,734	516,902	2,355,636	1,879,230	516,902	2,396,132
Classified Salaries	2000 - 2999	887,979	526,630	1,414,609	920,678	526,630	1,447,308	953,354	526,630	1,479,984
Employee Benefits	3000 - 3999	1,091,892	703,739	1,795,631	1,172,544	626,204	1,798,748	1,199,030	626,204	1,825,234
Books and Supplies	4000 - 4999	268,599	275,656	544,255	289,971	268,004	557,975	269,250	273,364	542,614
Services, Other Operating Expenses	5000 - 5999	978,099	1,254,044	2,232,143	994,099	1,182,544	2,176,643	1,015,922	1,204,254	2,220,176
Capital Outlay	6000 - 6599	339,848	203,167	543,015	0	60,000	60,000	0	50,000	50,000
Other Outgo	7100 - 7499	88,523	63,181	151,704	91,043	63,181	154,224	95,423	63,181	158,604
Direct Support / Indirect Costs	7300 - 7399	(56,200)	56,200	0	(56,200)	56,200	0	(56,200)	56,200	0
Interfund Transfers Out	7610 - 7629	0	0	0	10,000	0	10,000	20,000	0	20,000
Other Uses	7630 - 7699	0	0	0	0	0	0	0	0	0
TOTAL EXPENDITURES		**5,319,827**	**3,772,335**	**9,092,162**	**5,260,869**	**3,299,665**	**8,560,534**	**5,376,009**	**3,316,735**	**8,692,744**
NET INCREASE/DECREASE IN FUND BALANCE		(99,201)	(638,904)	(738,105)	(120,187)	(171,023)	(291,210)	(409,665)	(160,636)	(570,301)
BEGINNING BALANCE		**1,886,167**	**1,531,069**	**3,417,236**	**1,786,966**	**892,165**	**2,679,131**	**1,666,779**	**721,142**	**2,387,921**
Audit Adjustment		**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
ENDING BALANCE		**1,786,966**	**892,165**	**2,679,131**	**1,666,779**	**721,142**	**2,387,921**	**1,257,114**	**560,506**	**1,817,620**
Components of Ending Fund Balance										
Reserved Rev Cash/GAINS/Stores		20,719	-	20,719	20,719	-	20,719	20,719	-	20,719
Economic Uncertainty		455,000	-	455,000	428,028	-	428,028	434,638	-	434,638
Board Designated/Assigned		1,311,247	-	1,311,247	1,218,032	-	1,218,032	801,757	-	801,757
Restricted		-	892,165	892,165	-	721,142	721,142	-	560,506	560,506
Undesignated		-	-	-	-	-	-	-	-	-
Total Ending Fund Balance		1,786,966	892,165	2,679,131	1,666,779	721,142	2,387,921	1,257,114	560,506	1,817,620
% EUR to Expenditures (Unrestricted)				**19.43%**			**19.23%**			**14.22%**
Total Reserves				29.24%			27.65%			20.67%

Happy Valley Teachers Association

gmurphy@hvusd.net

November 4, 2024

Gina Murphy, Superintendent
Happy Valley Union School District
Anderson, CA

Re: Demand to Bargain:

Superintendent Murphy

This letter is sent on behalf of the Happy Valley Teachers Association, as the exclusive representative of the Happy Valley Certificated staff, and is a demand to bargain and/or consult the following items:

-Compensation
-Employee Leave
-Employee Benefits

Sincerely,

Matt Roach, Co-President
Ashley Youman, Co-President

Happy Valley Teachers Association, CTA/NEA

cc:
Corey Francescut, Negotiation Member
Shannon Spencer, Negotiation Member
Jeff Kirby, CTA Staff

Policy 0410: Nondiscrimination In District Programs And Activities

Status: ADOPTED

Original Adopted Date: 02/01/2014 **| Last Revised Date:** ~~10~~07/01/~~2023~~2024 **| Last Reviewed Date:** ~~10~~07/01/~~2023~~2024

CSBA NOTE: Education Code 234.1 **mandates** districts to adopt policy as well as a process to ensure that district programs and activities are free from unlawful discrimination. Education Code 234.1 requires that the district's nondiscrimination policy include a statement that the policy applies to all acts related to a school activity or school attendance and, as amended by AB 1078 (Ch. 229, Statutes of 2023), to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district. Education Code 234.1, as amended by AB 1078, contains similar language regarding the County Board of Education and the County Superintendent of Schools.

In accordance with various provisions of state and federal law, discrimination in education programs and activities is unlawful when it is based on certain actual or perceived characteristics of an individual. Education Code 220 prohibits discrimination based on race or ethnicity, nationality, immigration status, sex, sexual orientation, gender, gender identity, gender expression, religion, disability, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55. Education Code 260 prohibits discrimination based on age. Government Code 11135 prohibits discrimination based on many of the foregoing characteristics and on an individual's genetic information and medical condition. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination on the basis of race, color, and national origin. Title IX (20 USC 1681-1688; 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474) prohibits discrimination on the basis of sex, including sex stereotypes; sex characteristics; gender~~,~~; gender identity~~,~~; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability. For policy language protecting students against discrimination and harassment, see BP/AR 5145.3 - Nondiscrimination/Harassment and BP/AR 5145.7 ~~-~~ ~~Sexual Harassment~~ – Sex Discrimination and Sex-Based Harassment, and for language regarding Title IX complaint procedures, see AR 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Education Code 260 and 5 CCR 4900-4965 require the Board to monitor district compliance with these state and federal laws. The federal laws are enforced by the Office for Civil Rights (OCR) of the U.S. Department of Education~~,~~ (USDOE), and the California Department of Education (CDE) may investigate complaints regarding discrimination pursuant to 5 CCR 4600-4670.

OCR's May 2024 Dear Colleague Letter, "Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic

Characteristics," which expands and clarifies USDOE's 2023, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools," provides that Title VI's protections from race, color, and national origin discrimination extends to students who experience discrimination based on actual or perceived (1) shared ancestry or ethnic characteristics, or (2) citizenship or residency in a country with a dominant religion or distinct religious identity. While Title VI does not protect individuals based solely on religious discrimination, it does apply to antisemitism and other forms of discrimination when based on shared ancestry or ethnic characteristics. The guidance includes clarifying examples regarding existing legal requirements under Title VI.

Additionally, OCR's November 2023 Dear Colleague Letter, "Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics," states that all students, including students who are or are perceived to be Jewish, Israeli, Muslim, Arab, or Palestinian, as well as students who come from, or are perceived to come from, all regions of the world, are entitled to a school environment free from discrimination based on race, color, or national origin. The Dear Colleague Letter provides that Title VI also protects students from discrimination which is based on (1) actual or perceived citizenship or residency in a country with a dominant religion or distinct religious identity, including Jewish, Muslim, Sikh, Hindu, Christian, and Buddhist students, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes, (2) a student's skin color, physical features, or style of dress that reflects both ethnic and religious traditions, and (3) where a student came from or is perceived to have come from. Discrimination based on a student's foreign accent, foreign name, or a student speaking a foreign language may also violate Title VI's prohibitions against discrimination.

OCR's August 2023 Dear Colleague Letter, "Race and School Programming," states that a district may not separate students based on race, but may include group discussions or activities that focus on race as part of the curriculum, courses, or programs so long as access or participation is not permitted or limited based on race. OCR's guidance also provides that a school-sponsored program with emphasis on race, such as a student club, that is open to all students, typically would not violate Title VI solely because of its race-related theme.

Additionally, OCR's May 2023 Dear Colleague Letter, "Resource on Confronting Racial Discrimination in Student Discipline," published in conjunction with the U.S. Department of Justice (DOJ), states that a district's responsibility not to discriminate against students applies to any of its programs or activities, whether directly or through contractual or other arrangements.

~~Similarly~~In addition to the prohibitions to discrimination described above, Government Code 12940 provides protections for employees, job applicants, unpaid interns, and volunteers against unlawful discrimination and harassment on the basis of actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, reproductive health decisionmaking, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, or gender expression~~, and, as amended by SB 523 (Ch. 630, Statutes of 2022), includes reproductive health decisionmaking.~~ .

For policy language regarding Title IX complaint procedures for employees, see AR 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, for language addressing protections against discrimination as they relate to ~~volunteers, see BP 1240 - Volunteer Assistance, and in relation to~~ employees, unpaid interns, and job applicants, see BP 4030 - Nondiscrimination in Employment and BP 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment, and as they relate to volunteers, see BP 1240 - Volunteer Assistance.

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~~, marital status,~~; 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.

CSBA NOTE: Education Code 234.7 **mandates** that districts adopt policy consistent with the California Attorney General's model policy contained in the Office of the Attorney General's 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." That model policy includes statements regarding the equitable provision of services and a prohibition against the use of school resources or data for creating a registry based on specific characteristics. In addition, Government Code 8310.3 prohibits districts from disclosing information about immigration status or religion to federal government authorities for use in the compilation of a registry for immigration enforcement or otherwise assisting in the creation of such a registry. For more information regarding this mandate and appropriate responses to citizenship and immigration concerns, see BP/AR 5145.13 - Response to Immigration Enforcement.

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 ~~race, gender, sexual orientation, religion, ethnicity, national origin, or immigration status or any other category~~any of the categories identified above.

CSBA NOTE: Education Code 243, as added by AB 1078, clarifies when it is unlawful discrimination for the Board to (1) refuse to approve the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library, or (2) prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library. The Board may not refuse to approve such use on the basis that the material includes a study of the role and contributions of specified individuals or groups, unless the study of the role and contributions reflects adversely upon legally protected groups. Additionally, the Board may not prohibit such use on the basis that the study of the role and contributions contain inclusive or diverse perspectives. Any Board action to ban or censor a textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction on any of the bases described above may constitute unlawful discrimination under Education Code 220. In addition, pursuant to Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), the Board is prohibited 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 pursuant to Education Code 220.

Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

For more information regarding instructional materials adoption see BP/AR/E(1) 6161.1 – Selection and Evaluation of Instructional materials, CSBA's publication, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," and corresponding Fact Sheet and Reference, and the California Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books."

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)

CSBA NOTE: Education Code 221.2-221.3, the California Racial Mascot Act, declare the use of racially derogatory or discriminatory school or athletic team names, mascots, or nicknames to be contrary to an equal education and specifically prohibit public schools from using the term "Redskins" as a school or athletic team name, mascot, or nickname. The following paragraph

expands this prohibition to include any racially derogatory or discriminatory athletic team name, mascot, or nickname and may be revised to reflect district practice.

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

CSBA NOTE: Pursuant to Education Code 221.5, a district is required to permit a student to participate in sex-segregated school programs and activities, including athletic teams and competitions, and to use facilities consistent with the student's gender identity, regardless of the student's gender as listed on the student's educational records. ~~See BP/AR 5145.3 - Nondiscrimination/Harassment.~~

Additionally, Title IX, 34 CFR 106.31, as amended by 89 Fed. Reg. 33474, provides that a district (1) 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, (2) 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 (3) that preventing a student from participating in an education program or activity consistent with the student's gender identity would subject the student to more than de minimis harm on the basis of sex. In commentary accompanying the Final Rule, USDOE clarifies that Title IX protects students from sex discrimination, including sex-based harassment, when they access sex-separate facilities. This protection applies with equal force to all students, including transgender and nonbinary students, requiring districts to provide access to sex-separate facilities, including bathrooms, in a manner that does not cause more than de minimis harm. USDOE intends to issue a separate final rule to address Title IX's application to sex-separate athletic teams which is governed by 34 CFR 106.41, rather than 34 CFR 106.31 as described above. See BP/AR 5145.7 – Sex-Discrimination and Sex-Based Harassment.

For further information, see CSBA's, "Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools," and CSBA's Recently Asked Questions, "Parental and Student Rights in Relation to Transgender and Gender Nonconforming Students."

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.

CSBA NOTE: Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078, or Education Code 244, as added by SB 153, related to the use or prohibited use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library, as described above, may be brought under the district's uniform complaint procedures (UCP) or may be filed directly with the Superintendent of Public Instruction (SPI). Complaints that are filed directly with

the SPI are required to identify the basis for doing so, and present evidence that supports the basis for the direct filing. In such cases, the SPI may directly intervene without waiting for an investigation by the district. See BP/AR 1312.3 - Uniform Complaint Procedures.

Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in BP/AR 1312.3 - Uniform Complaint Procedures, for students, and AR 4030 – Nondiscrimination in Employment, for employees, it is unclear whether districts would additionally be required to follow the procedures specified in BP/AR 1312.3 - Uniform Complaint Procedures or AR 4030 – Nondiscrimination in Employment, as applicable. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing such a complaint process for this purpose. For more information regarding the Title IX grievance procedures, see AR 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, for students, and AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, for employees.

~~All~~Except for allegations of sex discrimination or sex-based harassment, allegations of unlawful discrimination in district programs and activities shall be ~~brought,~~ 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.

CSBA NOTE: Many nondiscrimination laws and regulations contain a notification requirement. For example, pursuant to 34 CFR 104.8 and 106.8, a district that receives federal aid is required to take "continuing steps" to notify students, parents/guardians, employees, employee organizations, and applicants for admission and employment that it does not discriminate on the basis of disability or sex in its ~~educational~~education programs or activities. In addition, Education Code 221.61 requires districts to post specified information relating to Title IX on their websites. To ensure consistent implementation of the laws, the same notification requirement should be adopted for all the protected categories as provided in the following paragraph.

Pursuant to 34 CFR 104.8 and ~~34 CFR~~ 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.

CSBA NOTE: Education Code 234.7 requires the following notification. Information about the educational rights of all students is contained in the appendix of the Office of the Attorney General's 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."

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)

CSBA NOTE: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by the parent/guardian in English or the primary language. In addition, 20 USC 6311 and 6312 require that districts receiving Title I funds provide parent/guardian notices in an understandable and uniform format and, to the extent practicable, in a language that parents/guardians understand.

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

CSBA NOTE: Pursuant to the ADA and its implementing regulations, 28 CFR 35.150 and 35.151, district facilities must be accessible to and usable by individuals with disabilities. Compliance methods may include equipment redesign, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, and alteration of existing facilities and construction of new facilities. In achieving compliance, a district need not make structural changes to existing facilities if other methods are effective and the district can demonstrate that the structural change would result in a fundamental alteration in the nature of the activity or an undue financial or administrative burden. However, pursuant to 28 CFR 35.151, all newly constructed facilities must comply with the 2010 ADA Standards for Accessible Designs issued by the DOJ.

In addition, pursuant to 28 CFR 35.136, a district must permit an individual with a disability to be accompanied by a service animal on district premises when, without the animal's assistance, the individual with a disability will not be able to access or participate in a district program or activity. For language addressing this mandate, see AR 6163.2 - Animals at School. Districts with questions about compliance with the ADA should consult ~~with~~ CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

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.

CSBA NOTE: Pursuant to 28 CFR 35.130 and 35.160, the ADA requires districts to provide services and aids to ensure that a disabled individual is not excluded from participation or denied a benefit, service, or program on the basis of a disability. However, if the district can show that providing such aids and services would fundamentally alter the nature of the function, program, or meeting or would be an undue burden, then the district need not provide them.

The requirement to provide services and aids extends to qualified individuals with speech, hearing, or vision disabilities who participate in Medi-Cal, and, in accordance with the Department of Health Care Services Policy and Procedure Letters No. 21-017R and No. 23-004, districts are required to have a plan to meet these alternative format requirements; see AR 5141.6 - School Health Services.

In addition, Government Code 54953.2 requires that all Board meetings meet the protections of the ADA and implementing regulations (28 CFR 35.160 and 36.303). The district must ensure that such meetings are accessible to persons with disabilities and that, upon the request of any person with a disability, disability-related accommodations, such as auxiliary aids and services, are made available. Additionally, Government Code 54953~~, as amended by AB 2449 (Ch. 285, Statutes of 2022),~~ requires boards to maintain and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the ADA, and to resolve any doubt in favor of accessibility. See BB 9320 - Meetings and Notices and BB 9322 - Agenda/Meeting Materials.

OCR has interpreted the ADA and Section 504 of the Rehabilitation Act of 1973 to include the requirement that district websites be accessible to individuals with disabilities. ~~See~~In April 2024, the DOJ published updated regulations which include specific technical standards to ensure that content available through a district's web and mobile applications are accessible to individuals with disabilities by April 26, 2027. For more information on website accessibility, see OCR's June 2010 and May 2011 Dear Colleague Letters, DOJ's April 2024, "Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments," and BP 1113 -– District and School Websites.

The Superintendent or designee shall ensure that the ~~district provides~~district's web and mobile applications comply with technical standards prescribed by law, and as necessary, shall provide appropriate auxiliary aids and services ~~when necessary~~ to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of ~~a service, program~~district services, programs, or ~~activity~~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.

CSBA NOTE: Pursuant to 28 CFR 35.107, a district that has 50 or more employees is required to designate at least one employee to coordinate the ~~district's~~district's efforts to comply with the ADA. The designated employee could be the same individual or position responsible for the ~~district's~~district's compliance with state and federal laws and regulations governing educational programs as identified in the ~~district's~~district's UCP procedures. The following paragraph, which identifies the person or position identified in ~~the~~ AR 1312.3 ~~-~~– Uniform Complaint Procedures as the responsible employee, may be modified if the district chooses to designate another person or position.

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

_____
(title or position)
_____
(address)
_____
(telephone number)
_____
(email)

Policy Reference UPDATE Service
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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	Description
5 CCR 4600-4670	Uniform complaint procedures
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 48980	Parent/Guardian notifications
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 51007	Legislative intent~~:~~ ; state policy

Ed. Code 51204.5	Social sciences instruction; contributions of specified groups
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Gov. Code 11000	Definitions
Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
Gov. Code 54953	Meetings; Americans with Disabilities Act accessibility
Gov. Code 54953.2	Brown Act compliance with Americans with Disabilities Act
Gov. Code 8310.3	California Religious Freedom Act
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment

Federal	**Description**
20 USC 1400-1482	Individuals with Disabilities Education Act
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
20 USC 2301-2414	Strengthening Career and Technical Education for the 21st Century Act
20 USC 6311	State plan
20 USC 6312	Local educational agency plan
28 CFR 35.101-35.190	Americans with Disabilities Act
28 CFR 36.303	Nondiscrimination on the basis of disability, public accommodations, auxiliary aids, and services
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.1-100.13	Nondiscrimination in federal programs; effectuating Title VI
34 CFR 104.1-104.39	Section 504 of the Rehabilitation Act of 1973
34 CFR 106.1-106.82	Discrimination on the basis of sex; effectuating Title IX
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

Management Resources	**Description**

CA Civil Rights Department Publication	California Law Prohibits Workplace Discrimination and Harassment
CA Department of Health Care Services Publication	Policy and Procedures Letter No. 21-017R, December 2021 (https://www.dhcs.ca.gov/formsandpubs/Documents/PPL-21-017R-Alternative-Format-Request-Requirements.pdf)
CA Department of Health Care Services Publication	Policy and Procedures Letter No. 23-004, February 2023 (https://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2023/APL23-004.pdf)
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Website	CSBA District and County Office of Education Legal Services
Website	California Office of the Attorney General
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Website	Pacific ADA Center
Website	U.S. Department of Justice, Civil Rights Division, Disability Rights Section
Website	California Safe Schools Coalition
Website	CSBA
Website	California Department of Education
Website	California Civil Rights Department
Website	U.S. Equal Employment Opportunity Commission
Website	U.S. Department of Education, Office for Civil Rights
Website	California Department of Health Care Services
~~World Wide Web Consortium Publication~~	~~Web Content Accessibility Guidelines, December 2008~~

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Policy 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 05/01/2017 **| Last Revised Date:** ~~10~~07/01/~~2023~~2024 **| Last Reviewed Date:** ~~10~~07/01/~~2023~~2024

CSBA NOTE: To address prohibited discrimination and violations of state and federal laws governing educational programs, 5 CCR 4621 **mandates** districts to adopt uniform complaint procedures (UCP) consistent with the state's complaint procedures specified in 5 CCR 4600-4670. Additionally, Education Code 52075 **mandates** districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan, and Education Code 8212 **mandates** districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations mandate districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). For example, districts are mandated pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are mandated pursuant to 34 CFR ~~106.8 and 34 CFR~~ 110.25 to adopt policies and procedures to address discrimination on the basis of ~~sex and~~ age. The following policy contains a list of programs and activities subject to these procedures pursuant to state law; see the section "Complaints Subject to UCP", below.

The California Department of Education (CDE) monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM consists of a review of (1) written district policies and procedures for required statements, including prohibition of discrimination (such as discriminatory harassment, intimidation, and bullying) against students pursuant to Education Code 234.1~~;~~ and (2) records of required activities, such as annual notification provided to students, parents/guardians, employees, and other school community members.

The U.S. Department of Education's Office for Civil Rights (OCR) enforces federal anti-discrimination laws, including Title II of the Americans with Disabilities Act (42 USC 12101-12213), Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7), Title IX of the Education Amendments Act of 1972 (20 USC 1681-1688), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Age Discrimination Act of 1975 (42 USC 6101-6107). ~~Whether a complaint of sexual harassment is addressed through the UCP or the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, is dependent on whether the alleged conduct meets the more stringent federal definition or the state definition of sexual harassment. See the section "Non-UCP Complaints" below, the accompanying administrative regulation, BP/AR 5145.7 - Sexual Harassment, and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

~~The following policy and accompanying administrative regulation reflect all components required by law, 5 CCR 4600-4670, and the 2023-24 FPM instrument. Additional details provided herein may help districts during a compliance check by CDE or in the event that a CDE or OCR investigation occurs.~~Pursuant to 34 CFR 106.1-106.82, as amended by the 89 Fed. Reg. 33474, districts are required to follow the Title IX grievance procedures when investigating and resolving Title IX sex discrimination complaints based on conduct that occurred on or after August 1, 2024. See BP/AR 5145.7 – Sex Discrimination and Sex-Based Harassment and AR/E(1) 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. As such a complaint may also fall within the scope of the UCP, it is unclear whether districts would additionally be required to follow the UCP. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the UCP for this purpose.

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

CSBA NOTE: The FPM process includes a review of a district's policies and procedures to determine whether all district programs and activities that are subject to the UCP, as listed in the FPM instrument, are addressed. ~~The 2023-24 FPM instrument does not include school safety plans, as was provided for in the 2022-23 instrument. Items #1-22 list all programs and activities identified in the FPM instrument.~~ According to CDE, the district's policy must list all such programs and activities and, at the district's discretion, may add a paragraph below the list stating the UCP programs and activities that are implemented in the district.

For further information regarding requirements for the following programs and activities, see the law cited and/or related CSBA policy and/or administrative regulation.

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)

CSBA NOTE: As noted above, it is unclear whether districts are required to follow the UCP in addition to the Title IX grievance procedures when investigating and resolving a Title IX sex discrimination complaint based on conduct that occurred on or after August 1, 2024. As a result, Item #10 below does not list discrimination, harassment, intimidation, or bullying in district programs and activities based on sex. It is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to including discrimination, harassment, intimidation, or bullying in district programs and activities based on sex in Item #10. See Item #3 in the Non-UCP Complaint section.

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, ~~marital status, pregnancy, parental status,~~ physical or mental disability, medical condition, ~~sex, sexual orientation, gender, gender identity, gender expression,~~ or genetic information~~, or~~; 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)

CSBA NOTE: Education Code 243, as added by AB 1078 (Ch. 229, Statutes of 2023), clarifies when it is unlawful discrimination for the Governing Board to (1) refuse to approve the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library or (2) prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library. The Board may not refuse to approve such use on the basis that the material includes a study of the role and contributions of specified individuals or groups, unless the study of the role and contributions reflects adversely upon legally protected groups. Additionally, the Board may not prohibit such use on the basis that the study of the role and contributions contain inclusive or diverse perspectives.

Any Board action to ban or censor a textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction on any of the bases described above may

also constitute unlawful discrimination under Education Code 220. In addition, pursuant to Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), the Board is prohibited 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 pursuant to Education Code 220.

Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078, or Education Code 244, as added by SB 153, may be brought under the district's UCP or may be filed directly with the Superintendent of Public Instruction (SPI). Complaints that are filed directly with the SPI are required to identify the basis for doing so, and present evidence that supports the basis for the direct filing. In such cases, the SPI may directly intervene without waiting for an investigation by the district. For more information regarding complaints concerning instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials and AR 1312.4 - Williams Uniform Complaint Procedures.

Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

For more information regarding instructional materials adoption, see BP/AR/E(1) 6161.1 – Selection and Evaluation of Instructional materials, CSBA's publication, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," and corresponding Fact Sheet and Reference, and the California Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books."

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)

CSBA NOTE: Pursuant to Education Code 51225.1 and 51225.2, as amended by AB 714 (Ch. 342, Statutes of 2023), exemptions 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, are applicable to "newcomer students," as defined in Education Code 51225.2, who are in the third or fourth year of high school.

~~12.~~ 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 ~~participating in a newcomer program~~ (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)

~~13.~~12. Every Student Succeeds Act (Education Code 52059.5; 20 USC 6301 et seq.)

~~14.~~13. Local control and accountability plan (Education Code 52075)

~~15.~~14. Migrant education (Education Code 54440-54445

~~16.~~15. Physical education instructional minutes (Education Code 51210, 51222, 51223)

~~17.~~16. Student fees (Education Code 49010-49013)

~~18.~~ 17. Reasonable accommodations to a lactating student (Education Code 222)

~~19~~. 18. Regional occupational centers and programs (Education Code 52300-52334.7)

~~20.~~ 19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)

~~21~~. 20. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)

~~22.~~ 21. State preschool programs (Education Code 8207-8225)

CSBA NOTE: Pursuant to Education Code 8212, and CDE's 2023-24 FPM instrument, which is subject to change as the 2024-25 FPM instrument has not yet been released, the district must use the UCP, with modifications as necessary, to resolve complaints alleging deficiencies related to health and safety issues in license-exempt CSPPs. Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694. See the section "Health and Safety Complaints in License-Exempt Preschool Programs" in the accompanying administrative regulations.

~~23.~~22. State preschool health and safety issues in license-exempt programs (Education Code 8212)

CSBA NOTE: 5 CCR 4621 **mandates** that district policy ensure that complainants are protected from retaliation as specified in item #23 below.

~~24.~~ 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

~~25.~~ 24. Any other state or federal educational program the SPI or designee deems appropriate

CSBA NOTE: 5 CCR 4631 authorizes the district to utilize alternative dispute resolution (ADR) methods, including mediation, to resolve complaints before initiating a formal investigation. However, the district should ensure that any ADR it uses, particularly "in-person ADR," is appropriate for the particular situation. For example, in some instances ~~(e.g., sexual assault),~~ face-to-face mediation should not be used, even if all parties voluntarily agree, given the risk that a student might feel pressured to "voluntarily" agree to it. ~~Districts may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

The following optional paragraph provides for a neutral mediator and should be revised to reflect district practice.

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 ~~involving sexual assault or~~ 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 ~~federal~~local laws and regulations.

CSBA NOTE: The following paragraph is **mandated** pursuant to 5 CCR 4621. ~~Appropriate~~Since appropriate disclosure will vary in each case depending on the facts and circumstances, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel.

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.

CSBA NOTE: It is important to maintain records of all UCP complaints and the investigations of those complaints. If the district is investigated by OCR or CDE, these are important documents in demonstrating that the district has complied with federal law, state law, and its own policies and regulations.

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)

CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. While the phrases "gender" and "gender expression" are not explicitly included, they are implied by the definitions of those terms that are explicitly included.

3. Any complaint alleging that a student, while in an education program or activity ~~in which the district exercises substantial control over the context and respondent~~, was subjected to ~~sexual~~ conduct known to the district that may reasonably constitute sex discrimination under Title IX, including sex-based harassment, as defined in 34 CFR 106.~~30~~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 ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures. (34 CFR 106.2, 106.10, 106.11, 106.44)

CSBA NOTE: Complaints of employment discrimination are not subject to the UCP. Instead, pursuant to 2 CCR 11023, the district must establish an impartial and prompt process for addressing such complaints. In addition, 5 CCR 4611 requires that employment discrimination complaints be referred to the Civil Rights Department. ~~See AR 4030 - Nondiscrimination in Employment for applicable complaint procedures.~~

However, pursuant to 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, districts are required to follow the Title IX grievance procedures when investigating and resolving employment complaints alleging sex discrimination based on conduct that occurred on or after August 1, 2024. See BP/AR 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment and AR/E(1) 4119.12/4219.12/4319.12 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. As such a complaint may also fall within the process specified in AR 4030 - Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the complaint procedures specified in AR 4030 - Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the procedures specified in AR 4030 – Nondiscrimination in Employment for this purpose. See AR 4030 - Nondiscrimination in Employment for applicable complaint procedures.

4. ~~Any~~ 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.

CSBA NOTE: 5 CCR 4610 limits the applicability of the UCP for complaints regarding special education and child nutrition, as provided in Items #5-7 below.

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)

CSBA NOTE: Education Code 35186 requires the district to use UCP, with modifications, to investigate and resolve complaints related to the issues stated in the following paragraph (i.e., "Williams complaints"). Because Education Code 35186 sets forth different timelines for investigation and resolution of these kinds of complaints than the timelines specified in law for other uniform complaints, CDE has created a separate uniform complaint process for the Williams complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure.

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)

Policy Reference UPDATE Service
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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	Description
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	School libraries
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 46015	Parental leave for students

Ed. Code 48645.7	Juvenile court schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48900.5	Suspension; other means of correction
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49010-49013	Student fees
Ed. Code 49060-49079	Student records
Ed. Code 49069.5	Records of foster youth
Ed. Code 49490-49590	Child nutrition programs
Ed. Code 49701	Provisions of the Interstate Compact on Educational Opportunities for Military Children
Ed. Code 51204.5	Social sciences instruction; contributions of specified groups
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51222	Physical education
Ed. Code 51223	Physical education; elementary schools
Ed. Code 51225.1-51225.2	Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements
Ed. Code 51226-51226.1	Career technical education
Ed. Code 51228.1-51228.3	Course periods without educational content
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
Ed. Code 60010	Instructional materials; definition

Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Child care and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment

Federal	**Description**
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
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
20 USC 6801-7014	Title III language instruction for limited English proficient and immigrant students
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 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment

34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
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	**Description**
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56)
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558)
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-StateRoles.ashx?la=en&rev=f00baf9bd1af4844b94f99135ca65588)
California Department of Education Publication	Uniform Complaint Procedure ~~2021-22~~ Program Instrument
California Department of Education Publication	Sample UCP Board Policies and Procedures
~~U.S. DOE, Office for Civil Rights~~California Department of Justice Publication	~~Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021~~Guidance to School

	Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024 (https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf)
~~U.S. DOE, Office for Civil Rights Publication~~Federal Register	~~Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021~~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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
U.S. DOJ Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007
Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights
Website	California Civil Rights Department

Cross References

Code	**Description**
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils

0420.41	Charter School Oversight
0420.41-E(1)	Charter School Oversight
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1313	Civility
1340	Access To District Records
1340	Access To District Records

3260	Fees And Charges
3260	Fees And Charges
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.1	Civil And Legal Rights
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.23	Unauthorized Release Of Confidential/Privileged Information

4231	Staff Development
4244	Complaints
4244	Complaints
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.1	Civil And Legal Rights
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4344	Complaints
4344	Complaints
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5131.2	Bullying
5131.62	Tobacco
5131.62	Tobacco
5137	Positive School Climate
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5144	Discipline
5144	Discipline

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

6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6163.1	Library Media Centers
6164.2	Guidance/Counseling Services
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth

6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students
6175	Migrant Education Program
6175	Migrant Education Program
6178	Career Technical Education
6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6200	Adult Education
6200	Adult Education
9000	Role Of The Board
9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9124	Attorney
9200	Limits Of Board Member Authority
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials

Regulation 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 05/01/2017 **| Last Revised Date:** ~~10~~07/01/~~2023~~2024 **| Last Reviewed Date:** ~~10~~07/01/~~2023~~2024

CSBA NOTE: 5 CCR 4621 **mandates** that the district's uniform complaint procedures (UCP) be consistent with the procedures of 5 CCR 4600-4670. Additionally, Education Code 52075 **mandates** districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan (LCAP), and Education Code 8212 **mandates** districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations mandate districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination, harassment, intimidation, or bullying. For example, all districts are mandated pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are mandated pursuant to 34 CFR ~~106.8 and 34 CFR~~ 110.25 to adopt policies and procedures to address discrimination on the basis of ~~sex and~~ age. Some of the factors considered by the U.S. Department of Education's Office for Civil Rights (OCR) when determining whether a district's procedures are "prompt and equitable" are addressed throughout the following administrative regulation.

Education Code 243, as added by AB 1078 (Ch. 229, Statutes of 2023), clarifies when it is unlawful discrimination for the Governing Board to (1) refuse to approve the use any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library or (2) prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library. The Board may not refuse to approve such use on the basis that the material includes a study of the role and contributions of specified individuals or groups, unless the study of the role and contributions reflects adversely upon legally protected groups. Additionally, the Board may not prohibit such use on the basis that the study of the role and contributions contain inclusive or diverse perspectives. Any Board action to ban or censor a textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction on any of the bases described above may also constitute unlawful discrimination under Education Code 220. In addition, pursuant to Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), the Board is prohibited 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 pursuant to Education Code 220.

Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078, or Education Code 244, as added by SB 153, may be brought under the district's UCP or

may be filed directly with the Superintendent of Public Instruction (SPI). Complaints that are filed directly with the SPI are required to identify the basis for doing so, and present evidence that supports the basis for the direct filing. In such cases, the SPI may directly intervene without waiting for an investigation by the district. For more information regarding complaints concerning instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials and AR 1312.4 - Williams Uniform Complaint Procedures.

Education Code 242, as added by AB 1078, requires the California Department of Education (CDE) to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

Apart from these mandates, state law authorizes the use of UCP to resolve complaints of noncompliance with laws related to the development of a school plan for student achievement and the establishment of school site councils; accommodations for pregnant and parenting students; prohibition against the charging of student fees; educational rights of foster youth, students experiencing homelessness, former juvenile court school students, children of military families, students who are migratory, and ~~students participating in a newcomer program for newly arrived immigrants~~, as amended by AB 714 (Ch. 342, Statutes of 2023), newcomer students as defined in Education Code 51225.2 who are in the third or fourth year of high school; assignment of students to courses without educational content; and physical education instructional minutes. See the section "Complaints Subject to UCP" in the accompanying Board policy.

For a complaint which is based on allegations part of which fall under UCP and part of which fall outside of UCP, districts may need to initiate two separate investigations: one to investigate the allegations that fall under UCP and the other to investigate the allegations that fall outside of UCP.

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

CSBA NOTE: 5 CCR 4621 **mandates** the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination, harassment, intimidation, or bullying and retaliation. During its Federal Program Monitoring (FPM) process, CDE staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for receiving and investigating complaints. Districts should identify the specific title(s) of the compliance officer(s) in the space provided below. If a district identifies multiple compliance officers, it is recommended that one be designated the lead compliance officer.

The following paragraph specifies that the compliance officer will be the same person designated

to serve as the Title IX Coordinator for addressing complaints of ~~sexual~~sex discrimination and sex-based harassment pursuant to AR 5145.7 - ~~Sexual~~ Sex Discrimination and Sex-Based Harassment and AR 5145.71 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures. Districts may modify this regulation to designate different district employees to serve these functions.

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 - ~~Sexual~~ Sex Discrimination and Sex-Based Harassment for handling complaints regarding ~~sexual~~sex discrimination and sex-based harassment.

_____
(title or position)
_____
(unit or office)
_____
(address)
_____
(telephone number)
_____
(email)

CSBA NOTE: The following paragraph is for use by districts that have designated more than one compliance officer.

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.

CSBA NOTE: 5 CCR 4621 **mandates** that the district's policy requires employees responsible for compliance and/or for investigating and resolving complaints to be knowledgeable about the laws and programs at issue in the complaints they are assigned. Compliance officers must also have training or experience in handling discrimination complaints, including appropriate investigative techniques and understanding of the applicable legal standards.

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)

CSBA NOTE: During the FPM process, CDE staff will check to ensure that the district's policy contains a statement ensuring annual dissemination of notice of the district's UCP to the persons specified below.

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)

CSBA NOTE: 5 CCR 4622 requires the district to include specified information in its annual UCP notice to students, parents/guardians, employees, and others. The following list reflects those required components and additional content of the notice listed in CDE's FPM instrument.

A sample of the annual notice is available through CDE's website. It is the district's responsibility to update the notice as necessary to reflect new law.

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 ~~the section~~ "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 ~~students participating in a~~ newcomer ~~program~~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

CSBA NOTE: The following paragraph may be modified to reflect district practice. Pursuant to Education Code 221.61, a district and district school are required to post information related to Title IX on their websites, including specified information about complaint procedures under Title

IX. See; see AR 5145.3 - Nondiscrimination/Harassment. A school or district that does not maintain a website may comply by posting the information on the website of its district or county office of education (COE), however a school, district, or COE is not required to establish a website if it does not maintain one. A comprehensive list of rights based on the provisions of the federal regulations implementing Title IX can be found in Education Code 221.8

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.661 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.

CSBA NOTE: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's, "2007 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on the balancing of four factors: (1) the number or proportion of LEP individuals likely to encounter the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient. State law is more specific than federal law. Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.

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

CSBA NOTE: Complaints filed under UCP may be filed directly with a compliance officer or with any site administrator not designated as a compliance officer. For example, acts of unlawful discrimination, harassment, intimidation, or bullying may initially be reported to a principal. See AR 5145.3 - Nondiscrimination/Harassment and AR 5145.7 - Sexual– Sex Discrimination and Sex-Based Harassment. If a site administrator not designated as a compliance officer receives a UCP complaint, the site administrator must notify a compliance officer. A district may also establish a

site-level process for receiving informal reports about incidents for which a UCP complaint may be filed and notifying students and parents/guardians of their right to file a UCP complaint. Any site-level process established by a district should be in writing and distributed in the same manner as the grievance procedures listed herein with an explanation of how it interacts with the UCP complaint process.

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)

CSBA NOTE: Education Code 49013 and 52075 **mandate** districts to adopt procedures that allow for anonymous complaints to be filed when a district allegedly violates the prohibition against the charging of student fees or violates any requirement related to the LCAP.

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.

CSBA NOTE: Pursuant to 5 CCR 4630, complaints related to the LCAP must be filed within a year of the date that the County Superintendent of Schools, the reviewing authority for districts, approves the district's LCAP.

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.

CSBA NOTE: Districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel before honoring a confidentiality request to withhold the victim's name from the alleged perpetrator, ~~especially in the case of alleged sexual assault,~~ as this may affect the district's ability to conduct a thorough investigation or provide supportive measures to the victim. ~~In OCR's, "Part 1: Questions and Answers Regarding the Department's Title IX Regulations," it is stated that, "Title IX regulations balance a complainant's desire for confidentiality (in terms of, for instance, the complainant's identity not being disclosed to the respondent) with a school's discretion to pursue an investigation where factual circumstances warrant an investigation even though the complainant does not desire to file a formal complaint or participate in a grievance process."~~

~~These guiding principles would also apply to harassment on the basis of race, gender, disability, or other protected characteristic.~~

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

CSBA NOTE: The following section should be used only by those districts that have decided to establish procedures for attempting to resolve complaints through alternative dispute resolution

(ADR) procedures such as mediation; see the accompanying Board policy. The following section may be modified to specify the ADR method and timelines used within the district.

~~Districts may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

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 ~~involving an allegation of sexual assault or~~ 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

CSBA NOTE: 5 CCR 4631, which requires the district to provide the complainant with the opportunity to present relevant information, does not provide any timeline. Thus, the timeline specified below may be modified to reflect district practice.

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.

CSBA NOTE: During the investigation, the compliance officer should consider all relevant circumstances, such as how the alleged misconduct affected one or more students' education; the type, frequency, and duration of the misconduct; the identity, age, and sex of the individuals involved in and impacted by the conduct and the relationship between them; the number of persons engaged in the conduct and at whom the conduct was directed; the size of the school, location of the incidents, and context in which they occurred; and other incidents at the school involving different individuals.

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.

CSBA NOTE: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant. During the FPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy or procedures, as specified below.

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

CSBA NOTE: Pursuant to 5 CCR 4631, the district's investigation report must be sent to the complainant within 60 calendar days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 calendar days so that the Board's decision can still be given within the 60-day time limit.

Pursuant to 5 CCR 4631, only a complainant has the right to receive the investigation report and to file a complaint with the Board if dissatisfied with the compliance officer's decision. However, under certain circumstances, some of the same rights should be extended to a respondent in order to make the process equitable. For example, since the respondent to a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is usually an individual, the respondent should be notified when the complainant has agreed to an extension of timelines. Options 1 and 2 reflect these recommendations and may be modified to reflect district practice. When questions arise as to what rights to provide to a respondent, the district should consult CSBA's District and County Office of Education Legal Services or district legal counsel accordingly.

Pursuant to 5 CCR 4640, when a UCP complaint is erroneously sent to CDE without first being filed with the district, the 60-day period specified in 5 CCR 4631 begins when the district receives the complaint.

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)

CSBA NOTE: The remainder of this section is for use by districts that select Option 2.

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

CSBA NOTE: 5 CCR 4631 specifies components that are required to be part of the district's investigation report. Inclusion of these items will help protect the district's position in case of an appeal to CDE, a complaint submitted to OCR, or if litigation is filed.

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.

CSBA NOTE: The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR 99.1-99.67) protects student privacy, including student records containing details of the actions taken in response to a UCP complaint. However, pursuant to 20 USC 1221, FERPA may not "be construed to affect the applicability of Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." In February 2015, the Family Policy Compliance Office (FPCO), now the Student Privacy Policy Office, released a letter concluding that FERPA permits a district to disclose to a student who was subjected to unlawful discrimination certain information about the sanctions imposed upon the respondent when the sanctions directly relate to that student. Thus, if properly remedying the impact of discrimination would require disclosing to the alleged victim certain information on how the district disciplined the respondent (e.g., an order that the respondent stay away from the alleged victim), FPCO interprets FERPA as allowing the district to disclose that information.

Given the potential liability from improperly disclosing such information, districts are advised to

consult with CSBA's District and County Office of Education Legal Services or district legal counsel when presented with a situation where a victim of unlawful discrimination requests information about sanctions imposed upon the respondent.

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, ~~as~~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.

CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure that UCP complaint procedures pertaining to CSPP health and safety issues include a statement that the district response and the investigation report must, whenever Education Code 48985 is applicable, be written in English and the primary language in which the complaint was filed; see the section "Health and Safety Complaints in License-Exempt Preschool Programs" below. The following paragraph extends this provision to all types of complaints to ensure compliance with Education Code 48985. In addition, based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

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.

CSBA NOTE: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from CDE.

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 within 180 days of the alleged discrimination

Corrective Actions

CSBA NOTE: The following section may be revised to reflect district practice.

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.

CSBA NOTE: Pursuant to Education Code 48900.5, as amended by AB 1165 (Ch. 22, Statutes of 2023), the district is encouraged 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; to have the perpetrator engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance; and to regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues; see AR 5131.2 – Bullying.

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.

CSBA NOTE: Generally, when a complaint is found to have merit, an appropriate remedy is provided to the complainant or other affected person. However, in certain instances, the law may require a remedy to be provided to all affected persons, not just the complainant or subject of the complaint. For example, pursuant to Education Code 49013 and 5 CCR 4600, if the district, or CDE on appeal, finds merit in the complaint alleging noncompliance with the law regarding student fees and charges, the district is required to provide a remedy to all affected students and parents/guardians, as specified below. The same requirement applies to allegations of noncompliance with required instructional minutes for physical education pursuant to Education Code 51222 and 51223, course periods without educational content pursuant to Education Code 51228.3, and the LCAP requirements pursuant to Education Code 52075. Districts that do not maintain elementary schools should delete the reference to physical education below.

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

CSBA NOTE: 5 CCR 4633 requires the district to submit the following documents to CDE within 10 days after the district has been notified that an appeal has been filed. The district's failure to provide a timely and complete response may result in CDE ruling on the appeal without considering information from the district.

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)

CSBA NOTE: Pursuant to 5 CCR 4633, CDE is required to issue a written decision regarding the appeal within 60 days of CDE's receipt of the appeal, unless extended by written agreement with the appellant or documentation by CDE of exceptional circumstances. Pursuant to 5 CCR 4635, if CDE's decision was issued based on evidence in the investigation file CDE received from the district or evidence uncovered after further investigation of the allegations that were the basis of the appeal, either party may request reconsideration by the SPI or designee within 30 days of the appeal decision.

Pursuant to 5 CCR 4650, CDE may directly intervene in a complaint without waiting for action by the district when certain conditions exist, including the following: (1) the complaint alleges failure to comply with the UCP, including failure to follow the required timelines and failure to implement the final investigation report~~;~~, (2) the complainant requests anonymity due to the possibility of retaliation and would suffer immediate and irreparable harm if a complaint was filed and the complainant was named~~;~~, or (3) the complainant would suffer immediate and irreparable harm as a result of an application of a districtwide policy that is in conflict with state or federal law and that filing a complaint would be futile.

Health and Safety Complaints in License-Exempt Preschool Programs

CSBA NOTE: The following section is for use by districts that operate any license-exempt CSPP program. Education Code 8212 **mandates** districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in a license-exempt CSPP program. Pursuant to Education Code 8212, the district must use the UCP, with modifications as necessary, to resolve such complaints. Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694.

See the accompanying exhibits for a sample classroom notice and complaint form.

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)

CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement. Based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

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)

Policy Reference UPDATE Service
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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	Description
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	School libraries
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 46015	Parental leave for students
Ed. Code 48645.7	Juvenile court schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48900.5	Suspension; other means of correction
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49010-49013	Student fees
Ed. Code 49060-49079	Student records
Ed. Code 49069.5	Records of foster youth
Ed. Code 49490-49590	Child nutrition programs
Ed. Code 49701	Provisions of the Interstate Compact on Educational Opportunities for Military Children
Ed. Code 51204.5	Social sciences instruction; contributions of specified groups
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51222	Physical education

Ed. Code 51223	Physical education; elementary schools
Ed. Code 51225.1-51225.2	Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements
Ed. Code 51226-51226.1	Career technical education
Ed. Code 51228.1-51228.3	Course periods without educational content
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Child care and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Federal	**Description**

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
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
20 USC 6801-7014	Title III language instruction for limited English proficient and immigrant students
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 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment
34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
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	**Description**
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-

	brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56)
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558)
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-StateRoles.ashx?la=en&rev=f00baf9bd1af4844b94f99135ca65588)
California Department of Education Publication	Uniform Complaint Procedure ~~2021-22~~ Program Instrument
California Department of Education Publication	Sample UCP Board Policies and Procedures
~~U.S. DOE, Office for Civil Rights~~California Department of Justice Publication	~~Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021~~Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024 (https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf)
~~U.S. DOE, Office for Civil Rights Publication~~Federal Register	~~Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021~~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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
U.S. DOJ Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007

Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights
Website	California Civil Rights Department

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0420.41	Charter School Oversight
0420.41-E(1)	Charter School Oversight
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
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4030	Nondiscrimination In Employment
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4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment

4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.1	Civil And Legal Rights
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
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4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4244	Complaints
4244	Complaints
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4319.1	Civil And Legal Rights
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5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
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5145.7	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
5145.71	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/Pregnant/Parenting Students
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6161.11	Supplementary Instructional Materials

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6173.2	Education Of Children Of Military Families
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Policy 4030: Nondiscrimination In Employment

Status: ADOPTED

Original Adopted Date: 05/01/2016 **| Last Revised Date:** ~~03~~07/01/~~2023~~2024 **| Last Reviewed Date:** ~~03~~07/01/~~2023~~2024

CSBA NOTE: The following Board policy and accompanying administrative regulation are **mandated** pursuant to 2 CCR 11023. The California Fair Employment and Housing Act (FEHA) (Government Code 12900-12996) prohibits districts and district employees from harassing or discriminating against employees and job applicants on the basis of actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, reproductive health ~~decisionmaking~~decision-making, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, or gender expression. Pursuant to Government Code 12940, these protections apply to employees, job applicants, persons who serve in an unpaid internship or other limited-duration program to gain unpaid work experience, volunteers, and independent contractors.

Additionally, protections are available under various provisions of federal law, including Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7), Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17), the Pregnant Workers Fairness Act (42 USC 2000gg-2000gg-6), Title IX of the Education Amendments of 1972 (20 USC 1681-1688), the Americans with Disabilities Act (42 USC 12101-12213), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Genetic Information Nondiscrimination Act (42 USC 2000ff-2000ff-11).

~~For policy addressing sexual harassment of and by employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.~~

The U.S. Equal Employment Opportunity Commission's (EEOC) April 2024, "Enforcement Guidance on Harassment in the Workplace," provides for components of an effective anti-harassment policy, including that the policy (1) defines what conduct is prohibited, (2) is widely disseminated, (3) is comprehensible to employees, (4) requires supervisors to report harassment when they are aware of it, (5) offers multiple avenues for reporting harassment, enabling employees to contact someone other than their harasser, (6) clearly identifies who complaints can be made to, including contact information, and (7) explains the complaint process, including anti-retaliation and confidentiality protections.

For policy addressing sex discrimination and sex-based harassment of and by employees, see BP/AR 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment, and for language regarding Title IX sex discrimination, including sex-based harassment, complaint procedures, see AR/E(1) 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

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.

CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex 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.

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~~, pregnancy,~~; 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.

CSBA NOTE: Government Code 12940~~, as amended by SB 523 (Ch. 630, Statutes of 2022),~~ includes reproductive health ~~decisionmaking~~decision-making as a characteristic for which employment discrimination is prohibited. Pursuant to Government Code 12926(y) "reproductive health ~~decisionmaking~~"decision-making" includes a ~~person's~~person's decision to use or access a particular drug, device, product, or medical service for reproductive health.

Employers are also prohibited from discrimination against employees or job applicants on the basis of reproductive health ~~decisionmaking~~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)

CSBA NOTE: 2 CCR 11028 prohibits inquiry into an employee's immigration status or discrimination on the basis of such status, unless the district provides clear and convincing evidence that ~~it~~such inquiry is ~~required to do so in order~~necessary to comply with federal immigration law. Districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel as necessary.

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 ~~the district~~such inquiry is ~~required to do so in order~~necessary to comply with federal immigration law. (2 CCR 11028)

CSBA NOTE: Pursuant to Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), the district may not discriminate against an employee in termination, or any term or condition of employment, or otherwise penalize a person, based on the person's use of cannabis when off the job or away from the workplace. However, Government Code 12954 does not interfere with the district's right to maintain drug-free schools or to prohibit employees from possessing, being impaired by, or using cannabis while at work. Government Code 12954 also does not preempt state or federal laws requiring applicants to be tested for controlled substances as a condition of employment or to applicants in the building and construction trades or for positions requiring a federal background investigation. Districts with questions about employee cannabis use or screening should consult CSBA's District and County Office of Education Legal Services or district

legal counsel. Also see BP 4111 – Recruitment and Selection, AR 4112.5 – Criminal Record Check, BP/AR 4118 – Dismissal/Suspension/Disciplinary Action, and BP/AR 4218 – Dismissal/Suspension/Disciplinary Action.

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)

CSBA NOTE: The following items illustrate unlawful discriminatory practices as specified in Government Code 12940.

Labor Code 1197.5 prohibits the payment of different wage rates to employees for similar work based on sex, race, or ethnicity and prohibits the use of prior salary history by itself to justify any disparity in compensation under the bona fide factor exception. Labor Code 1197.5, as amended by SB 497 (Ch. 612, Statutes of 2023), creates a rebuttable presumption in favor of the employee's claim if a district retaliates against an employee within 90 days of the specified protected activity.

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

CSBA NOTE: When disciplining an employee, the district must ensure that all the surrounding facts and circumstances are considered and analyzed within the parameters of any applicable constitutional or legal framework. ~~In Kennedy v. Bremerton School District, the U.S. Supreme Court held that the district violated the employee's protected free exercise and free speech rights when the district did not rehire the employee, a coach, for refusing to follow the district's direction to refrain from kneeling and praying at the 50-yard line immediately after each football game. The district's direction was based on a concern that the employee's prayer violated the district's religious practices policy and could subject the district to an Establishment Clause violation. Notwithstanding that the prayer occurred at a school event and in the presence of students, the court reasoned that the timing and circumstances indicated that the coach's prayers were offered as a private citizen rather than as a district employee. The Court held that since the prayer occurred during a break, a period when employees would ordinarily be free to engage in personal activities such as speaking with friends, checking email, calling for restaurant reservations, etc., the district's concerns about a possible Establishment Clause violation did not justify restricting the employee's free exercise and free speech rights to offer a private, personal prayer.~~

In *Kennedy v. Bremerton School District*, the U.S. Supreme Court held that the district could not discipline an employee for non-coercive religious conduct while the employee was acting as a private citizen. Also see BP 4118 - Dismissal/Suspension/Disciplinary Action, 4218 – Dismissal/Suspension/Disciplinary Action, and BP 4119.1/4219.1/4319.1 - Civil and Legal Rights.

In *Groff v. DeJoy*, the U.S. Supreme Court held that Title VII's protections against religious discrimination require an employer who denies an employee's religious accommodation to show

that the burden of granting the accommodation would result in substantial increased costs in relation to the conduct of its particular business.

EEOC's April 2024, "Enforcement Guidance on Harassment in the Workplace," notes that while Title VII requires districts to accommodate an employee's sincerely held religious belief, districts are also responsible for protecting employees against unlawful harassment, including harassment motivated by religion. EEOC's guidance suggests that in order to address the dual obligations under Title VII, a district should accommodate an employee's sincerely held religious practice, unless doing so would create a hostile work environment.

In May 2023, the U.S. Department of Education issued, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Schools," which includes the extent to which prayer in public schools is legally protected, constitutional principles that relate to religious expression in general, and requirements under federal and state laws relevant to prayer and religious expression. The guidance states that, "Nothing in the First Amendment, however, converts the public schools into religion-free zones, or requires students, teachers, or other school officials to leave their private religious expression behind at the schoolhouse door." The guidance also states that employees may pray when they are not acting in their official capacity and the prayer does not result in any coercion of students.

Employee discipline, especially with respect to suspension and dismissal, involves complex legal considerations and districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel, accordingly.

2. Taking ~~of~~ 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

CSBA NOTE: Item #4 below lists some, but not all, specific practices prohibited under Government Code 12940 or 2 CCR 11006-11086 in relation to certain protected categories. ~~For example, because "sex" as defined in Government Code 12926 includes pregnancy, childbirth, breastfeeding, or related medical conditions, any of these conditions may be the basis for an employee's sex discrimination claim.~~ As the specific prohibitions are too numerous to list in policy, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel ~~be consulted~~ when questions arise as to any specific claim.

4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:

   a. ~~Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status~~

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

~~CSBA NOTE: Government 12940, as amended by SB 523, makes it unlawful for an employer to require disclosure of information relating to an applicant's or employee's reproductive health decisionmaking.~~

e. Requiring an applicant or employee to disclose information relating to the employee's reproductive health ~~decisionmaking~~decision-making

CSBA NOTE: Retaliation against complainants or other participants in the grievance procedures is prohibited by Government Code 12940 and 34 CFR 110.34. In addition to the general prohibition against retaliation, Government Code 12940 provides that an employee who requests accommodation for a physical or mental disability or religious belief is protected from retaliation as specified below. CSBA recommends that this protection be extended to all protected characteristics, as provided below.

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)

CSBA NOTE: Pursuant to Government Code 12964.5, the district is prohibited from requiring an employee, in exchange for a raise or bonus or as a condition of employment or continued employment, to sign a nondisparagement agreement or similar document that would deny the employee the right to disclose information about unlawful acts in the workplace or requiring an employee to release the right to file a claim or civil action against the district.

Pursuant to Government Code 12964.5, the above prohibition applies not only to claims or complaints of ~~sexual~~sex-based harassment or sexual assault, but to those involving harassment or discrimination based on any protected characteristic and to other unlawful employment practices under FEHA.

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)

CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in the accompanying administrative regulation, it is unclear whether districts would additionally be required to follow the procedures specified in the accompanying administrative regulation. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing such a complaint process for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

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.

CSBA NOTE: Pursuant to 2 CCR 11019, in certain instances, an employee's (especially a supervisor's) knowledge or notice of prohibited conduct of another employee or individual may subject the district to liability. Therefore, it is recommended that the district require its employees with knowledge of harassment or discrimination to report the incident to the appropriate district authorities. In addition, Government Code 12940 provides that a district may be responsible for harassment of employees by nonemployees when the district knows or should have known of the conduct and failed to take immediate and corrective action, taking into consideration the extent of the district's control and other legal responsibility that the district may have with respect to the conduct of those nonemployees. See also BP/AR 4119.11/4219.11/4319.11 - ~~Sexual~~– Sex Discrimination and Sex-Based Harassment.

See the accompanying administrative regulation for requirements related to the identification of the employee who will be responsible for compliance with nondiscrimination laws.

The following paragraph should be revised to reflect the district's timeline.

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 ~~as soon as practical after the incident.~~within one workday. All other employees ~~are encouraged to~~shall report such incidents to their supervisor ~~immediately.~~or designated district coordinator within one workday.

CSBA NOTE: Government Code 12940 and 2 CCR 11023 require districts to take all reasonable steps to prevent prohibited discrimination and harassment, including, but not limited to, dissemination of the district's policy on the prevention of harassment, discrimination, and retaliation. Government Code 12950 and 2 CCR 11049 require districts to post, in prominent and accessible locations on district premises, posters developed by the California Civil Rights Department (CRD), formerly the Department of Fair Employment and Housing (DFEH), which are available on CRD's ~~web site~~website. In addition, Executive Order 11246 requires contractors and subcontractors who hold a single federal contract or subcontract in excess of $10,000, or who hold contracts or subcontracts with the federal government in any 12-month period that have a total value of more than $10,000, to display ~~the U.S. Equal Employment Opportunity Commission~~EEOC's "Know Your Rights: Workplace Discrimination is Illegal" poster in conspicuous places available to employees and applicants for employment and representatives of each labor union with which the covered contractor or subcontractor has a collective bargaining agreement.

EEOC's April 2024, "Enforcement Guidance on Harassment in the Workplace," provides for components of effective training, including that it (1) explains the district's anti-harassment policy, complaint process, and confidentiality and anti-retaliation protections, (2) describes and provides examples of prohibited conduct under the policy, (3) provides information about employees' rights if they experience, observe, become aware of, or report prohibited conduct, (4) provides supervisors with information about how to prevent, identify, stop, report, and correct harassment, with clear instructions for addressing and reporting harassment, (5) is tailored to the workplace and workforce, (6) is provided on a regular basis to all employees, and (7) is provided in a clear and easily understood format.

For further information on prevention strategies, including posting requirements, see the accompanying administrative regulation.

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.

CSBA NOTE: Government Code 12946 makes it an unlawful employment practice for a district to fail to maintain certain records and files for employees, applicants, and terminated employees, as provided in the following paragraph.

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 UPDATE Service
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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	Description
2 CCR 11006-11086	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-~~12952~~12954	Unlawful employment practices
Gov. Code 12960-12976	Unlawful employment practices; complaints
Labor Code 79-107	Division of Labor Standards Enforcement
Labor Code 1030-1034	Lactation accommodation
Labor Code 1197.5	Wages, hours and working conditions
Pen. Code 422.56	Definitions; hate crimes

Federal	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 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
42 USC 2000gg-2000gg-6	Pregnant Workers Fairness Act

29 CFR 1636	Implementation of the Pregnant Workers Fairness Act
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 106.81-106.82	~~Designation of coordinator; dissemination of policy, and adoption of grievance procedures~~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 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	~~"Know Your Rights: Workplace Discrimination is Illegal" poster~~Equal Employment Opportunity (https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended)
U.S. Constitution, First Amendment	~~Amendment 1;~~ Free exercise, free speech, and establishment clauses

Management Resources	**Description**
CA Civil Rights Department Publication	Family Care and Medical Leave and Pregnancy Disability Leave, January 2023 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/CFRA-and-Pregnancy-Leave_ENG.pdf)
CA Civil Rights Department Publication	California Law Prohibits Workplace Discrimination and Harassment, January 2024
CA Civil Rights Department Publication	~~Transgender Rights in the Workplace~~The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/11/The-Rights-of-Employees-who-are-Transgender-or-Gender-Nonconforming-Fact-Sheet_ENG.pdf)
CA Civil Rights Department Publication	Harassment Prevention Guide for California Employers, 2017 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Workplace-Harassment-Guide-1.pdf)

CA Civil Rights Department Publication	Your Rights and Obligations as a Pregnant Employee, January 2023 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/Your-Rights-and-Obligations-as-a-Pregnant-Employee_ENG.pdf)
CA Civil Rights Department Publication	Sexual Harassment, January 2023 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Sexual-Harassment-Poster_ENG.pdf)
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
Court Decision	Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775
Court Decision	Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742
U.S. DOE ~~Office for Civil Rights~~ Publication	~~Notice of Non-Discrimination, August 2010~~Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023 (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)
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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Equal Employment Opportunity Comm Publication	Know Your Rights: Workplace Discrimination is Illegal, ~~October 2022~~June 2023 (https://www.eeoc.gov/poster)
U.S. Equal Employment Opportunity Comm Publication	Enforcement Guidance~~: Vicarious Employer Liability for Unlawful~~ on Harassment ~~by Supervisors, June 1999~~in the Workplace, April 2024 (https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace)
U.S. Equal Employment Opportunity Comm Publication	EEOC Compliance Manual (https://www.eeoc.gov/guidance-subject-area)
Website	Equal Employment Opportunity Commission (https://www.eeoc.gov/)
Website	U.S. Department of Labor, Office of Federal Contract Compliance Program

Website	CSBA District and County Office of Education Legal Services
Website	California Civil Rights Department
Website	California Department of Industrial Relations (https://www.dir.ca.gov/)
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

Code	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
1114	District-Sponsored Social Media
1240	Volunteer Assistance
1240	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)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3312	Contracts
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3580	District Records
3580	District Records
3600	Consultants
4000	Concepts And Roles
4032	Reasonable Accommodation

4033	Lactation Accommodation
4111	Recruitment And Selection
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112.4	Health Examinations
4112.41	Employee Drug Testing
4112.41	Employee Drug Testing
4112.5	Criminal Record Check
4112.6	Personnel Files
4112.8	Employment Of Relatives
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4114	Transfers
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4119.12	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.22	Dress And Grooming
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.41	Employees With Infectious Disease
4131	Staff Development
4144	Complaints
4144	Complaints
4151	Employee Compensation
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits

4161.5	Military Leave
4161.8	Family Care And Medical Leave
4211	Recruitment And Selection
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212.4	Health Examinations
4212.41	Employee Drug Testing
4212.41	Employee Drug Testing
4212.6	Personnel Files
4212.8	Employment Of Relatives
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.1	Civil And Legal Rights
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4219.12	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.22	Dress And Grooming
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.41	Employees With Infectious Disease
4231	Staff Development
4244	Complaints
4244	Complaints
4251	Employee Compensation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits

4261.5	Military Leave
4261.8	Family Care And Medical Leave
4311	Recruitment And Selection
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.4	Health Examinations
4312.41	Employee Drug Testing
4312.41	Employee Drug Testing
4312.6	Personnel Files
4312.8	Employment Of Relatives
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.1	Civil And Legal Rights
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.12	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.22	Dress And Grooming
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.41	Employees With Infectious Disease
4331	Staff Development
4344	Complaints
4344	Complaints
4351	Employee Compensation
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4361.5	Military Leave
4361.8	Family Care And Medical Leave
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/~~2020~~2024 | **Last Reviewed Date:** 07/01/~~2020~~2024

CSBA NOTE: Pursuant to 2 CCR 11023, districts are **mandated** to adopt rules and regulations to ensure that district programs and activities are free from unlawful discriminatory practices. Pursuant to Government Code 12940, protections against discrimination apply to employees, job applicants, persons who serve in unpaid internship or other limited-duration programs to gain unpaid work experience, volunteers, and independent contractors.

Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in the accompanying administrative regulation, it is unclear whether districts would additionally be required to follow the procedures specified in the accompanying administrative regulation. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing such a complaint process for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

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.

CSBA NOTE: Many nondiscrimination laws and regulations require identification of an employee who is responsible for compliance with the nondiscrimination laws. For example, pursuant to 34 CFR 104.7, 106.8, and 110.25, the district is required to designate the person(s) responsible for the overall implementation of the requirements of federal laws which prohibit discrimination on the basis of disability, sex, and age, i.e., Section 504 of the Rehabilitation Act of 1973 (29 USC 794), Title IX of the Education Amendments of 1972 (20 USC 1681-1688), and the Age Discrimination in Employment Act (29 USC 621-634). The district should fill in the blanks below to designate the responsible employee and contact information.

34 CFR 106.8 requires the district to designate at least one district employee to coordinate its

responsibilities under Title IX, who must be referred to as the Title IX Coordinator. ~~The~~If the district has more than one Title IX Coordinator ~~may~~ , it must designate one of its Title IX Coordinators to retain ultimate oversight over those responsibilities and ensure the district's consistent compliance with its responsibilities under Title IX. It is recommended that the Title IX Coordinator be the same person designated below~~, or~~ and, if the district ~~may designate~~wishes to separate ~~employees to serve~~out these ~~functions. See~~ responsibilities, for one individual to designate designees and maintain oversight; see AR 4119.11/4219.11/4319.11 ~~-~~ ~~Sexual~~– Sex Discrimination and Sex-Based Harassment. ~~The Title IX Coordinator is responsible for receiving complaints of sexual harassment and determining whether they should be handled in accordance with the procedures specified in this administrative regulation or in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures; see section on "Complaint Procedure" below.~~

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

CSBA NOTE: Pursuant to Government Code 12940 and 2 CCR 11023, the district is required to take all reasonable steps to prevent unlawful discrimination and harassment. 2 CCR 11023 specifies certain requirements to be included in the district's policy.

The following section reflects the requirements of 2 CCR 11023 and other applicable laws or regulations, as indicated.

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

CSBA NOTE: Pursuant to Government Code 12950 and 2 CCR 11049, districts are required to post the California Civil Rights Department (CRD), formerly the Department of Fair Employment and Housing (DFEH), posters, "California Law Prohibits Workplace Discrimination and Harassment," "Sexual Harassment," "The Rights of Employees Who Are Transgender or Gender Nonconforming," "Your Rights and Obligations as a Pregnant Employee," and "Family Care and Medical Leave and Pregnancy Disability Leave," as provided in Item #1. CRD rules require that

these materials be posted electronically and in every location where the district has employees (e.g., district office, hiring office, each school site). These posters and the rules for posting are available on CRD's ~~web site~~website. Also see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

In addition, Executive Order 11246 requires contractors and subcontractors who hold a single federal contract or subcontract in excess of $10,000, or who hold contracts or subcontracts with the federal government in any 12-month period that have a total value of more than $10,000, to display the U.S. Equal Employment Opportunity Commission (EEOC) "Know Your Rights: Workplace Discrimination is Illegal" poster in conspicuous places available to employees and applicants for employment and representatives of each labor union with which the covered contractor or subcontractor has a collective bargaining agreement. The poster and rules for posting are available on EEOC's ~~web site~~website.

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: (5 CCR 4960; 34 CFR 100.6, 106.8)

    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 ~~web site~~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

CSBA NOTE: Pursuant to Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, districts are required to provide a notice of nondiscrimination on the basis of sex, as specified below.

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.

~~4.~~ 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

CSBA NOTE: Optional ~~item #5~~Item #6 below provides for training regarding the district's discrimination policy and reporting procedures. Title IX, and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires specified training related to sex discrimination for all district employees, as well as additional training for (1) 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, (2) facilitators of an informal resolution process, and (3) the Title IX Coordinator(s) and designees. For requirements specifically pertaining to ~~sexual~~sex discrimination and sex-based harassment training, see AR 4119.11/4219.11/4319.11 - ~~Sexual~~ Sex Discrimination and Sex-Based Harassment.

~~5.~~ 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 ~~which~~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)

~~6.~~ 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

~~7.~~ 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

CSBA NOTE: 2 CCR 11023 **mandates** that a district's policy include a complaint process with specified requirements. Some of the requirements of 2 CCR 11023 are similar to those required under existing case law.

~~Courts have~~*In Faragher-Ellerth v. City of Boca Raton* and *Burlington Industries, Inc v. Ellerth,* the Supreme Court held that liability may be mitigated for hostile environment employment discrimination when (1) the employer took reasonable care to prevent and promptly correct the discriminatory or harassing conduct (i.e., provided a complaint procedure) and (2) the aggrieved employee unreasonably failed to take advantage of corrective opportunities offered by the employer (i.e., failure to file a complaint).

In its ~~June 1999~~April 2024, "Enforcement Guidance~~: Vicarious Employer Liability for Unlawful~~ on Harassment ~~by Supervisors~~in the Workplace," EEOC outlines the elements of an effective complaint ~~procedure to include (1) a clear explanation of the~~ process; ~~(2) protection against retaliation; (3) designation of multiple individuals authorized to receive complaints; (4) a mechanism for~~ including (1) prompt~~, thorough,~~ and ~~impartial investigation; (5) assurance of immediate~~effective investigations and ~~appropriate~~ corrective action~~;~~, (2) adequate confidentiality protections, and (~~6) information about time frames for filing charges with EEOC or CRD.~~

3) adequate anti-retaliation protections. While EEOC's guidance recommends a "prompt" investigation, neither the law nor EEOC delineates a specific time frame for resolution. EEOC's guidance acknowledges that whether an investigation is considered "prompt" is fact-sensitive and may vary depending on the ~~seriousness~~nature and ~~complexity~~severity of the ~~circumstances~~alleged harassment and reasons for the delay, and that intermediate measures may be necessary to prevent further harassment during the investigation. The following section, including the listed timelines, is consistent with EEOC's guidance and should be modified to reflect district practice.

~~In lieu of using the procedures described below, complaints of sexual harassment must be addressed through the federal Title IX complaint procedures established pursuant to 34 CFR 106.44-106.45 if the alleged conduct meets the federal definition of sexual harassment. Pursuant to 34 CFR 106.30, Title IX sexual harassment includes (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. See BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment and AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures. Complaints of sexual harassment shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures if the alleged conduct meets the definition of sexual harassment pursuant to 34 CFR 106.30.~~

~~Any other~~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

CSBA NOTE: Items #1-3 below state the time limits within which complaints must be filed.

~~EEOC's guidance states that it is important for employers' nondiscrimination policies to contain information about timeframes for filing charges of unlawful discrimination or harassment with EEOC or CRD.~~
Employees should be informed that the deadline for filing charges starts to run from the last date of the unlawful act, not from the conclusion of the district's complaint investigation. Pursuant to CRD procedures, CRD will automatically forward any complaint it has accepted for investigation to EEOC when the matter falls within EEOC's jurisdiction.

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:

CSBA NOTE: Pursuant to Government Code 12960, a complaint alleging employment discrimination pursuant to Government Code 12940-12952 must be filed with CRD within three years of the alleged discriminatory act(s). That period may be extended under certain circumstances. Districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel if any questions arise.

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)

CSBA NOTE: 42 USC 2000e-5 specifies that a person must file a discrimination complaint with EEOC within 180 days of the alleged discriminatory act. Pursuant to 42 USC 2000e-5, the 180-day timeline for compensation discrimination starts when the discriminatory paycheck is received and that each discriminatory paycheck restarts the timeline for the filing of a complaint.

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)

CSBA NOTE: Additional remedies may be available for violation of the PUMP Act (29 USC 218d) under the Fair Labor Standards Act, the Pregnant Workers Fairness Act (42 USC 2000gg-2), and state law pursuant to Labor Code 1030-1034 and Government Code 12925-12954. See BP 4033 – Lactation Accommodation.

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 2000gg-2)

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)

Policy Reference UPDATE Service
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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	Description
2 CCR 11006-11086	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-~~12952~~12954	Unlawful employment practices

Gov. Code 12960-12976	Unlawful employment practices; complaints
Labor Code 79-107	Division of Labor Standards Enforcement
Labor Code 1030-1034	Lactation accommodation
Labor Code 1197.5	Wages, hours and working conditions
Pen. Code 422.56	Definitions; hate crimes
Federal	**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 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
42 USC 2000gg-2000gg-6	Pregnant Workers Fairness Act
29 CFR 1636	Implementation of the Pregnant Workers Fairness Act
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 106.8~~1~~1-106.82	~~Designation of coordinator; dissemination of policy, and adoption of grievance procedures~~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 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	~~"Know Your Rights: Workplace Discrimination is Illegal" poster~~Equal Employment Opportunity

	(https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended)
U.S. Constitution, First Amendment	~~Amendment 1;~~ Free exercise, free speech, and establishment clauses

Management Resources	**Description**
CA Civil Rights Department Publication	Family Care and Medical Leave and Pregnancy Disability Leave, January 2023 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/CFRA-and-Pregnancy-Leave_ENG.pdf)
CA Civil Rights Department Publication	California Law Prohibits Workplace Discrimination and Harassment, January 2024
CA Civil Rights Department Publication	~~Transgender Rights in the Workplace~~The Rights of Employees Who Are Transgender or Gender Nonconforming: Fact Sheet, November 2022 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/11/The-Rights-of-Employees-who-are-Transgender-or-Gender-Nonconforming-Fact-Sheet_ENG.pdf)
CA Civil Rights Department Publication	Harassment Prevention Guide for California Employers, 2017 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Workplace-Harassment-Guide-1.pdf)
CA Civil Rights Department Publication	Your Rights and Obligations as a Pregnant Employee, January 2023 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/Your-Rights-and-Obligations-as-a-Pregnant-Employee_ENG.pdf)
CA Civil Rights Department Publication	Sexual Harassment, January 2023 (https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Sexual-Harassment-Poster_ENG.pdf)
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
Court Decision	Faragher-Ellerth v. City of Boca Raton (1998) 524 U.S. 775
Court Decision	Burlington Industries, Inc v. Ellerth (1998) 524 U.S. 742

U.S. DOE ~~Office for Civil Rights~~ Publication	~~Notice of Non-Discrimination, August 2010~~Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023 (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)
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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Equal Employment Opportunity Comm Publication	Know Your Rights: Workplace Discrimination is Illegal, ~~October 2022~~June 2023 (https://www.eeoc.gov/poster)
U.S. Equal Employment Opportunity Comm Publication	Enforcement Guidance~~: Vicarious Employer Liability for Unlawful~~ on Harassment ~~by Supervisors, June 1999~~in the Workplace, April 2024 (https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace)
U.S. Equal Employment Opportunity Comm Publication	EEOC Compliance Manual (https://www.eeoc.gov/guidance-subject-area)
Website	Equal Employment Opportunity Commission (https://www.eeoc.gov/)
Website	U.S. Department of Labor, Office of Federal Contract Compliance Program
Website	CSBA District and County Office of Education Legal Services
Website	California Civil Rights Department
Website	California Department of Industrial Relations (https://www.dir.ca.gov/)
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

Code	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
1114	District-Sponsored Social Media
1240	Volunteer Assistance
1240	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)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3312	Contracts
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3580	District Records
3580	District Records
3600	Consultants
4000	Concepts And Roles
4032	Reasonable Accommodation
4033	Lactation Accommodation
4111	Recruitment And Selection
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112.4	Health Examinations
4112.41	Employee Drug Testing
4112.41	Employee Drug Testing
4112.5	Criminal Record Check

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

4212.4	Health Examinations
4212.41	Employee Drug Testing
4212.41	Employee Drug Testing
4212.6	Personnel Files
4212.8	Employment Of Relatives
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.1	Civil And Legal Rights
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4219.12	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.22	Dress And Grooming
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.41	Employees With Infectious Disease
4231	Staff Development
4244	Complaints
4244	Complaints
4251	Employee Compensation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4261.5	Military Leave
4261.8	Family Care And Medical Leave
4311	Recruitment And Selection

4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.4	Health Examinations
4312.41	Employee Drug Testing
4312.41	Employee Drug Testing
4312.6	Personnel Files
4312.8	Employment Of Relatives
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.1	Civil And Legal Rights
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.12	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.22	Dress And Grooming
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.41	Employees With Infectious Disease
4331	Staff Development
4344	Complaints
4344	Complaints
4351	Employee Compensation
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4361.5	Military Leave
4361.8	Family Care And Medical Leave
9000	Role Of The Board
9321	Closed Session

9321-E(1)	Closed Session
9321-E(2)	Closed Session

Policy 4033: Lactation Accommodation

Status: ADOPTED

Original Adopted Date: 07/01/2011 **| Last Revised Date:** ~~12~~07/01/~~2019~~2024 **| Last Reviewed Date:** ~~12~~07/01/~~2019~~2024

CSBA NOTE: Pursuant to Labor Code 1034, ~~as added by SB 142 (Ch. 720, Statutes of 2019),~~ districts are **mandated** to develop policy regarding lactation accommodation with specified components, as provided below.

Both federal and state law require that employees be provided reasonable break time and an appropriate location to accommodate their desire to express breast milk for their infant children. Title IX (20 USC 1681-1688), and its implementing regulation 34 CFR 106.57, as amended by 89 Fed. Reg. 33474, 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. Additionally, the Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act (29 USC ~~207~~218d) requires employers to provide reasonable break time for nursing employees~~, but applies only to employees who are not exempt from the overtime pay requirements of~~ to express breast milk for one year after the ~~Fair Labor Standards Act (FLSA).~~child's birth, and to ensure that employees have access to a lactation space, as specified. In addition, the Pregnant Workers Fairness Act (PWFA) (42 USC 2000gg-2000gg-6) requires employers to provide reasonable accommodation to employees due to pregnancy, childbirth, or related medical conditions, including lactation. State law (Labor Code 1030-1034~~)~~; Government Code 12925-12954) also applies to all district employees. Where provisions of the ~~two~~ laws conflict, the statute providing greater protections for employees supersedes. The district should consult CSBA's District and County Office of Education Legal Services or district legal counsel if questions arise about the application of ~~these~~conflicting laws to a particular employee.

Government Code 12926 includes breastfeeding or medical conditions related to breastfeeding within the definition of "sex" for purposes of sex discrimination under the California Fair Employment and Housing Act. Additionally, ~~Labor Code 1033~~34 CFR 106.10, as amended by ~~SB 142,~~89 Fed. Reg. 33474, provides that "sex" for purposes of sex discrimination under Title IX includes lactation and related medical conditions or recovery. In addition, Labor Code 1033 prohibits an employer from discharging, or in any manner discriminating or retaliating against, an employee for exercising or attempting to exercise any right related to lactation accommodation. Pursuant to Labor Code 1033, violation of Labor Code 1030-1034 may result in a citation from the Labor Commissioner and/or a civil penalty.

Districts are required to prohibit retaliation when a right or privilege secured by Title IX is interfered with, including when a person reported possible sex discrimination, made a sex-discrimination complaint, or participated or refused to participate in any way in the district's Title IX process. Pursuant to 34 CFR 106.71, as amended by 89 Fed. Reg. 33474, when the district has information about conduct that reasonably may constitute retaliation under Title IX, the district is required to respond to such conduct using the procedures used for other forms of sex discrimination as specified in 34 CFR 106.44 and 106.45; see AR/E(1) 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

The district should ensure consistency of this policy with provisions in the district's collective bargaining agreement, if any, related to break times or other employment issues.

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.

CSBA NOTE: Labor Code 1034~~, as added by SB 142,~~ **mandates** that the district's policy regarding lactation accommodation include the process by which the employee is to make a lactation accommodation request and the district's obligation to respond to the request. The following paragraph should be modified to reflect the district's process.

For more information regarding workplace accommodations, see AR 4032 – Reasonable Accommodation and for temporary assignments, see BP 4113.4/4213.4/4313.4 – Temporary Modified/Light-Duty Assignment.

An employee shall notify the employee's supervisor or other appropriate ~~personnel~~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.

CSBA NOTE: Pursuant to Labor Code 1032, all districts are required to grant lactation accommodation except when granting the accommodation would "seriously disrupt" district operations. "Serious disruption" is not defined in the law.

Additionally, the PUMP Act (29 USC 218d) and Labor Code 1031~~, as amended by SB 142, provides~~ provide an exception for districts with fewer than 50 employees when lactation accommodation would result in "undue hardship" based on significant difficulty or expense in relation to the size, financial resources, nature, or structure of the district. ~~When such~~In addition, the PWFA (42 USC 2000gg-1) applies to districts with 15 or more employees, but provides an exception for accommodations that would impose an "undue hardship." When a district is able to demonstrate undue hardship, Labor Code 1031 only requires that reasonable efforts be made to provide the employee with the use of a room or other location in close proximity to the employee's work area for the employee to express breast milk in private. Pursuant to Labor Code 1031, the provided room or location may not be a toilet stall.

Regardless of the size of the district, the determination of serious disruption or undue hardship should be made on a case-by-case basis and only in limited, stringent circumstances. The burden of demonstrating why accommodation could not be made, even if on a temporary basis or for less time than requested, would likely fall to the district.

Lactation accommodations shall be granted unless limited circumstances exist as specified in law. (Labor Code 1031, 1032; 29 USC ~~207~~218d, 42 USC 2000gg-1)

CSBA NOTE: Labor Code 1034~~, as added by SB 142,~~ **mandates** that the district's policy include a statement that the district provide a written response to an employee if the district is unable to comply with the break time or location requirements.

34 CFR 106.57, as amended by 89 Fed. Reg. 33474, requires the district to provide "reasonable" break time for an employee to express breast milk or breastfeed, but does have any qualification related to the requirement to provide a lactation space. Additionally, it would be unlikely that a district would have a valid reason to deny a lactation accommodation pursuant to the PWFA. Thus, districts should proceed with caution before denying a lactation accommodation, and consult CSBA's District and County Office of Education Legal Services or district legal counsel as necessary.

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)

CSBA NOTE: Labor Code 1034~~, as added by SB 142,~~ **mandates** that the district's policy regarding lactation accommodation be distributed to employees as provided in the following paragraph.

Additionally, pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, the district's policy regarding the prohibition of sex discrimination, which includes lactation and related conditions, is required to be published, and the district's notice of nondiscrimination on the basis of sex is required to be posted on the district's website and appear in each handbook, catalog, announcement, bulletin, and application that the district makes available to employees and applicants for employment.

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 ~~the~~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

CSBA NOTE: Although the PUMP Act (29 USC ~~207~~218d) limits the length of time that ~~a classified~~an employee is entitled to lactation accommodation to one year after the birth of the child, Labor Code 1030 ~~does~~and the PWFA (42 USC 2000gg-1) do not set a specific limit on the infant child's age and therefore provides greater benefits to employees.

Additionally, 34 CFR 106.57, as amended by 89 Fed. Reg. 33474, which requires districts to provide reasonable break time for an employee to express breast milk or breastfeed, does not specify a duration of time from birth of the child.

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)

CSBA NOTE: Labor Code 1030 and the PUMP Act (29 USC ~~207~~218d) do not require the district to compensate non-exempt employees for breaks taken for the purpose of expressing breast milk. However, an employee who uses break time already provided by the district as paid time must be compensated for that break time in the same manner as any other employee. Any additional time beyond the authorized paid break time could be uncompensated, provided the employee is completely relieved from duty during that time. If the district instead chooses to provide compensation for such additional break time, it should modify the following paragraph accordingly. The district also may provide flexible scheduling for those employees who choose to work extra time to make up for any uncompensated break time beyond the authorized break time.

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 ~~207~~218d)

CSBA NOTE: Labor Code 1031~~, as amended by SB 142,~~ requires the district to provide an employee with the use of a room or location, other than a bathroom, to express breast milk in private. This may include the place where the employee normally works if the location otherwise meets legal requirements, as specified below. Labor Code 1031 authorizes the district to designate a temporary location to express breast milk if the district is unable to provide a permanent location due to operational, financial, or space limitation, as long as the space is in close proximity to the employee's work area, shielded from view, free from intrusion while breast milk is being expressed, and is otherwise compliant with law.

Additionally, the PUMP Act (29 USC 218d) and Title IX (34 CR 106.57, as amended by 89 Fed. Reg. 33474) require the district to ensure that an employee can access a lactation space, other than a bathroom, that is clean, shielded from view, and free from intrusion from others.

The employee shall be provided a lactation space which may be used by the ~~use of~~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~~. The room or location provided~~, and shall meet the following requirements: (Labor Code 1031; 29 USC ~~207~~218d; 34 CFR 106.57)

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

~~CSBA NOTE: The following paragraph is mandated pursuant to Labor Code 1034, as added by SB 142.~~CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in AR 4030 - Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the procedures specified in AR 4030 - Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County of Office Education Legal Services or district legal counsel prior to utilizing such a complaint process for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Additional remedies may be available for violation of the PUMP Act (29 USC 218d) under the Fair Labor Standards Act, the PWFA (42 USC 2000gg-2), and state law pursuant to Labor Code 1030-1034 and Government Code 12925-12954.

~~An~~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).

CSBA NOTE: The following paragraph is **mandated** pursuant to Labor Code 1034.

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	Description
2 CCR 11035-11051	Unlawful sex discrimination; pregnancy, childbirth, and related medical conditions
Civ. Code 43.3	Right of mothers to breastfeed in any public or private location
Ed. Code 200-262.4	Prohibition of discrimination
~~Gov. Code 12926~~	~~Definitions~~

Gov. Code ~~12940~~12925-12954	Unlawful discriminatory employment practices
Gov. Code 12945	Unlawful discrimination based on pregnancy, childbirth, or related medical conditions
Lab. Code 1030-1034	Lactation ~~Accomidation~~Accommodation
Lab. Code 6382	Procedure for listing hazardous substances

Federal	**Description**
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
29 USC 218c	Fair Labor Standards Act; protections for employees
29 USC ~~207~~218d	Fair Labor Standards Act; Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act
42 USC 2000gg-2000gg-6	Pregnant Workers Fairness Act
29 CFR 1636	Implementation of the Pregnant Workers Fairness Act
34 CFR 106.1-106.82	Discrimination on the basis of sex; effectuating Title IX

Management Resources	**Description**
CA Department of Industrial Relations Publication	Rest Periods/Lactation Accommodation, Frequently Asked Questions (https://www.dir.ca.gov/dlse/faq_restperiods.htm)
California Department of Public Health Publication	Lactation Accommodation for Employers (https://www.cdph.ca.gov/Programs/CFH/DMCAH/Breastfeeding/Pages/Lactation-Accommodation-for-Employers.aspx)
~~CDC Publication~~	~~Lactation Support Program Toolkit~~
~~Fair Employment and Housing Commission~~California Civil Rights Department Decision	Department of Fair Employment and Housing v. Acosta Tacos (Chavez), FEHC Precedential Decision 09-03P, 2009
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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
Federal Register	Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 78, No. 244, pages 80073-~~70079~~80079 (https://www.federalregister.gov/documents/2010/12/21/2010-31959/reasonable-break-time-for-nursing-mothers#:~:text=Employers%20are%20required%20to%20provide,207(r)(2).)
U.S. Department of Health ~~Resources &~~& Human Services ~~Admin~~, Office on Women's Health Publication	The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008 (https://www.womenshealth.gov/breastfeeding/breastfeeding

	-home-work-and-public/breastfeeding-and-going-back-work/business-case)
Office of the Surgeon General Publication	The Surgeon General's Call to Action to Support Breastfeeding, 2011 (https://www.cdc.gov/breastfeeding/php/resources/surgeon-generals-call-to-action.html?CDC_AAref_Val=https://www.cdc.gov/breastfeeding/resources/calltoaction.htm)
U.S. DoL, Wage and Hour Div., Publication	Education FAQs (https://www.dol.gov/sites/dolgov/files/WHD/flsa/PUMP-education-faq.pdf)
U.S. DoL, Wage and Hour Div., Publication	Frequently Asked Questions~~- Break Time for Nursing Mothers~~ - Pumping Breast Milk at Work (https://www.dol.gov/agencies/whd/nursing-mothers/faq)
U.S. DoL, Wage and Hour Div., Publication	Fact Sheet #73: ~~Break Time~~FLSA Protections for ~~Nursing Mothers under the FLSA~~Employees to Pump Breast Milk at Work, rev. ~~April 2018~~January 2023 (https://www.dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers)
Website	CSBA District and County Office of Education Legal Services
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
Website	U.S. Department of Labor, Wage and Hour Division, ~~Break Time for Nursing Mothers~~FLSA Protections to Pump at Work
Website	Equal Employment Opportunity Commission (https://www.eeoc.gov/)

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
4030	Nondiscrimination In Employment

4030	Nondiscrimination In Employment
4032	Reasonable Accommodation
4112.9	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
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
4144	Complaints
4144	Complaints
4161.8	Family Care And Medical Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4219.11	Sex Discrimination and Sex-Based Harassment
4219.11	Sex Discrimination and Sex-Based Harassment
4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4244	Complaints
4244	Complaints
4261.8	Family Care And Medical Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.4	Temporary Modified/Light-Duty Assignment
4319.11	Sex Discrimination and Sex-Based Harassment
4319.11	Sex Discrimination and Sex-Based Harassment
4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4319.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4344	Complaints
4344	Complaints
4361.8	Family Care And Medical Leave

Policy 4119.11: ~~Sexual~~Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 12/01/2015 | **Last Revised Date:** ~~10~~07/01/~~2020~~2024 | **Last Reviewed Date:** ~~10~~07/01/~~2020~~2024

~~CSBA NOTE: Education Code 231.5, 2 CCR 11023, and 34 CFR 106.8 mandate the district to have a written policy on sexual harassment. As part of this mandate, the district also should adopt a sexual harassment policy related to students; see BP/AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

~~Sexual harassment is prohibited pursuant to~~CSBA NOTE: Sex discrimination and sex-based harassment are prohibited by Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17) and/or Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82), as well as the California Fair Employment and Housing Act (Government Code 12900-12996).

Education Code 231.5, 2 CCR 11023, and 34 CFR 106.8 **mandate** that districts have a written policy prohibiting sex discrimination and sex-based harassment against employees. As part of this mandate, districts are also required to adopt a written policy prohibiting sex discrimination and sex-based harassment against students; see BP/AR 5145.7 – Sex Discrimination and Sex-Based Harassment and AR 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. **Reg.** ~~Whether~~33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint ~~of sexual harassment is addressed through federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed.~~ based on ~~30026, or procedures adopted pursuant to 2 CCR 11023 is dependent on whether~~ the alleged conduct ~~meets~~. As such a complaint may also fall within the ~~more stringent federal definition of sexual harassment or the state definition. In order to meet the applicable timelines, in some instances it may be necessary to review a~~ complaint ~~under both procedures concurrently. See the accompanying administrative regulation,~~ process as specified in AR 4030 ~~-~~– Nondiscrimination in Employment, ~~and AR~~ it is unclear whether districts would additionally be required to follow the procedures specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the process specified in AR 4030 – Nondiscrimination in Employment for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12~~/4219.12/4319.12 - Title IX Sexual~~ – Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to 2 CCR 11034, the district may be liable for ~~sexual~~sex-based harassment committed by a supervisor, coworker, or a third party. Pursuant to Government Code 12940, employers may also be held liable for ~~sexual~~sex-based harassment committed against their workers by clients, customers, or other third parties if they knew or should have known of the harassment and failed to take immediate and appropriate corrective action to stop the harassment.

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 ~~sexual~~sex discrimination, including sex-based harassment, as defined in the accompanying administrative regulation, in district programs and activities by and against district employees ~~and retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.~~.

CSBA NOTE: Pursuant to Education Code 220.1, as added by AB 1955 (Ch. 95, Statutes of 2024), a district, including a Governing Board member, may not retaliate or otherwise take 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 Education Code 220.1, 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.

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)

CSBA NOTE: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sex-based harassment cases. In *Department of Health Services v. Superior Court (McGinnis)*, the California Supreme Court outlined measures that may constitute mitigating factors in the assessment of damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing the policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The U.S. Supreme Court in *Burlington Industries v. Ellerth* held that, for certain claims under federal law, an employer may defend against sex-based harassment claims by proving that (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer. Additionally, in *Faragher v. City of Boca Raton*, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.

Pursuant to Government Code 12950.1, employers with five or more employees are required to

provide sex-based harassment training to supervisory and nonsupervisory employees which includes training in regard to sex discrimination. Additionally, Title IX, and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. ~~CSBA NOTE: Government Code 12940 clarifies that sexual harassment includes harassment based on sex, gender, pregnancy, childbirth, or related medical conditions.~~33474, requires specified training related to sex discrimination, including sex-based harassment, for all district employees, as well as additional training for (1) investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or terminate supportive measures, (2) facilitators of an informal resolution process, and (3) Title IX Coordinators and designees. See the accompanying administrative regulation for timelines and training requirements.

Items #1-4 below reflect the courts' guidance, Government Code 12950.1, and 34 CFR 106.8, and should be modified to reflect district practice.

~~Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.~~

~~CSBA NOTE: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sexual harassment cases. In Department of Health Services v. Superior Court (McGinnis), the California Supreme Court outlined measures that may constitute mitigating factors in the assessment of damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing the policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The U.S. Supreme Court in Burlington Industries v. Ellerth held that, for certain claims under federal law, an employer may defend against sexual harassment claims by proving that (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer.~~

~~Pursuant to Government Code 12950.1, as amended by SB 778 (Ch. 215, Statutes of 2019), employers with five or more employees are required to provide sexual harassment training to supervisory and nonsupervisory employees. See the accompanying administrative regulation for timelines and training requirements.~~

~~Items #1-4 below reflect the courts' guidance and Government Code 12950.1, and should be modified to reflect district practice.~~

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of ~~sexual~~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 ~~sexual~~sex discrimination and sex-based harassment policy to employees and others to whom the policy may apply

CSBA NOTE: Pursuant to Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, districts are required to provide a notice of nondiscrimination on the basis of sex, as specified below. For more information about the content and publication requirements for the notice of nondiscrimination, see AR 4030 – Nondiscrimination in Employment.

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

~~3.~~ 4. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures

~~4.~~ 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

CSBA NOTE: The following optional paragraph reflects a recommendation of the U.S. Equal Employment Opportunity Commission's informal guidance , "Promising Practices for Preventing Harassment," has been expanded to include sex discrimination, and may be revised to reflect district practice.

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 ~~the~~ harassment policy~~.~~(ies), complaint procedures, or training~~.~~ , as appropriate and in accordance with law.

~~**Sexual Harassment**~~

Reports and Complaints

CSBA NOTE: 34 CFR 106.8, as amended by ~~85~~89 Fed. Reg. ~~30026~~33474, requires the district to designate at least one employee to coordinate its responsibilities under Title IX, who must be referred to as the Title IX Coordinator. See the accompanying administrative regulation.

~~34 CFR 106.44, as added by 85 Fed. Reg. 30026, requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not unreasonable in light of the known circumstances and in compliance with Title IX regulations. 34 CFR 106.30, as added, defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. For this~~

~~reason, the district should train all employees regarding the reporting process.~~

~~In Faragher v. City of Boca Raton, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.~~

~~District employees who feel that they have been sexually harassed in the performance of their~~ Any district ~~responsibilities or who have knowledge of any incident of sexual harassment by or against another~~ employee ~~shall immediately report the incident to their direct supervisor, a district administrator, or the district's~~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. ~~Employees may bypass their supervisor in filing a complaint if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall~~ (34 CFR 106.2, 106.44)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, a district is required to respond promptly and effectively when it has knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment in its education program or activity. 34 CFR 106.44 further obligates a district to require its Title IX Coordinator to monitor the district's programs and activities for barriers to reporting information of such conduct and its employees to notify the Title IX Coordinator~~.~~ when they have such information. The following paragraph should be revised to reflect the district's timeline.

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 ~~AR~~Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures ~~or AR 4030 - Nondiscrimination in Employment, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of AR 4119.12/4219.12/4319.12 concurrently meets the requirements of AR 4030.~~

CSBA NOTE: ~~The~~ Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, when the Title IX Coordinator ~~shall~~is notified of conduct that reasonably may constitute sex discrimination, including sex-based harassment, the Title IX Coordinator is required to offer and coordinate supportive measures to the complainant ~~and~~ . Thus, districts should not wait to respond until a "formal" complaint is made. If the district has begun grievance procedures or offered an informal resolution process to the respondent, the Title IX Coordinator is required to offer and coordinate supportive measures to the respondent, as appropriate.

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)

CSBA NOTE: In addition to district discipline imposed on employees who engage in ~~sexual~~sex-based harassment, Government Code 12940 provides that such employees may be held personally liable in a court of law for any damage to the victim(s).

Upon investigation of a ~~sexual~~sex discrimination or sex-based harassment complaint, any district employee found to have engaged or participated in ~~sexual~~sex discrimination or sex-based harassment or to have aided, abetted, incited, compelled, or coerced another to commit ~~sexual~~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 UPDATE Service
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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	Description
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	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	**Description**
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
3429 CFR 106.1-106.91636	Nondiscrimination on the basis of sex in education programs or activitiesImplementation of the Pregnant Workers Fairness Act
34 CFR 106.511-106.6182	Nondiscrimination on the basis of sex in employment in education programprograms or activities
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	**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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	CSBA District and County Office of Education Legal Services
Website	California Civil Rights Department
Website	U.S. Department of Education, Office for Civil RightsCalifornia Department of Education

	(https://www.cde.ca.gov/)
Website	~~U.S. Equal Employment Opportunity Commission~~U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

Code	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
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 Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4119.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~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
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.22	Dress And Grooming
4231	Staff Development
4244	Complaints
4244	Complaints
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4317.7	Employment Status Reports
4319.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4319.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.22	Dress And Grooming
4344	Complaints
4344	Complaints
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.71	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5146	Married/Pregnant/Parenting Students

Regulation 4119.11: ~~Sexual~~Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 12/01/2016 | **Last Revised Date:** ~~10~~07/01/~~2020~~2024 | **Last Reviewed Date:** ~~10~~07/01/~~2020~~2024

CSBA NOTE: The following administrative regulation is **mandated** pursuant to Education Code 231.5 and includes reasonable steps for preventing the occurrence of discrimination and harassment as required pursuant to Government Code 12940 (California Fair Employment and Housing Act). The focus of this administrative regulation is on ~~sexual~~sex discrimination and sex-based harassment by and of employees. Pursuant to Government Code 12940 and 2 CCR 11009, interns, volunteers, and job applicants are entitled to the same protection against ~~sexual~~sex-based harassment as applicable to employees.

For information regarding steps the district is required to take to prevent sex discrimination related to ~~sexual~~lactation, see BP 4033 – Lactation Accommodation.

For information related to sex discrimination and sex-based harassment involving students, see BP/AR 5145.7 - ~~Sexual~~– Sex Discrimination and Sex-Based Harassment and AR 5145.71 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures. For information regarding steps the district is required to take to prevent sex discrimination related to a student's pregnancy or related condition pursuant to Title IX (20 USC 1681-1688) and its implementing regulation 34 CFR 106.40, as amended by 89 Fed. **Reg.** 33474, see BP 5146 – Married/Pregnant/Parenting Students.

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 ~~sexual~~sex discrimination and sex-based harassment ~~involving~~by and against district employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by ~~or against~~ a student.

Definitions

CSBA NOTE: The U.S. Equal Employment Opportunity Commission describes sex discrimination as treating someone differently because of that person's sex. Additionally, 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that sex discrimination for the purpose of Title IX includes discrimination on the basis of 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.

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.

CSBA NOTE: ~~Alleged conduct that meets the federal definition of sexual harassment in 34 CFR 106.30, as added by 85 Fed. A30026, requires investigation and resolution through Title IX regulations; see AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures.~~ Pursuant to 34 CFR 106.~~30, sexual~~2, sex-based harassment includes (1) a district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service under the district's education program or activity explicitly or impliedly conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct~~;~~, (2) "hostile environment harassment," defined as unwelcome sex-based conduct ~~determined by a reasonable person to be so severe, pervasive,~~that, based on the totality of the circumstance, is subjectively and objectively offensive and is so severe or pervasive that it ~~effectively~~ limits or denies a ~~person equal access to~~person's ability to participate in or benefit from the district's education program or activity~~;~~, or (3) sexual assault, dating violence, domestic violence, or stalking, as defined in ~~20 USC 1092 and~~ 34 ~~USC 12291)~~ CFR 106.2. Conduct that meets the definition of Title IX sex discrimination, including sex-based harassment, requires investigation and resolution through the Title IX grievance procedures; see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. ~~Conduct~~

34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that ~~does not meet~~sex-based harassment for the ~~definition~~purpose of Title IX includes harassment on the basis of sex stereotypes; sex characteristics; gender identity; sexual ~~harassment~~ orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related conditions; and, parental, marital, and family status. Additionally, in ~~34 CFR 106.30 shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment.~~

~~In~~ *Oncale v. Sundowner Offshore Services, Inc.*, the U.S. Supreme Court held that same-sex ~~sexual~~ harassment could be actionable under Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17).

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

CSBA NOTE: Pursuant to 34 CFR 106.11, as amended by 89 Fed. Reg. 33474, Title IX grievance procedures are required for Title IX sex discrimination complaints, including sex-based harassment complaints, for conduct which occurs on or after August 1, 2024 under the district's education program or activity, which includes conduct alleged to be contributing to a hostile environment that occurred outside the district's education program or activity or outside the United States. Item #2 below reflects "hostile environment harassment" as defined by 34 CFR 106.2, as amended by 89 Fed. Reg. 33474.

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 ~~or not~~ 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.

~~For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which a district school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)~~

~~1. A district employee conditioning the provision of a district aid, benefit, or service on the person's participation in unwelcome sexual conduct~~

~~2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity~~

~~3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

Examples of ~~Sexual~~Sex Discrimination and Sex-Based Harassment

CSBA NOTE: Pursuant to Government Code 12940 and 34 CFR 106.11, the district may be held liable for ~~sexual~~sex-based harassment committed against employees by clients, customers, or other third parties if the district knew, or should have known, of the harassment and failed to take immediate and appropriate corrective action to stop the harassment. The following paragraph clarifies that ~~sexual~~sex-based harassment may include acts by supervisors, co-workers, or other parties and should be modified to reflect district practice.

Examples of actions that might constitute ~~sexual~~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 non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as ~~sexual~~sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for ~~sexual~~sex-based activity; ~~sexual~~sex-based jokes or stories; unwelcome ~~sexual~~sex-based slurs, epithets, threats, innuendoes~~,~~; derogatory comments~~, sexually~~; sex-based degrading descriptions~~,~~; or the spreading of ~~sexual~~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

CSBA NOTE: Pursuant to 34 CFR 106.8, districts that receive federal financial assistance are mandated to designate an employee to ensure district compliance with Title IX of the Education Amendments of 1972 and its implementing regulations. If the district has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over

those responsibilities and ensure the district's consistent compliance with its responsibilities under Title IX. The following paragraph specifies that the Title IX Coordinator will be the same person(s) designated to serve as the coordinator for nondiscrimination in employment pursuant to AR 4030 - Nondiscrimination in Employment. ~~Districts may modify this policy to designate separate district employees to serve these functions.~~

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX ~~of the Education Amendments of 1972~~ in accordance with ~~AR~~Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures, ~~as well as to~~ and oversee~~, investigate, and resolve sexual harassment~~ the district's response to discrimination complaints processed under ~~AR~~Administrative Regulation 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

_____
(title or position)
_____
(address)
_____
(telephone number)
_____
(email)

Training

CSBA NOTE: Government Code 12950.1~~, as amended by SB 778 (Ch. 215, Statutes of 2019),~~ requires districts with five or more employees to provide sexual harassment training and education to supervisory and nonsupervisory employees ~~by January 1, 2021 (or two years after a training provided in 2019) and~~ once every two years ~~thereafter. As amended~~. Additionally, Government Code 12950.1 requires that new nonsupervisory employees be provided the training within six months of hire, consistent with the requirement for all newly hired supervisors or employees promoted to a supervisory position. Compliance with this law does not insulate the district from any liability for harassment.

In addition, Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires that all employees receive training related to their duties under Title IX promptly upon hire or change of position that alters their duties under Title IX, and annually thereafter. The training provided to all employees is required to include the district's obligation to address sex discrimination, the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment, and the applicable notice and information requirements. 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires additional training for (1) 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, (2) facilitators of an informal resolution process, and (3) Title IX Coordinators and designees.

Governing Board members, as elected officials, are not usually considered "supervisors"; however,

since Board members have the authority to hire, reward, or discipline the Superintendent and other employees, Board members may also be required to receive ~~sexual~~sex-based harassment training. Districts should consult ~~with~~CSBA's District and County Office of Education Legal Services or district legal counsel to ensure that the appropriate individuals receive training.

The following section reflects sex discrimination and sex-based harassment training required for employees under both state and federal law.

The Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sex-based 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, ~~the type of training, and the name of the training provider.~~ ~~(2 CCR 11024)~~ type of training, and name of the training provider. (2 CCR 11024)

~~The Superintendent or designee shall notify employees that the district does not discriminate on the basis of sex as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, and that inquiries about the application of Title IX to the district may be referred to the district's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education.~~ ~~(34 CFR 106.8)~~

~~The district shall notify employees, bargaining units, and applicants for employment of the name or title, office address, email address, and telephone number of the district's Title IX Coordinator.~~ ~~(34 CFR 106.8)~~

~~A copy of the Board policy and this administrative regulation shall:~~

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

CSBA NOTE: As part of its responsibility to monitor district compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, as amended by SB 153 (Ch. 38, Statutes of 2024), the California Department of Education is required to ensure that the district prominently and conspicuously displays its nondiscrimination policies in all areas that are accessible to, and commonly frequented by, school site employees, students, and members of the public at each school site and district office, including, but not limited to, in school office lobbies, staff lounges, student government meeting rooms, and on the district's website. Additionally, Title IX, and its implementing regulations, 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, require the district to provided notifications and take specified actions to prevent sex

discrimination, including sex-based harassment. For more information regarding measures to prevent discrimination, see AR 4030 – Nondiscrimination in Employment.

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)

4. ~~Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the district's web site (34 CFR 106.8)~~

5. ~~Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to employees or employee organizations (34 CFR 106.8)~~

CSBA NOTE: Government Code 12950 requires the California Civil Rights Department (~~CCRD~~CRD) to develop an information sheet on employment discrimination and the illegality of sexual harassment and a poster regarding the rights of transgender employees. These documents are available on ~~CCRD's web site.~~CRD's website. This list has been modified to make it applicable to sex-based harassment in general, not just sexual harassment.

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

1. The illegality of ~~sexual~~sex-based harassment

2. The definition of ~~sexual~~sex-based harassment under applicable state and federal law

3. A description of ~~sexual~~sex-based harassment, with examples

4. The district's complaint process available to the employee

5. The legal remedies and complaint process available through ~~CCRD~~CRD and the Equal Employment Opportunity Commission (EEOC)

6. Directions on how to contact ~~CCRD~~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 ~~CCRD~~CRD and the EEOC

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

Complaint Procedures

CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in AR 4030 – Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the process specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the process specified in AR 4030 – Nondiscrimination in Employment for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

All complaints and allegations of ~~sexual~~sex discrimination and sex-based harassment by and against employees shall be investigated and resolved ~~in accordance with law and district procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 4030 - Nondiscrimination in Employment.~~ 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 ~~sexual~~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 ~~sexual~~sex discrimination or sex-based harassment, prevent recurrence, and address any continuing effects.

Policy Reference UPDATE Service
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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	Description
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	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	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
~~34~~29 CFR ~~106.1-106.9~~1636	~~Nondiscrimination on the basis of sex in education programs or activities~~Implementation of the Pregnant Workers Fairness Act
34 CFR 106.~~51~~1-106.~~61~~82	Nondiscrimination on the basis of sex in ~~employment in~~ education ~~program~~programs or activities
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	**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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	CSBA District and County Office of Education Legal Services
Website	California Civil Rights Department
Website	~~U.S. Department of Education, Office for Civil Rights~~California Department of Education (https://www.cde.ca.gov/)
Website	~~U.S. Equal Employment Opportunity Commission~~U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

Code	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
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 Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~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
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.22	Dress And Grooming
4231	Staff Development
4244	Complaints
4244	Complaints
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4317.7	Employment Status Reports
4319.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.22	Dress And Grooming

4344	Complaints
4344	Complaints
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.71	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5146	Married/Pregnant/Parenting Students

Regulation 4119.12: Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures

Status: ADOPTED

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

~~CSBA NOTE: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sexual harassment, and mandates that the district adopt and publish complaint procedures.~~

~~The following administrative regulation reflects the Title IX complaint procedure detailed in 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, which must be used, effective August 14, 2020, to address any complaint of sexual harassment that meets the definition in 34 CFR 106.30. Pursuant to 34 CFR 106.30, allegations of sexual harassment governed by these regulations include (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Alleged sexual harassment in employment that does not meet this definition should be addressed through the district's complaint procedures described in AR 4030 - Nondiscrimination in Employment.~~

~~34 CFR 106.44 requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not deliberately indifferent. 34 CFR 106.30 defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. A district is deliberately indifferent only if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.~~

~~Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving employees, the applicable collective bargaining agreement. Districts with questions about specific complaints are strongly encouraged to consult legal counsel.~~

~~Also see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment for information about prohibited conduct, training, required notifications, and processes for reporting sexual harassment.~~

CSBA NOTE: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sex-based harassment, and **mandates** that the district adopt and publish complaint procedures. The following administrative regulation reflects the Title IX grievance procedures detailed in 34 CFR 106.44-106.45, as amended by 89 Fed. Reg. 33474.

Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving

employees, the applicable collective bargaining agreement. Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in AR 4030 – Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the procedures specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult with CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the procedures specified in AR 4030 - Nondiscrimination in Employment for this purpose.

See AR 4030 – Nondiscrimination in Employment. Also see BP/AR 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment for information about prohibited conduct, training, required notifications, and processes for reporting sex discrimination and sex-based harassment.

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 ~~in which a district school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44)~~ , 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.

~~1. A district employee conditioning the provision of a district aid, benefit, or service on a person's participation in unwelcome sexual conduct~~

~~2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity~~

~~3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

~~All other sexual harassment complaints or allegations shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.~~

~~Because the complainant has a right to pursue a complaint under AR 4030 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for AR 4030 are concurrently met while implementing the Title IX procedure.~~

~~**Reporting Allegations/Filing a Formal Complaint**~~

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

CSBA NOTE: 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, requires that the district's grievance procedures follow specified basic requirements, which are reflected below.

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

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district may not disclose personally identifiable information obtained while complying with the Title IX complaint procedures, except as provided below.

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.

CSBA NOTE: Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, a "complaint" is defined as an oral or written request to the district that objectively can be understood as a request for the district to investigate and make a determination about alleged discrimination under Title IX.

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 106.2)

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)

~~CSBA NOTE: Pursuant to 34 CFR 106.30, the timeline for resolving a sexual harassment complaint begins when the district has actual knowledge of sexual harassment, defined as the receipt of a report by the Title IX Coordinator or other employee of an elementary or secondary school. The following paragraph reflects the requirement for any employee to forward the report to the Title IX Coordinator as stated in AR 4119.11/4219.11/4319.11 - Sexual Harassment and may be revised to reflect district practice.~~CSBA NOTE: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sex discrimination, including sex-based harassment, promptly and effectively, the Title IX Coordinator or designee should file a complaint even when the victim chooses not to do so, when, based on the considerations described below, the Title IX Coordinator or designee determines that a health or safety threat exists or when the district would be prevented from ensuring equal access based on sex in its programs or activities. In such cases, the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.

~~An employee who is~~ If the alleged victim chooses not to bring a complaint, or withdraws any or all of ~~sexual~~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 ~~may submit~~, would occur if a ~~report~~complaint is not initiated

4. The severity of ~~sexual~~the alleged sex discrimination or sex-based harassment ~~to the district's Title IX Coordinator using the contact~~, 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 ~~listed in AR 4119.11/4219.11/4319.11 - Sexual Harassment~~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 ~~employee's direct supervisor or other~~ district ~~administrator, who shall forward~~could end the ~~report to~~ alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX ~~Coordinator within one day of receiving the report.~~

   ~~Upon receiving such a report~~grievance procedures

If, after considering these factors, the Title IX Coordinator ~~shall inform~~determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant ~~of the right to file a formal complaint and the process for filing a formal complaint.~~

~~A formal complaint, with the complainant's physical or digital signature, may be filed with~~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 ~~in person,~~ may initiate a complaint.

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by ~~mail, by email, or by any other method authorized by the district. (34 CFR 106.30)~~89 Fed. Reg. 33474, the Title IX Coordinator or designee is required to take the steps described below upon initiating a complaint.

~~CSBA NOTE: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sexual harassment in a manner that is not deliberately indifferent, the Title IX Coordinator should file a complaint in certain situations even when the victim chooses not to do so, including, but not limited to, when a safety threat exists. In such cases, the Title IX Coordinator and the alleged victim are not named parties to the case, but the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.~~

~~Even if the alleged victim chooses not to file a formal~~ If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall ~~file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, 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~~ 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)

CSBA NOTE: Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, in addition to Title IX Coordinators or designees, investigators, and decisionmakers, persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures may not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent, and are required to receive specified training.

The Title IX Coordinator or designee, investigator, ~~decision-maker~~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.~~45~~8. (34 CFR 106.~~45~~)

~~**Supportive Measures**~~

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the Title IX Coordinator is required to monitor the district for barriers to reporting information about conduct that reasonably may constitute sex discrimination, including sex-based harassment, under Title IX, as specified below.

~~Upon receipt of a report of Title IX sexual~~ 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 ~~promptly contact the complainant to discuss the availability of supportive measures and shall consider~~monitor the ~~complainant's wishes with respect~~district for barriers to ~~the~~reporting and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

Supportive Measures

CSBA NOTE: 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, requires districts to offer and coordinate supportive measures ~~implemented. Supportive~~ as described below. Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, "supportive measures ~~shall be~~" are defined as individualized measures offered as appropriate, ~~as~~ reasonably available~~,~~ and without ~~charge to the~~ unreasonably burdening a complainant or ~~the~~ respondent ~~before~~, not for punitive or ~~after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and not unreasonably burden the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment.~~disciplinary reasons, and without charging a fee to the complainant or respondent to (1) restore or preserve the party's access to the district's education program or activity, including measures that are designed to protect the safety of the parties or the district's

educational environment, or (2) provide support during the recipients' grievance procedures specified in 34 CFR 106.45 or during any informal resolution process as specified in 34 CFR 106.44.]

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~~, and~~; monitoring of certain areas of the campus~~.~~ ~~(34 CFR 106.30, 106.44)~~

~~The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the~~ ; and, training and education programs related to sex-based harassment. (34 CFR 106.2, 106.44)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district's provision of supportive measures~~.~~ ~~(34 CFR 106.30)~~ does not require the district, its employees, or any other persons authorized to provide aid, benefit, or service on the district's behalf to alter the alleged discriminatory conduct for the purpose of providing the supportive measures unless there is an allegation of sex-based harassment or retaliation.

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)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district is required to provide both parties for whom supportive measures have been implemented with the opportunity to challenge, to an impartial employee, the implementation of such measures. An "impartial employee" must be someone other than the employee who made the decision to provide the supportive measures which are being challenged, but who has the authority to modify or reverse the decision if the employee determines that the decision to provide, deny, modify, or terminate the supportive measures was inconsistent with the definition of supportive measures as specified in 34 CFR 106.2.

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)

CSBA NOTE: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. ~~Districts should also note that~~Additionally, Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

34 CFR 106.44 allows a student to be removed in emergency situations as described below, but 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, requires that a student ~~should~~ not be "disciplined" prior to a finding being made pursuant to the Title IX grievance process ~~established by 34 CFR 106.45.~~. Due to this inconsistency in state and federal law, districts are advised to consult CSBA's District and County Office of Education Legal Services of district legal counsel as to the manner of imposing an emergency removal.

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 ~~immediate~~imminent and serious threat to the ~~physical~~ health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the ~~student~~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 ~~Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)~~ IDEA or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

~~**Dismissal of Complaint**~~

~~The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed~~

by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)

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

Informal Resolution Process

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

Dismissal of Complaint

CSBA NOTE: The following section describes when the Title IX Coordinator or designee may dismiss a Title IX complaint and actions the Title IX Coordinator or designee is required to take when a complaint is dismissed pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance

procedures. The following paragraph should be revised to reflect the timeline established by the district.

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

CSBA NOTE: The following section reflects when the district may offer an informal resolution process, notification and consent requirements, criteria for the facilitator of the informal resolution process, and other required steps when an informal resolution process is implemented, as specified in 34 CFR 106.44, as amended by 89 Fed. Reg. 33474.

Additionally, 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, provides potential terms that may be included in an informal resolution agreement. Because such agreements will be fact-specific and reflective of sensitive topics, districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel when drafting informal resolution agreements.

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~~, and any consequences resulting~~; the inability to initiate or resume complaint procedures arising from ~~participating in~~ 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 ~~records~~the agreement would only be binding on the parties; and the information that the district will ~~be maintained or~~ maintain and whether and how the district could ~~be shared.~~ disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed

2. Obtains the parties' voluntary~~, written~~ 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)

~~Written~~ Notice of Allegations

CSBA NOTE: The following section reflects the notice districts are required to provide to the parties pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

~~If~~ If the district initiates a formal ~~complaint is filed~~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. ~~The allegations potentially constituting sexual harassment with sufficient details known~~ Sufficient information, available at the time, ~~including~~ to allow the parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident ~~if known,~~(s), the conduct allegedly constituting ~~sexual~~sex discrimination, including sex-based harassment, and the date(s) and location(s) of the alleged incident ~~if known.~~

   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

~~1.~~ 4. A statement that the ~~respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process~~

~~2.~~ ~~The opportunity for the~~ parties are entitled to ~~have~~ an ~~advisor of their choice who may be, but is not required~~ equal opportunity to ~~be, an attorney, and the ability to inspect and review~~access the relevant and not otherwise impermissible evidence

~~3.~~ ~~The prohibition against knowingly making false statements~~ or ~~knowingly submitting false information during the complaint process~~an accurate description of such evidence, as specified

CSBA NOTE: The following paragraph is optional. Although not required by law, a best practice is to provide notice to the parties of the name of the investigator, facilitator, and ~~decision-~~

~~maker~~decisionmaker in order to give the parties an opportunity to raise concerns of conflict of interest or bias as prohibited by 34 CFR 106.45.

The above notice ~~shall~~may also include the name of the investigator, facilitator of an informal process, and ~~decision-maker~~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

CSBA NOTE: The following section reflects the district's authority to consolidate complaints of sex discrimination, including sex-based harassment, as specified in 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, when investigating a ~~formal~~ complaint, the burden of proof rests on the district and not on the parties. However, the district must obtain the party's voluntary, written consent to access, consider, disclose, or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, which are made and maintained in connection with the provision of treatment to the party.

~~34 CFR 106.45 authorizes, but does not require, the district to conduct a live hearing at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions. If the district chooses to include such a hearing as a component of its complaint procedure, the following list should be modified to include requirements for the hearing in accordance with 34 CFR 106.45.~~

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~~, including fact and expert 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

~~2.~~ 4. ~~Not~~ Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of ~~either party to discuss the allegations under investigation or to gather~~the parties to obtain and present ~~relevant~~ evidence

~~3. Provide the parties with the same opportunities to have others present during any grievance proceeding~~, including ~~the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney~~

~~4.~~ ~~Not limit the choice~~, by speaking to witnesses; consulting with family members, confidential resources, or ~~presence of an advisor~~advisors; or otherwise preparing for ~~either the complainant or respondent~~or participating in ~~any meeting or~~ the grievance ~~proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties~~ procedures

~~5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate~~

~~6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report~~

~~7.~~ 5. Objectively evaluate all evidence that is relevant ~~evidence~~and not otherwise impermissible, including both inculpatory and exculpatory evidence, ~~and determine~~ including that credibility ~~in a manner that is~~determinations will not be based on a ~~person's~~person's status as ~~a~~ complainant, respondent, or witness

~~8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response~~

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. ~~Questions and~~ Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the ~~complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are~~complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct ~~alleged by the complainant~~ or ~~if the questions and~~ is evidence ~~concern~~about specific incidents of the ~~complainant's~~complainant's prior sexual ~~behavior~~conduct with ~~respect to~~ the respondent ~~and are~~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.

CSBA NOTE: The following paragraph should be amended to reflect district practice regarding the process established to enable the decisionmaker to question parties and witnesses adequately to assess a party's or witness's credibility.

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)

~~Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.~~

CSBA NOTE: Districts with questions about the application of a collective bargaining agreement in the context of a Title IX investigation should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

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.

~~**Written Decision**~~

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The district should revise the following paragraph to reflect the timeline established by the district.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the person designated as the ~~decision-maker~~decisionmaker of the determination of responsibility ~~cannot~~may be the same person designated as the Title IX Coordinator~~, an~~ or designee and/or investigator, ~~or the person who considers appeals~~so long as there is no conflict of interest or bias. The following paragraph may be revised to reflect the position designated by the district to provide a written determination of responsibility. While designation decisions will depend on the size of the district, a best practice is to designate an upper-level administrator as the ~~decision-maker~~decisionmaker and designate the Superintendent as the person to consider appeals.

The Superintendent shall designate an employee as the ~~decision-maker~~decisionmaker to determine responsibility for the alleged conduct, who ~~shall not~~may be the Title IX Coordinator or ~~a person involved in~~ designee or the ~~investigation~~ investigator so long as there is no conflict of ~~the matter.~~interest or bias. (34 CFR 106.45)

~~After~~Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall: (34 CFR 106.45)

1. Use the ~~investigative report~~preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has ~~been sent to~~ occurred

2. Notify the parties ~~but before reaching a~~ in writing of the determination ~~regarding responsibility, the decision-maker~~of whether sex discrimination, including sex-based harassment, occurred

The notification shall ~~afford each party the opportunity~~ include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to ~~submit~~appeal, if applicable.

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The district should revise the following paragraph to reflect the timeline established by the district.

The written~~, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party~~

~~The decision-maker~~ decision shall ~~issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)~~be issued within ____ days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

Appeal of the Decision

~~CSBA NOTE: 34 CFR 106.45 requires that the district's complaint process include a "reasonably prompt" timeframe for concluding the complaint process, but does not specify the number of days within which the final decision must be issued. Districts may revise the following paragraph to~~

include a different timeline as long as it would satisfy the requirement to act promptly.CSBA NOTE: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision, and requires the district to offer the parties an appeal process that at a minimum is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints, such as AR 4030 – Nondiscrimination in Employment. The district may revise the following section to reflect applicable timelines and appeal process established by the district.

The following section should also be revised to identify the person who has been designated as the decisionmaker(s) for the appeal. Pursuant to 34 CFR 106.45, the decisionmaker for the appeal cannot be the same person as the decisionmaker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

CSBA NOTE: 34 CFR 106.45 mandates that the district's complaint procedures state whether the district's determination of responsibility will be based on a "preponderance of evidence" standard or "clear and convincing evidence" standard. The following paragraph reflects the "preponderance of evidence" standard, which is a less stringent standard to prove misconduct, and should be revised if the district chooses to use a "clear and convincing evidence" standard. The standard selected by the district must be applied uniformly for all Title IX sexual harassment complaints. The district should consult with legal counsel in determining which standard to use.

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30

2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process

3. Findings of fact supporting the determination

4. Conclusions regarding the application of the district's code of conduct or policies to the facts

5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant

6. The district's procedures and permissible bases for the complainant and respondent to appeal

~~Appeals~~

~~CSBA NOTE: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision. The district may revise the following section to reflect applicable timelines established by the district.~~

~~The following section should also be revised to identify the person who has been designated as the decision-maker(s) for the appeal. Pursuant to 34 CFR 106.45, the decision-maker for the appeal cannot be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.~~

~~Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)~~

1. ~~Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties~~

2. ~~Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator~~

3. ~~Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome~~

4. ~~Issue a written decision describing the result of the appeal and the rationale for the result~~

5. ~~Provide the written decision simultaneously to both parties~~

~~An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.~~

~~A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.~~

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.

~~Remedies~~Extension of Timelines

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to 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.

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~~CSBA NOTE: 34 CFR 106.45 mandates that the district's Title IX complaint process list, or describe the range of possible remedies that the district may implement following any determination of responsibility. The following section may be revised to reflect district practice.~~

~~When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent.~~

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 ~~sexual~~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.

~~**Record-Keeping**~~

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

~~1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if~~

~~applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom.~~

~~2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the district's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances.~~

~~All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s),~~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

CSBA NOTE: The following paragraph reflects Title IX record-keeping requirements pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474.

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~~.~~

~~3.~~ The district shall make such training materials ~~publicly available on its web site, or if the district does not maintain a web site,~~ 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 Procedure340.1):

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:
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State	**Description**
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 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-~~262.4~~4270	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	**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
Management Resources	**Description**
Court Decision	Reese v. Jefferson School District (~~2001~~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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Department of Justice, Federal Bureau of Investigation Publication	National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	CSBA
Website	California Department of Education
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Department of Justice, Federal Bureau of Investigation (https://www.justice.gov/doj/federal-bureau-investigation)

Cross References

Code	Description
1313	Civility
3580	District Records
3580	District Records
3600	Consultants
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action

4118	Dismissal/Suspension/Disciplinary Action
4119.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4119.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4131	Staff Development
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4219.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4317.7	Employment Status Reports
4319.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4319.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment

Exhibit 4119.12-E(1): Title IX ~~Sexual~~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:** ~~10~~07/01/~~2020~~2024

~~CSBA NOTE: 34 CFR 106.8 requires the district to provide notice to employees, bargaining units, and job applicants of its policy prohibiting sexual harassment and its grievance procedures that provide for the prompt and equitable resolution of sexual harassment complaints. The following exhibit presents a sample notification that meets these requirements and may be modified to reflect district practice. For a sample notice for students and parents/guardians, see E 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

~~Pursuant to 34 CFR 106.8, the district must provide the Title IX Coordinator's contact information on its web site and in any employee handbook. In addition, state law (Education Code 231.5) requires that the district's sexual harassment policy be provided to employees at the beginning of the school year and when newly hired, displayed in district and school offices, and included in any publication that sets forth standards of employee conduct.~~

CSBA NOTE: 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires the district to provide notice to employees, bargaining units, and job applicants that the district does not discriminate on the basis of sex as required by Title IX; that inquiries about the application of Title IX may be referred to the district's Title IX Coordinator and/or to the U.S. Department of Education, Office for Civil Rights; the Title IX Coordinator's contact information; how to locate the district's policy prohibiting sex discrimination, including sex-based harassment, the district's grievance procedures that provide for the prompt and equitable resolution of sex discrimination and sex-based harassment complaints; how to report information about conduct that may constitute sex discrimination, including sex-based harassment; and how to make a complaint of sex discrimination, including sex-based harassment. The following exhibit presents a sample notification that meets these requirements.

Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, the notice is required to be prominently included on the district's website, and in each handbook, catalog, announcement, bulletin, and application that it makes available to employees, bargaining units, and job applicants. If necessary due to the format or size of any publication specified above, the Superintendent or designee may include in the publication a statement that the district prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the district's Title IX Coordinator, and provide the website location of the notice of nondiscrimination.

Additionally, Education Code 231.5 requires that the district's sexual harassment policy be provided to employees at the beginning of the school year and when newly hired, prominently displayed in

district and school offices, and included in any publication that sets forth standards of employee conduct.

NOTICE OF TITLE IX ~~SEXUAL HARASSMENT POLICY~~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.

~~Title IX requires a school~~The district is required, as specified in Title IX, to take ~~immediate~~prompt and ~~appropriate~~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.

CSBA NOTE: The district should enter the name/title and contact information of the district's Title IX Coordinator below. Such information should be consistent with the person/position identified in AR ~~5145.7 - Sexual~~4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment.

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 ~~sexual harassment, sexual assault, dating violence, domestic violence, and stalking~~sex-based harassment:

_____
(name and/or title/position)
_____
(address)
_____
(telephone number)
_____
(email address)

CSBA NOTE: The district may expand the following paragraph to include other means of contact or reporting methods available in the district, such as online submission forms or mobile applications.

Pursuant to 34 CFR 106.8, the district must provide notice to employees, bargaining units, and job applicants of the district's grievance procedures, and process, including how to report ~~or file a formal complaint of sexual~~conduct that may constitute sex discrimination ~~and/or,~~ including sex-based harassment, ~~and how the district will respond~~or file a complaint of sex discrimination, including sex-based harassment.

Any individual may report sex discrimination, including ~~sexual~~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 ~~sexual~~sex discrimination, including sex-based 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 ~~sexual~~sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see ~~BP/AR~~Board Policy/Administrative Regulation 4119.11/4219.11/4319.11 ~~-~~ ~~Sexual~~ Sex Discrimination and Sex-Based Harassment, and ~~AR~~Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~ Sex Discrimination and Sex-Based Harassment Complaint Procedures on the district's ~~web site~~ website at _____(insert website link)_____.

To inspect or obtain a copy of the district's ~~sexual~~ 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), ~~decision-maker~~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 ~~also~~ ~~publicly~~ available ~~on the district's web site or~~ at the district office upon request.

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U.S. Department of Justice, Federal Bureau of Investigation Publication	National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)

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4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment

Policy 4219.11: ~~Sexual~~Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 12/01/2015 | **Last Revised Date:** ~~10~~07/01/~~2020~~2024 | **Last Reviewed Date:** ~~10~~07/01/~~2020~~2024

~~CSBA NOTE: Education Code 231.5, 2 CCR 11023, and 34 CFR 106.8 mandate the district to have a written policy on sexual harassment. As part of this mandate, the district also should adopt a sexual harassment policy related to students; see BP/AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

~~Sexual harassment is prohibited pursuant to~~CSBA NOTE: Sex discrimination and sex-based harassment are prohibited by Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17) and/or Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82), as well as the California Fair Employment and Housing Act (Government Code 12900-12996).

Education Code 231.5, 2 CCR 11023, and 34 CFR 106.8 **mandate** that districts have a written policy prohibiting sex discrimination and sex-based harassment against employees. As part of this mandate, districts are also required to adopt a written policy prohibiting sex discrimination and sex-based harassment against students; see BP/AR 5145.7 – Sex Discrimination and Sex-Based Harassment and AR 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. **Reg.** ~~Whether~~33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint ~~of sexual harassment is addressed through federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed.~~ based on ~~30026, or procedures adopted pursuant to 2 CCR 11023 is dependent on whether~~ the alleged conduct ~~meets~~. As such a complaint may also fall within the ~~more stringent federal definition of sexual harassment or the state definition. In order to meet the applicable timelines, in some instances it may be necessary to review a~~ complaint ~~under both procedures concurrently. See the accompanying administrative regulation,~~ process as specified in AR 4030 ~~-~~– Nondiscrimination in Employment, ~~and AR~~ it is unclear whether districts would additionally be required to follow the procedures specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the process specified in AR 4030 – Nondiscrimination in Employment for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12~~/4219.12/4319.12 - Title IX Sexual~~ – Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to 2 CCR 11034, the district may be liable for ~~sexual~~sex-based harassment committed by a supervisor, coworker, or a third party. Pursuant to Government Code 12940, employers may also be held liable for ~~sexual~~sex-based harassment committed against their workers by clients, customers, or other third parties if they knew or should have known of the harassment and failed to take immediate and appropriate corrective action to stop the harassment.

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 ~~sexual~~sex discrimination, including sex-based harassment, as defined in the accompanying administrative regulation, in district programs and activities by and against district employees ~~and retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.~~.

CSBA NOTE: Pursuant to Education Code 220.1, as added by AB 1955 (Ch. 95, Statutes of 2024), a district, including a Governing Board member, may not retaliate or otherwise take 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 Education Code 220.1, 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.

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)

CSBA NOTE: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sex-based harassment cases. In *Department of Health Services v. Superior Court (McGinnis)*, the California Supreme Court outlined measures that may constitute mitigating factors in the assessment of damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing the policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The U.S. Supreme Court in *Burlington Industries v. Ellerth* held that, for certain claims under federal law, an employer may defend against sex-based harassment claims by proving that (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer. Additionally, in *Faragher v. City of Boca Raton*, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.

Pursuant to Government Code 12950.1, employers with five or more employees are required to

provide sex-based harassment training to supervisory and nonsupervisory employees which includes training in regard to sex discrimination. Additionally, Title IX, and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. ~~CSBA NOTE: Government Code 12940 clarifies that sexual harassment includes harassment based on sex, gender, pregnancy, childbirth, or related medical conditions.~~33474, requires specified training related to sex discrimination, including sex-based harassment, for all district employees, as well as additional training for (1) investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or terminate supportive measures, (2) facilitators of an informal resolution process, and (3) Title IX Coordinators and designees. See the accompanying administrative regulation for timelines and training requirements.

Items #1-4 below reflect the courts' guidance, Government Code 12950.1, and 34 CFR 106.8, and should be modified to reflect district practice.

~~Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.~~

~~CSBA NOTE: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sexual harassment cases. In Department of Health Services v. Superior Court (McGinnis), the California Supreme Court outlined measures that may constitute mitigating factors in the assessment of damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing the policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The U.S. Supreme Court in Burlington Industries v. Ellerth held that, for certain claims under federal law, an employer may defend against sexual harassment claims by proving that (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer.~~

~~Pursuant to Government Code 12950.1, as amended by SB 778 (Ch. 215, Statutes of 2019), employers with five or more employees are required to provide sexual harassment training to supervisory and nonsupervisory employees. See the accompanying administrative regulation for timelines and training requirements.~~

~~Items #1-4 below reflect the courts' guidance and Government Code 12950.1, and should be modified to reflect district practice.~~

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of ~~sexual~~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 ~~sexual~~sex discrimination and sex-based harassment policy to employees and others to whom the policy may apply

CSBA NOTE: Pursuant to Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, districts are required to provide a notice of nondiscrimination on the basis of sex, as specified below. For more information about the content and publication requirements for the notice of nondiscrimination, see AR 4030 – Nondiscrimination in Employment.

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

~~3.~~ 4. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures

~~4.~~ 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

CSBA NOTE: The following optional paragraph reflects a recommendation of the U.S. Equal Employment Opportunity Commission's informal guidance , "Promising Practices for Preventing Harassment," has been expanded to include sex discrimination, and may be revised to reflect district practice.

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 ~~the~~ harassment policy~~.~~(ies), complaint procedures, or training~~.~~ , as appropriate and in accordance with law.

~~**Sexual Harassment**~~

Reports and Complaints

CSBA NOTE: 34 CFR 106.8, as amended by ~~85~~89 Fed. Reg. ~~30026~~33474, requires the district to designate at least one employee to coordinate its responsibilities under Title IX, who must be referred to as the Title IX Coordinator. See the accompanying administrative regulation.

~~34 CFR 106.44, as added by 85 Fed. Reg. 30026, requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not unreasonable in light of the known circumstances and in compliance with Title IX regulations. 34 CFR 106.30, as added, defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. For this~~

~~reason, the district should train all employees regarding the reporting process.~~

~~In Faragher v. City of Boca Raton, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.~~

~~District employees who feel that they have been sexually harassed in the performance of their~~ Any district ~~responsibilities or who have knowledge of any incident of sexual harassment by or against another~~ employee ~~shall immediately report the incident to their direct supervisor, a district administrator, or the district's~~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. ~~Employees may bypass their supervisor in filing a complaint if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall~~ (34 CFR 106.2, 106.44)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, a district is required to respond promptly and effectively when it has knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment in its education program or activity. 34 CFR 106.44 further obligates a district to require its Title IX Coordinator to monitor the district's programs and activities for barriers to reporting information of such conduct and its employees to notify the Title IX Coordinator~~.~~ when they have such information. The following paragraph should be revised to reflect the district's timeline.

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 ~~AR~~Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures ~~or AR 4030 - Nondiscrimination in Employment, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of AR 4119.12/4219.12/4319.12 concurrently meets the requirements of AR 4030.~~

CSBA NOTE: ~~The~~ Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, when the Title IX Coordinator ~~shall~~is notified of conduct that reasonably may constitute sex discrimination, including sex-based harassment, the Title IX Coordinator is required to offer and coordinate supportive measures to the complainant ~~and~~ . Thus, districts should not wait to respond until a "formal" complaint is made. If the district has begun grievance procedures or offered an informal resolution process to the respondent, the Title IX Coordinator is required to offer and coordinate supportive measures to the respondent, as appropriate.

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)

CSBA NOTE: In addition to district discipline imposed on employees who engage in ~~sexual~~sex-based harassment, Government Code 12940 provides that such employees may be held personally liable in a court of law for any damage to the victim(s).

Upon investigation of a ~~sexual~~sex discrimination or sex-based harassment complaint, any district employee found to have engaged or participated in ~~sexual~~sex discrimination or sex-based harassment or to have aided, abetted, incited, compelled, or coerced another to commit ~~sexual~~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 UPDATE Service
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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	Description
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	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	**Description**
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
3429 CFR 106.1-106.91636	Nondiscrimination on the basis of sex in education programs or activitiesImplementation of the Pregnant Workers Fairness Act
34 CFR 106.511-106.6182	Nondiscrimination on the basis of sex in employment in education programprograms or activities
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	**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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	CSBA District and County Office of Education Legal Services
Website	California Civil Rights Department
Website	U.S. Department of Education, Office for Civil RightsCalifornia Department of Education

	(https://www.cde.ca.gov/)
Website	~~U.S. Equal Employment Opportunity Commission~~U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

Code	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
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 Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4119.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~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
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.22	Dress And Grooming
4231	Staff Development
4244	Complaints
4244	Complaints
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4317.7	Employment Status Reports
4319.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4319.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.22	Dress And Grooming
4344	Complaints
4344	Complaints
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.71	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5146	Married/Pregnant/Parenting Students

Regulation 4219.11: ~~Sexual~~Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 12/01/2016 | **Last Revised Date:** ~~10~~07/01/~~2020~~2024 | **Last Reviewed Date:** ~~10~~07/01/~~2020~~2024

CSBA NOTE: The following administrative regulation is **mandated** pursuant to Education Code 231.5 and includes reasonable steps for preventing the occurrence of discrimination and harassment as required pursuant to Government Code 12940 (California Fair Employment and Housing Act). The focus of this administrative regulation is on ~~sexual~~sex discrimination and sex-based harassment by and of employees. Pursuant to Government Code 12940 and 2 CCR 11009, interns, volunteers, and job applicants are entitled to the same protection against ~~sexual~~sex-based harassment as applicable to employees.

For information regarding steps the district is required to take to prevent sex discrimination related to ~~sexual~~lactation, see BP 4033 – Lactation Accommodation.

For information related to sex discrimination and sex-based harassment involving students, see BP/AR 5145.7 - ~~Sexual~~– Sex Discrimination and Sex-Based Harassment and AR 5145.71 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures. For information regarding steps the district is required to take to prevent sex discrimination related to a student's pregnancy or related condition pursuant to Title IX (20 USC 1681-1688) and its implementing regulation 34 CFR 106.40, as amended by 89 Fed. **Reg.** 33474, see BP 5146 – Married/Pregnant/Parenting Students.

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 ~~sexual~~sex discrimination and sex-based harassment ~~involving~~by and against district employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by ~~or against~~ a student.

Definitions

CSBA NOTE: The U.S. Equal Employment Opportunity Commission describes sex discrimination as treating someone differently because of that person's sex. Additionally, 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that sex discrimination for the purpose of Title IX includes discrimination on the basis of 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.

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.

CSBA NOTE: ~~Alleged conduct that meets the federal definition of sexual harassment in 34 CFR 106.30, as added by 85 Fed. A30026, requires investigation and resolution through Title IX regulations; see AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures.~~ Pursuant to 34 CFR 106.~~30, sexual~~2, sex-based harassment includes (1) a district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service under the district's education program or activity explicitly or impliedly conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct~~;~~, (2) "hostile environment harassment," defined as unwelcome sex-based conduct ~~determined by a reasonable person to be so severe, pervasive,~~that, based on the totality of the circumstance, is subjectively and objectively offensive and is so severe or pervasive that it ~~effectively~~ limits or denies a ~~person equal access to~~person's ability to participate in or benefit from the district's education program or activity~~;~~, or (3) sexual assault, dating violence, domestic violence, or stalking, as defined in ~~20 USC 1092 and~~ 34 ~~USC 12291)~~ CFR 106.2. Conduct that meets the definition of Title IX sex discrimination, including sex-based harassment, requires investigation and resolution through the Title IX grievance procedures; see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. ~~Conduct~~

34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that ~~does not meet~~sex-based harassment for the ~~definition~~purpose of Title IX includes harassment on the basis of sex stereotypes; sex characteristics; gender identity; sexual ~~harassment~~ orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related conditions; and, parental, marital, and family status. Additionally, in ~~34 CFR 106.30 shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment.~~

~~In~~ *Oncale v. Sundowner Offshore Services, Inc.*, the U.S. Supreme Court held that same-sex ~~sexual~~ harassment could be actionable under Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17).

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

   CSBA NOTE: Pursuant to 34 CFR 106.11, as amended by 89 Fed. Reg. 33474, Title IX grievance procedures are required for Title IX sex discrimination complaints, including sex-based harassment complaints, for conduct which occurs on or after August 1, 2024 under the district's education program or activity, which includes conduct alleged to be contributing to a hostile environment that occurred outside the district's education program or activity or outside the United States. Item #2 below reflects "hostile environment harassment" as defined by 34 CFR 106.2, as amended by 89 Fed. Reg. 33474.

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 ~~or not~~ 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.

~~For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which a district school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)~~

~~1. A district employee conditioning the provision of a district aid, benefit, or service on the person's participation in unwelcome sexual conduct~~

~~2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity~~

~~3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

Examples of ~~Sexual~~Sex Discrimination and Sex-Based Harassment

CSBA NOTE: Pursuant to Government Code 12940 and 34 CFR 106.11, the district may be held liable for ~~sexual~~sex-based harassment committed against employees by clients, customers, or other third parties if the district knew, or should have known, of the harassment and failed to take immediate and appropriate corrective action to stop the harassment. The following paragraph clarifies that ~~sexual~~sex-based harassment may include acts by supervisors, co-workers, or other parties and should be modified to reflect district practice.

Examples of actions that might constitute ~~sexual~~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 non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as ~~sexual~~sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for ~~sexual~~sex-based activity; ~~sexual~~sex-based jokes or stories; unwelcome ~~sexual~~sex-based slurs, epithets, threats, innuendoes~~,~~; derogatory comments~~, sexually~~; sex-based degrading descriptions~~,~~; or the spreading of ~~sexual~~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

CSBA NOTE: Pursuant to 34 CFR 106.8, districts that receive federal financial assistance are mandated to designate an employee to ensure district compliance with Title IX of the Education Amendments of 1972 and its implementing regulations. If the district has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over

those responsibilities and ensure the district's consistent compliance with its responsibilities under Title IX. The following paragraph specifies that the Title IX Coordinator will be the same person(s) designated to serve as the coordinator for nondiscrimination in employment pursuant to AR 4030 - Nondiscrimination in Employment. ~~Districts may modify this policy to designate separate district employees to serve these functions.~~

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX ~~of the Education Amendments of 1972~~ in accordance with ~~AR~~Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures, ~~as well as to~~ and oversee~~, investigate, and resolve sexual harassment~~ the district's response to discrimination complaints processed under ~~AR~~Administrative Regulation 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

_____
(title or position)
_____
(address)
_____
(telephone number)
_____
(email)

Training

CSBA NOTE: Government Code 12950.1~~, as amended by SB 778 (Ch. 215, Statutes of 2019),~~ requires districts with five or more employees to provide sexual harassment training and education to supervisory and nonsupervisory employees ~~by January 1, 2021 (or two years after a training provided in 2019) and~~ once every two years ~~thereafter. As amended~~. Additionally, Government Code 12950.1 requires that new nonsupervisory employees be provided the training within six months of hire, consistent with the requirement for all newly hired supervisors or employees promoted to a supervisory position. Compliance with this law does not insulate the district from any liability for harassment.

In addition, Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires that all employees receive training related to their duties under Title IX promptly upon hire or change of position that alters their duties under Title IX, and annually thereafter. The training provided to all employees is required to include the district's obligation to address sex discrimination, the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment, and the applicable notice and information requirements. 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires additional training for (1) 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, (2) facilitators of an informal resolution process, and (3) Title IX Coordinators and designees.

Governing Board members, as elected officials, are not usually considered "supervisors"; however,

since Board members have the authority to hire, reward, or discipline the Superintendent and other employees, Board members may also be required to receive ~~sexual~~sex-based harassment training. Districts should consult ~~with~~CSBA's District and County Office of Education Legal Services or district legal counsel to ensure that the appropriate individuals receive training.

The following section reflects sex discrimination and sex-based harassment training required for employees under both state and federal law.

The Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sex-based 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, ~~the type of training, and the name of the training provider.~~ ~~(2 CCR 11024)~~ type of training, and name of the training provider. (2 CCR 11024)

~~The Superintendent or designee shall notify employees that the district does not discriminate on the basis of sex as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, and that inquiries about the application of Title IX to the district may be referred to the district's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education.~~ ~~(34 CFR 106.8)~~

~~The district shall notify employees, bargaining units, and applicants for employment of the name or title, office address, email address, and telephone number of the district's Title IX Coordinator.~~ ~~(34 CFR 106.8)~~

~~A copy of the Board policy and this administrative regulation shall:~~

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

CSBA NOTE: As part of its responsibility to monitor district compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, as amended by SB 153 (Ch. 38, Statutes of 2024), the California Department of Education is required to ensure that the district prominently and conspicuously displays its nondiscrimination policies in all areas that are accessible to, and commonly frequented by, school site employees, students, and members of the public at each school site and district office, including, but not limited to, in school office lobbies, staff lounges, student government meeting rooms, and on the district's website. Additionally, Title IX, and its implementing regulations, 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, require the district to provided notifications and take specified actions to prevent sex

discrimination, including sex-based harassment. For more information regarding measures to prevent discrimination, see AR 4030 – Nondiscrimination in Employment.

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)

~~4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the district's web site (34 CFR 106.8)~~

~~5. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to employees or employee organizations (34 CFR 106.8)~~

CSBA NOTE: Government Code 12950 requires the California Civil Rights Department (~~CCRD~~CRD) to develop an information sheet on employment discrimination and the illegality of sexual harassment and a poster regarding the rights of transgender employees. These documents are available on ~~CCRD's web site.~~CRD's website. This list has been modified to make it applicable to sex-based harassment in general, not just sexual harassment.

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

1. The illegality of ~~sexual~~sex-based harassment

2. The definition of ~~sexual~~sex-based harassment under applicable state and federal law

3. A description of ~~sexual~~sex-based harassment, with examples

4. The district's complaint process available to the employee

5. The legal remedies and complaint process available through ~~CCRD~~CRD and the Equal Employment Opportunity Commission (EEOC)

6. Directions on how to contact ~~CCRD~~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 ~~CCRD~~CRD and the EEOC

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

Complaint Procedures

CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in AR 4030 – Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the process specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the process specified in AR 4030 – Nondiscrimination in Employment for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

All complaints and allegations of ~~sexual~~sex discrimination and sex-based harassment by and against employees shall be investigated and resolved ~~in accordance with law and district procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 4030 - Nondiscrimination in Employment.~~ 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 ~~sexual~~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 ~~sexual~~sex discrimination or sex-based harassment, prevent recurrence, and address any continuing effects.

Policy Reference UPDATE Service
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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	Description
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	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	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
~~34~~29 CFR ~~106.1-106.9~~1636	~~Nondiscrimination on the basis of sex in education programs or activities~~Implementation of the Pregnant Workers Fairness Act
34 CFR 106.~~51~~1-106.~~61~~82	Nondiscrimination on the basis of sex in ~~employment in~~ education ~~program~~programs or activities
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	**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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	CSBA District and County Office of Education Legal Services
Website	California Civil Rights Department
Website	~~U.S. Department of Education, Office for Civil Rights~~California Department of Education (https://www.cde.ca.gov/)
Website	~~U.S. Equal Employment Opportunity Commission~~U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

Code	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
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 Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~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
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.22	Dress And Grooming
4231	Staff Development
4244	Complaints
4244	Complaints
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4317.7	Employment Status Reports
4319.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.22	Dress And Grooming

4344	Complaints
4344	Complaints
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.71	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5146	Married/Pregnant/Parenting Students

Regulation 4219.12: Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures

Status: ADOPTED

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

~~CSBA NOTE: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sexual harassment, and mandates that the district adopt and publish complaint procedures.~~

~~The following administrative regulation reflects the Title IX complaint procedure detailed in 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, which must be used, effective August 14, 2020, to address any complaint of sexual harassment that meets the definition in 34 CFR 106.30. Pursuant to 34 CFR 106.30, allegations of sexual harassment governed by these regulations include (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Alleged sexual harassment in employment that does not meet this definition should be addressed through the district's complaint procedures described in AR 4030 - Nondiscrimination in Employment.~~

~~34 CFR 106.44 requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not deliberately indifferent. 34 CFR 106.30 defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. A district is deliberately indifferent only if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.~~

~~Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving employees, the applicable collective bargaining agreement. Districts with questions about specific complaints are strongly encouraged to consult legal counsel.~~

~~Also see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment for information about prohibited conduct, training, required notifications, and processes for reporting sexual harassment.~~

CSBA NOTE: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sex-based harassment, and **mandates** that the district adopt and publish complaint procedures. The following administrative regulation reflects the Title IX grievance procedures detailed in 34 CFR 106.44-106.45, as amended by 89 Fed. Reg. 33474.

Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving

employees, the applicable collective bargaining agreement. Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in AR 4030 – Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the procedures specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult with CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the procedures specified in AR 4030 - Nondiscrimination in Employment for this purpose.

See AR 4030 – Nondiscrimination in Employment. Also see BP/AR 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment for information about prohibited conduct, training, required notifications, and processes for reporting sex discrimination and sex-based harassment.

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 ~~in which a district school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44)~~ , 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.

~~1. A district employee conditioning the provision of a district aid, benefit, or service on a person's participation in unwelcome sexual conduct~~

~~2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity~~

~~3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

~~All other sexual harassment complaints or allegations shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.~~

~~Because the complainant has a right to pursue a complaint under AR 4030 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for AR 4030 are concurrently met while implementing the Title IX procedure.~~

~~**Reporting Allegations/Filing a Formal Complaint**~~

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

CSBA NOTE: 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, requires that the district's grievance procedures follow specified basic requirements, which are reflected below.

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

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district may not disclose personally identifiable information obtained while complying with the Title IX complaint procedures, except as provided below.

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.

CSBA NOTE: Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, a "complaint" is defined as an oral or written request to the district that objectively can be understood as a request for the district to investigate and make a determination about alleged discrimination under Title IX.

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 106.2)

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)

~~CSBA NOTE: Pursuant to 34 CFR 106.30, the timeline for resolving a sexual harassment complaint begins when the district has actual knowledge of sexual harassment, defined as the receipt of a report by the Title IX Coordinator or other employee of an elementary or secondary school. The following paragraph reflects the requirement for any employee to forward the report to the Title IX Coordinator as stated in AR 4119.11/4219.11/4319.11 - Sexual Harassment and may be revised to reflect district practice.~~CSBA NOTE: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sex discrimination, including sex-based harassment, promptly and effectively, the Title IX Coordinator or designee should file a complaint even when the victim chooses not to do so, when, based on the considerations described below, the Title IX Coordinator or designee determines that a health or safety threat exists or when the district would be prevented from ensuring equal access based on sex in its programs or activities. In such cases, the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.

~~An employee who is~~ If the alleged victim chooses not to bring a complaint, or withdraws any or all of ~~sexual~~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 ~~may submit~~, would occur if a ~~report~~complaint is not initiated

4. The severity of ~~sexual~~the alleged sex discrimination or sex-based harassment ~~to the district's Title IX Coordinator using the contact~~, 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 ~~listed in AR 4119.11/4219.11/4319.11 - Sexual Harassment~~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 ~~employee's direct supervisor or other~~ district ~~administrator, who shall forward~~could end the ~~report to~~ alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX ~~Coordinator within one day of receiving the report.~~

~~Upon receiving such a report~~grievance procedures

If, after considering these factors, the Title IX Coordinator ~~shall inform~~determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant ~~of the right to file a formal complaint and the process for filing a formal complaint.~~

~~A formal complaint, with the complainant's physical or digital signature, may be filed with~~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 ~~in person,~~ may initiate a complaint.

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by ~~mail, by email, or by any other method authorized by the district. (34 CFR 106.30)~~89 Fed. Reg. 33474, the Title IX Coordinator or designee is required to take the steps described below upon initiating a complaint.

~~CSBA NOTE: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sexual harassment in a manner that is not deliberately indifferent, the Title IX Coordinator should file a complaint in certain situations even when the victim chooses not to do so, including, but not limited to, when a safety threat exists. In such cases, the Title IX Coordinator and the alleged victim are not named parties to the case, but the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.~~

~~Even if the alleged victim chooses not to file a formal~~ If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall ~~file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, 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~~ 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)

CSBA NOTE: Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, in addition to Title IX Coordinators or designees, investigators, and decisionmakers, persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures may not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent, and are required to receive specified training.

The Title IX Coordinator or designee, investigator, ~~decision-maker~~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.~~45~~8. (34 CFR 106.~~45~~)

~~**Supportive Measures**~~

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the Title IX Coordinator is required to monitor the district for barriers to reporting information about conduct that reasonably may constitute sex discrimination, including sex-based harassment, under Title IX, as specified below.

~~Upon receipt of a report of Title IX sexual~~ 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 ~~promptly contact the complainant to discuss the availability of supportive measures and shall consider~~monitor the ~~complainant's wishes with respect~~district for barriers to ~~the~~reporting and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

Supportive Measures

CSBA NOTE: 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, requires districts to offer and coordinate supportive measures ~~implemented. Supportive~~ as described below. Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, "supportive measures ~~shall be~~" are defined as individualized measures offered as appropriate, ~~as~~ reasonably available~~,~~ and without ~~charge to the~~ unreasonably burdening a complainant or ~~the~~ respondent ~~before~~, not for punitive or ~~after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and not unreasonably burden the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment.~~disciplinary reasons, and without charging a fee to the complainant or respondent to (1) restore or preserve the party's access to the district's education program or activity, including measures that are designed to protect the safety of the parties or the district's

educational environment, or (2) provide support during the recipients' grievance procedures specified in 34 CFR 106.45 or during any informal resolution process as specified in 34 CFR 106.44.]

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~~, and~~; monitoring of certain areas of the campus~~.~~ ~~(34 CFR 106.30, 106.44)~~

~~The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the~~ ; and, training and education programs related to sex-based harassment. (34 CFR 106.2, 106.44)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district's provision of supportive measures~~.~~ ~~(34 CFR 106.30)~~ does not require the district, its employees, or any other persons authorized to provide aid, benefit, or service on the district's behalf to alter the alleged discriminatory conduct for the purpose of providing the supportive measures unless there is an allegation of sex-based harassment or retaliation.

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)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district is required to provide both parties for whom supportive measures have been implemented with the opportunity to challenge, to an impartial employee, the implementation of such measures. An "impartial employee" must be someone other than the employee who made the decision to provide the supportive measures which are being challenged, but who has the authority to modify or reverse the decision if the employee determines that the decision to provide, deny, modify, or terminate the supportive measures was inconsistent with the definition of supportive measures as specified in 34 CFR 106.2.

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)

CSBA NOTE: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. ~~Districts should also note that~~Additionally, Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

34 CFR 106.44 allows a student to be removed in emergency situations as described below, but 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, requires that a student ~~should~~ not be "disciplined" prior to a finding being made pursuant to the Title IX grievance process ~~established by 34 CFR 106.45.~~. Due to this inconsistency in state and federal law, districts are advised to consult CSBA's District and County Office of Education Legal Services of district legal counsel as to the manner of imposing an emergency removal.

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 ~~immediate~~imminent and serious threat to the ~~physical~~ health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the ~~student~~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 ~~Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)~~ IDEA or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

~~**Dismissal of Complaint**~~

~~The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed~~

by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)

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

Informal Resolution Process

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

Dismissal of Complaint

CSBA NOTE: The following section describes when the Title IX Coordinator or designee may dismiss a Title IX complaint and actions the Title IX Coordinator or designee is required to take when a complaint is dismissed pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance

procedures. The following paragraph should be revised to reflect the timeline established by the district.

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

CSBA NOTE: The following section reflects when the district may offer an informal resolution process, notification and consent requirements, criteria for the facilitator of the informal resolution process, and other required steps when an informal resolution process is implemented, as specified in 34 CFR 106.44, as amended by 89 Fed. Reg. 33474.

Additionally, 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, provides potential terms that may be included in an informal resolution agreement. Because such agreements will be fact-specific and reflective of sensitive topics, districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel when drafting informal resolution agreements.

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~~, and any consequences resulting~~; the inability to initiate or resume complaint procedures arising from ~~participating in~~ 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 ~~records~~the agreement would only be binding on the parties; and the information that the district will ~~be maintained or~~ maintain and whether and how the district could ~~be shared.~~ disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed

2. Obtains the parties' voluntary~~, written~~ 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)

~~Written~~ Notice of Allegations

CSBA NOTE: The following section reflects the notice districts are required to provide to the parties pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

~~If~~ If the district initiates a formal ~~complaint is filed~~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. ~~The allegations potentially constituting sexual harassment with sufficient details known~~ Sufficient information, available at the time, ~~including~~ to allow the parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident ~~if known,~~(s), the conduct allegedly constituting ~~sexual~~sex discrimination, including sex-based harassment, and the date(s) and location(s) of the alleged incident ~~if known.~~

   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

~~1.~~ 4. A statement that the ~~respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process~~

~~2.~~ ~~The opportunity for the~~ parties are entitled to ~~have~~ an ~~advisor of their choice who may be, but is not required~~ equal opportunity to ~~be, an attorney, and the ability to inspect and review~~access the relevant and not otherwise impermissible evidence

~~3.~~ ~~The prohibition against knowingly making false statements~~ or ~~knowingly submitting false information during the complaint process~~an accurate description of such evidence, as specified

CSBA NOTE: The following paragraph is optional. Although not required by law, a best practice is to provide notice to the parties of the name of the investigator, facilitator, and ~~decision-~~

~~maker~~decisionmaker in order to give the parties an opportunity to raise concerns of conflict of interest or bias as prohibited by 34 CFR 106.45.

The above notice ~~shall~~may also include the name of the investigator, facilitator of an informal process, and ~~decision-maker~~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

CSBA NOTE: The following section reflects the district's authority to consolidate complaints of sex discrimination, including sex-based harassment, as specified in 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, when investigating a ~~formal~~ complaint, the burden of proof rests on the district and not on the parties. However, the district must obtain the party's voluntary, written consent to access, consider, disclose, or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, which are made and maintained in connection with the provision of treatment to the party.

~~34 CFR 106.45 authorizes, but does not require, the district to conduct a live hearing at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions. If the district chooses to include such a hearing as a component of its complaint procedure, the following list should be modified to include requirements for the hearing in accordance with 34 CFR 106.45.~~

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~~, including fact and expert 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

~~2.~~ 4. ~~Not~~ Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of ~~either party to discuss the allegations under investigation or to gather~~the parties to obtain and present ~~relevant~~ evidence

~~3. Provide the parties with the same opportunities to have others present during any grievance proceeding~~, including ~~the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney~~

~~4.~~ ~~Not limit the choice~~, by speaking to witnesses; consulting with family members, confidential resources, or ~~presence of an advisor~~advisors; or otherwise preparing for ~~either the complainant or respondent~~or participating in ~~any meeting or~~ the grievance ~~proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties~~ procedures

~~5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate~~

~~6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report~~

~~7.~~ 5. Objectively evaluate all evidence that is relevant ~~evidence~~and not otherwise impermissible, including both inculpatory and exculpatory evidence, ~~and determine~~ including that credibility ~~in a manner that is~~determinations will not be based on a ~~person's~~person's status as ~~a~~ complainant, respondent, or witness

~~8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response~~

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. ~~Questions and~~ Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the ~~complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are~~complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct ~~alleged by the complainant~~ or ~~if the questions and~~ is evidence ~~concern~~about specific incidents of the ~~complainant's~~complainant's prior sexual ~~behavior~~conduct with ~~respect to~~ the respondent ~~and are~~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.

CSBA NOTE: The following paragraph should be amended to reflect district practice regarding the process established to enable the decisionmaker to question parties and witnesses adequately to assess a party's or witness's credibility.

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)

~~Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.~~

CSBA NOTE: Districts with questions about the application of a collective bargaining agreement in the context of a Title IX investigation should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

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.

~~**Written Decision**~~

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The district should revise the following paragraph to reflect the timeline established by the district.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the person designated as the ~~decision-maker~~decisionmaker of the determination of responsibility ~~cannot~~may be the same person designated as the Title IX Coordinator~~, an~~ or designee and/or investigator, ~~or the person who considers appeals~~so long as there is no conflict of interest or bias. The following paragraph may be revised to reflect the position designated by the district to provide a written determination of responsibility. While designation decisions will depend on the size of the district, a best practice is to designate an upper-level administrator as the ~~decision-maker~~decisionmaker and designate the Superintendent as the person to consider appeals.

The Superintendent shall designate an employee as the ~~decision-maker~~decisionmaker to determine responsibility for the alleged conduct, who ~~shall not~~may be the Title IX Coordinator or ~~a person involved in~~ designee or the ~~investigation~~ investigator so long as there is no conflict of ~~the matter.~~interest or bias. (34 CFR 106.45)

~~After~~Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall: (34 CFR 106.45)

1. Use the ~~investigative report~~preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has ~~been sent to~~ occurred

2. Notify the parties ~~but before reaching a~~ in writing of the determination ~~regarding responsibility, the decision-maker~~of whether sex discrimination, including sex-based harassment, occurred

   The notification shall ~~afford each party the opportunity~~ include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to ~~submit~~appeal, if applicable.

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The district should revise the following paragraph to reflect the timeline established by the district.

The written~~, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party~~

~~The decision-maker~~ decision shall ~~issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)~~be issued within ____ days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

Appeal of the Decision

~~CSBA NOTE: 34 CFR 106.45 requires that the district's complaint process include a "reasonably prompt" timeframe for concluding the complaint process, but does not specify the number of days within which the final decision must be issued. Districts may revise the following paragraph to~~

include a different timeline as long as it would satisfy the requirement to act promptly.CSBA NOTE: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision, and requires the district to offer the parties an appeal process that at a minimum is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints, such as AR 4030 – Nondiscrimination in Employment. The district may revise the following section to reflect applicable timelines and appeal process established by the district.

The following section should also be revised to identify the person who has been designated as the decisionmaker(s) for the appeal. Pursuant to 34 CFR 106.45, the decisionmaker for the appeal cannot be the same person as the decisionmaker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

CSBA NOTE: 34 CFR 106.45 mandates that the district's complaint procedures state whether the district's determination of responsibility will be based on a "preponderance of evidence" standard or "clear and convincing evidence" standard. The following paragraph reflects the "preponderance of evidence" standard, which is a less stringent standard to prove misconduct, and should be revised if the district chooses to use a "clear and convincing evidence" standard. The standard selected by the district must be applied uniformly for all Title IX sexual harassment complaints. The district should consult with legal counsel in determining which standard to use.

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30

2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process

3. Findings of fact supporting the determination

4. Conclusions regarding the application of the district's code of conduct or policies to the facts

5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant

6. The district's procedures and permissible bases for the complainant and respondent to appeal

~~Appeals~~

~~CSBA NOTE: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision. The district may revise the following section to reflect applicable timelines established by the district.~~

~~The following section should also be revised to identify the person who has been designated as the decision-maker(s) for the appeal. Pursuant to 34 CFR 106.45, the decision-maker for the appeal cannot be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.~~

~~Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)~~

1. ~~Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties~~

2. ~~Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator~~

3. ~~Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome~~

4. ~~Issue a written decision describing the result of the appeal and the rationale for the result~~

5. ~~Provide the written decision simultaneously to both parties~~

~~An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.~~

~~A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.~~

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.

~~Remedies~~Extension of Timelines

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to 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.

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~~CSBA NOTE: 34 CFR 106.45 mandates that the district's Title IX complaint process list, or describe the range of possible remedies that the district may implement following any determination of responsibility. The following section may be revised to reflect district practice.~~

~~When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent.~~

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 ~~sexual~~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.

~~**Record-Keeping**~~

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

~~1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if~~

~~applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom.~~

~~2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the district's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances.~~

~~All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s),~~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

CSBA NOTE: The following paragraph reflects Title IX record-keeping requirements pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474.

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~~.~~

~~3.~~ The district shall make such training materials ~~publicly available on its web site, or if the district does not maintain a web site,~~ 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 Procedure340.1):

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	**Description**
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 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-~~262.4~~4270	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	**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
Management Resources	**Description**
Court Decision	Reese v. Jefferson School District (~~2001~~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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Department of Justice, Federal Bureau of Investigation Publication	National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	CSBA
Website	California Department of Education
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Department of Justice, Federal Bureau of Investigation (https://www.justice.gov/doj/federal-bureau-investigation)

Cross References

Code	Description
1313	Civility
3580	District Records
3580	District Records
3600	Consultants
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action

4118	Dismissal/Suspension/Disciplinary Action
4119.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4119.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4131	Staff Development
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4219.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4317.7	Employment Status Reports
4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment

Exhibit 4219.12-E(1): Title IX ~~Sexual~~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:** ~~10~~07/01/~~2020~~2024

~~CSBA NOTE: 34 CFR 106.8 requires the district to provide notice to employees, bargaining units, and job applicants of its policy prohibiting sexual harassment and its grievance procedures that provide for the prompt and equitable resolution of sexual harassment complaints. The following exhibit presents a sample notification that meets these requirements and may be modified to reflect district practice. For a sample notice for students and parents/guardians, see E 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

~~Pursuant to 34 CFR 106.8, the district must provide the Title IX Coordinator's contact information on its web site and in any employee handbook. In addition, state law (Education Code 231.5) requires that the district's sexual harassment policy be provided to employees at the beginning of the school year and when newly hired, displayed in district and school offices, and included in any publication that sets forth standards of employee conduct.~~

CSBA NOTE: 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires the district to provide notice to employees, bargaining units, and job applicants that the district does not discriminate on the basis of sex as required by Title IX; that inquiries about the application of Title IX may be referred to the district's Title IX Coordinator and/or to the U.S. Department of Education, Office for Civil Rights; the Title IX Coordinator's contact information; how to locate the district's policy prohibiting sex discrimination, including sex-based harassment, the district's grievance procedures that provide for the prompt and equitable resolution of sex discrimination and sex-based harassment complaints; how to report information about conduct that may constitute sex discrimination, including sex-based harassment; and how to make a complaint of sex discrimination, including sex-based harassment. The following exhibit presents a sample notification that meets these requirements.

Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, the notice is required to be prominently included on the district's website, and in each handbook, catalog, announcement, bulletin, and application that it makes available to employees, bargaining units, and job applicants. If necessary due to the format or size of any publication specified above, the Superintendent or designee may include in the publication a statement that the district prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the district's Title IX Coordinator, and provide the website location of the notice of nondiscrimination.

Additionally, Education Code 231.5 requires that the district's sexual harassment policy be provided to employees at the beginning of the school year and when newly hired, prominently displayed in

district and school offices, and included in any publication that sets forth standards of employee conduct.

NOTICE OF TITLE IX ~~SEXUAL HARASSMENT POLICY~~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.

~~Title IX requires a school~~The district is required, as specified in Title IX, to take ~~immediate~~prompt and ~~appropriate~~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.

CSBA NOTE: The district should enter the name/title and contact information of the district's Title IX Coordinator below. Such information should be consistent with the person/position identified in AR ~~5145.7 - Sexual~~4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment.

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 ~~sexual harassment, sexual assault, dating violence, domestic violence, and stalking~~sex-based harassment:

_____
(name and/or title/position)
_____
(address)
_____
(telephone number)
_____
(email address)

CSBA NOTE: The district may expand the following paragraph to include other means of contact or reporting methods available in the district, such as online submission forms or mobile applications.

Pursuant to 34 CFR 106.8, the district must provide notice to employees, bargaining units, and job applicants of the district's grievance procedures, and process, including how to report ~~or file a formal complaint of sexual~~conduct that may constitute sex discrimination ~~and/or,~~ including sex-based harassment, ~~and how the district will respond~~or file a complaint of sex discrimination, including sex-based harassment.

Any individual may report sex discrimination, including ~~sexual~~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 ~~sexual~~sex discrimination, including sex-based 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 ~~sexual~~sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see ~~BP/AR~~Board Policy/Administrative Regulation 4119.11/4219.11/4319.11 ~~-~~ ~~Sexual~~ Sex Discrimination and Sex-Based Harassment, and ~~AR~~Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~ Sex Discrimination and Sex-Based Harassment Complaint Procedures on the district's ~~web site~~ website at _____(insert website link)_____.

To inspect or obtain a copy of the district's ~~sexual~~ 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), ~~decision-maker~~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 ~~also~~ ~~publicly~~ available ~~on the district's web site or~~ at the district office upon request.

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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	**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
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Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
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U.S. Department of Justice, Federal Bureau of Investigation Publication	National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)

Website	CSBA District and County Office of Education Legal Services
Website	CSBA
Website	California Department of Education
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Department of Justice, Federal Bureau of Investigation (https://www.justice.gov/doj/federal-bureau-investigation)

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4317.7	Employment Status Reports

4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment

Policy 4319.11: ~~Sexual~~Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 12/01/2015 | **Last Revised Date:** ~~10~~07/01/~~2020~~2024 | **Last Reviewed Date:** ~~10~~07/01/~~2020~~2024

~~CSBA NOTE: Education Code 231.5, 2 CCR 11023, and 34 CFR 106.8 mandate the district to have a written policy on sexual harassment. As part of this mandate, the district also should adopt a sexual harassment policy related to students; see BP/AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

~~Sexual harassment is prohibited pursuant to~~CSBA NOTE: Sex discrimination and sex-based harassment are prohibited by Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17) and/or Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82), as well as the California Fair Employment and Housing Act (Government Code 12900-12996).

Education Code 231.5, 2 CCR 11023, and 34 CFR 106.8 **mandate** that districts have a written policy prohibiting sex discrimination and sex-based harassment against employees. As part of this mandate, districts are also required to adopt a written policy prohibiting sex discrimination and sex-based harassment against students; see BP/AR 5145.7 – Sex Discrimination and Sex-Based Harassment and AR 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. **Reg.** ~~Whether~~33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint ~~of sexual harassment is addressed through federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed.~~ based on ~~30026, or procedures adopted pursuant to 2 CCR 11023 is dependent on whether~~ the alleged conduct ~~meets~~. As such a complaint may also fall within the ~~more stringent federal definition of sexual harassment or the state definition. In order to meet the applicable timelines, in some instances it may be necessary to review a~~ complaint ~~under both procedures concurrently. See the accompanying administrative regulation,~~ process as specified in AR 4030 ~~-~~– Nondiscrimination in Employment, ~~and AR~~ it is unclear whether districts would additionally be required to follow the procedures specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the process specified in AR 4030 – Nondiscrimination in Employment for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12~~/4219.12/4319.12 - Title IX Sexual~~ – Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to 2 CCR 11034, the district may be liable for ~~sexual~~sex-based harassment committed by a supervisor, coworker, or a third party. Pursuant to Government Code 12940, employers may also be held liable for ~~sexual~~sex-based harassment committed against their workers by clients, customers, or other third parties if they knew or should have known of the harassment and failed to take immediate and appropriate corrective action to stop the harassment.

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 ~~sexual~~sex discrimination, including sex-based harassment, as defined in the accompanying administrative regulation, in district programs and activities by and against district employees ~~and retaliatory behavior or action against any person who complains, testifies, or otherwise participates in the complaint process established for the purpose of this policy.~~.

CSBA NOTE: Pursuant to Education Code 220.1, as added by AB 1955 (Ch. 95, Statutes of 2024), a district, including a Governing Board member, may not retaliate or otherwise take 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 Education Code 220.1, 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.

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)

CSBA NOTE: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sex-based harassment cases. In *Department of Health Services v. Superior Court (McGinnis)*, the California Supreme Court outlined measures that may constitute mitigating factors in the assessment of damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing the policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The U.S. Supreme Court in *Burlington Industries v. Ellerth* held that, for certain claims under federal law, an employer may defend against sex-based harassment claims by proving that (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer. Additionally, in *Faragher v. City of Boca Raton*, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.

Pursuant to Government Code 12950.1, employers with five or more employees are required to

provide sex-based harassment training to supervisory and nonsupervisory employees which includes training in regard to sex discrimination. Additionally, Title IX, and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. ~~CSBA NOTE: Government Code 12940 clarifies that sexual harassment includes harassment based on sex, gender, pregnancy, childbirth, or related medical conditions.~~33474, requires specified training related to sex discrimination, including sex-based harassment, for all district employees, as well as additional training for (1) investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or terminate supportive measures, (2) facilitators of an informal resolution process, and (3) Title IX Coordinators and designees. See the accompanying administrative regulation for timelines and training requirements.

Items #1-4 below reflect the courts' guidance, Government Code 12950.1, and 34 CFR 106.8, and should be modified to reflect district practice.

~~Sexual harassment includes, but is not limited to, harassment that is based on the sex, gender, gender identity, gender expression, or sexual orientation of the victim and harassment based on pregnancy, childbirth, or related medical conditions.~~

~~CSBA NOTE: Federal and state courts have provided guidance that may help employers avoid liability or mitigate damages in sexual harassment cases. In Department of Health Services v. Superior Court (McGinnis), the California Supreme Court outlined measures that may constitute mitigating factors in the assessment of damages, including establishing anti-harassment policies, communicating those policies to employees, consistently enforcing the policies, preserving the confidentiality of employees who report harassment, and preventing retaliation against reporting employees. The U.S. Supreme Court in Burlington Industries v. Ellerth held that, for certain claims under federal law, an employer may defend against sexual harassment claims by proving that (1) reasonable care was exercised to prevent and promptly correct any sexually harassing behavior, and (2) the employee (victim) failed to take advantage of the preventive and corrective opportunities provided by the employer.~~

~~Pursuant to Government Code 12950.1, as amended by SB 778 (Ch. 215, Statutes of 2019), employers with five or more employees are required to provide sexual harassment training to supervisory and nonsupervisory employees. See the accompanying administrative regulation for timelines and training requirements.~~

~~Items #1-4 below reflect the courts' guidance and Government Code 12950.1, and should be modified to reflect district practice.~~

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of ~~sexual~~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 ~~sexual~~sex discrimination and sex-based harassment policy to employees and others to whom the policy may apply

CSBA NOTE: Pursuant to Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, districts are required to provide a notice of nondiscrimination on the basis of sex, as specified below. For more information about the content and publication requirements for the notice of nondiscrimination, see AR 4030 – Nondiscrimination in Employment.

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

~~3.~~ 4. Ensuring prompt, thorough, fair, and equitable investigation of complaints through the appropriate state and/or federal procedures

~~4.~~ 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

CSBA NOTE: The following optional paragraph reflects a recommendation of the U.S. Equal Employment Opportunity Commission's informal guidance , "Promising Practices for Preventing Harassment," has been expanded to include sex discrimination, and may be revised to reflect district practice.

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 ~~the~~ harassment policy~~.~~(ies), complaint procedures, or training~~.~~ , as appropriate and in accordance with law.

~~**Sexual Harassment**~~

Reports and Complaints

CSBA NOTE: 34 CFR 106.8, as amended by ~~85~~89 Fed. Reg. ~~30026~~33474, requires the district to designate at least one employee to coordinate its responsibilities under Title IX, who must be referred to as the Title IX Coordinator. See the accompanying administrative regulation.

~~34 CFR 106.44, as added by 85 Fed. Reg. 30026, requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not unreasonable in light of the known circumstances and in compliance with Title IX regulations. 34 CFR 106.30, as added, defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. For this~~

reason, the district should train all employees regarding the reporting process.

In Faragher v. City of Boca Raton, one of the factors relied on by the U.S. Supreme Court in finding liability for harassment by a supervisor was the failure of the policy to provide an assurance to its employees that harassing supervisors may be bypassed in registering complaints.

District employees who feel that they have been sexually harassed in the performance of their Any district responsibilities or who have knowledge of any incident of sexual harassment by or against another employee shall immediately report the incident to their direct supervisor, a district administrator, or the district'swho 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. Employees may bypass their supervisor in filing a complaint if the supervisor is the subject of the complaint. A supervisor or administrator who receives a harassment complaint shall (34 CFR 106.2, 106.44)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, a district is required to respond promptly and effectively when it has knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment in its education program or activity. 34 CFR 106.44 further obligates a district to require its Title IX Coordinator to monitor the district's programs and activities for barriers to reporting information of such conduct and its employees to notify the Title IX Coordinator. when they have such information. The following paragraph should be revised to reflect the district's timeline.

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 ARAdministrative Regulation 4119.12/4219.12/4319.12 - Title IX SexualSex Discrimination and Sex-Based Harassment Complaint Procedures or AR 4030 - Nondiscrimination in Employment, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of AR 4119.12/4219.12/4319.12 concurrently meets the requirements of AR 4030.

CSBA NOTE: The Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, when the Title IX Coordinator shallis notified of conduct that reasonably may constitute sex discrimination, including sex-based harassment, the Title IX Coordinator is required to offer and coordinate supportive measures to the complainant and . Thus, districts should not wait to respond until a "formal" complaint is made. If the district has begun grievance procedures or offered an informal resolution process to the respondent, the Title IX Coordinator is required to offer and coordinate supportive measures to the respondent, as appropriate.

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)

CSBA NOTE: In addition to district discipline imposed on employees who engage in ~~sexual~~sex-based harassment, Government Code 12940 provides that such employees may be held personally liable in a court of law for any damage to the victim(s).

Upon investigation of a ~~sexual~~sex discrimination or sex-based harassment complaint, any district employee found to have engaged or participated in ~~sexual~~sex discrimination or sex-based harassment or to have aided, abetted, incited, compelled, or coerced another to commit ~~sexual~~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 UPDATE Service
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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	Description
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	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	**Description**
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
3429 CFR 106.1-106.91636	Nondiscrimination on the basis of sex in education programs or activitiesImplementation of the Pregnant Workers Fairness Act
34 CFR 106.511-106.6182	Nondiscrimination on the basis of sex in employment in education programprograms or activities
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	**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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	CSBA District and County Office of Education Legal Services
Website	California Civil Rights Department
Website	U.S. Department of Education, Office for Civil RightsCalifornia Department of Education

	(https://www.cde.ca.gov/)
Website	~~U.S.~~ ~~Equal~~ ~~Employment~~ ~~Opportunity~~ ~~Commission~~U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

Code	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
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~~ ~~Sexual~~ ~~Harassment~~ ~~Complaint~~ ~~Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4119.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~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
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.22	Dress And Grooming
4231	Staff Development
4244	Complaints
4244	Complaints
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4317.7	Employment Status Reports
4319.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

4319.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.22	Dress And Grooming
4344	Complaints
4344	Complaints
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.71	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5146	Married/Pregnant/Parenting Students

Regulation 4319.11: ~~Sexual~~Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 12/01/2016 | **Last Revised Date:** ~~10~~07/01/~~2020~~2024 | **Last Reviewed Date:** ~~10~~07/01/~~2020~~2024

CSBA NOTE: The following administrative regulation is **mandated** pursuant to Education Code 231.5 and includes reasonable steps for preventing the occurrence of discrimination and harassment as required pursuant to Government Code 12940 (California Fair Employment and Housing Act). The focus of this administrative regulation is on ~~sexual~~sex discrimination and sex-based harassment by and of employees. Pursuant to Government Code 12940 and 2 CCR 11009, interns, volunteers, and job applicants are entitled to the same protection against ~~sexual~~sex-based harassment as applicable to employees.

For information regarding steps the district is required to take to prevent sex discrimination related to ~~sexual~~lactation, see BP 4033 – Lactation Accommodation.

For information related to sex discrimination and sex-based harassment involving students, see BP/AR 5145.7 - ~~Sexual~~– Sex Discrimination and Sex-Based Harassment and AR 5145.71 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures. For information regarding steps the district is required to take to prevent sex discrimination related to a student's pregnancy or related condition pursuant to Title IX (20 USC 1681-1688) and its implementing regulation 34 CFR 106.40, as amended by 89 Fed. **Reg.** 33474, see BP 5146 – Married/Pregnant/Parenting Students.

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 ~~sexual~~sex discrimination and sex-based harassment ~~involving~~by and against district employees, interns, volunteers, and job applicants, but shall not be used to resolve any complaint by ~~or against~~ a student.

Definitions

CSBA NOTE: The U.S. Equal Employment Opportunity Commission describes sex discrimination as treating someone differently because of that person's sex. Additionally, 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that sex discrimination for the purpose of Title IX includes discrimination on the basis of 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.

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.

CSBA NOTE: ~~Alleged conduct that meets the federal definition of sexual harassment in 34 CFR 106.30, as added by 85 Fed. A30026, requires investigation and resolution through Title IX regulations; see AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures.~~ Pursuant to 34 CFR 106.~~30, sexual~~2, sex-based harassment includes (1) a district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service under the district's education program or activity explicitly or impliedly conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct~~;~~, (2) "hostile environment harassment," defined as unwelcome sex-based conduct ~~determined by a reasonable person to be so severe, pervasive,~~that, based on the totality of the circumstance, is subjectively and objectively offensive and is so severe or pervasive that it ~~effectively~~ limits or denies a ~~person equal access to~~person's ability to participate in or benefit from the district's education program or activity~~;~~, or (3) sexual assault, dating violence, domestic violence, or stalking, as defined in ~~20 USC 1092 and~~ 34 ~~USC 12291)~~ CFR 106.2. Conduct that meets the definition of Title IX sex discrimination, including sex-based harassment, requires investigation and resolution through the Title IX grievance procedures; see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. ~~Conduct~~

34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that ~~does not meet~~sex-based harassment for the ~~definition~~purpose of Title IX includes harassment on the basis of sex stereotypes; sex characteristics; gender identity; sexual ~~harassment~~ orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related conditions; and, parental, marital, and family status. Additionally, in ~~34 CFR 106.30 shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment.~~

~~In~~ *Oncale v. Sundowner Offshore Services, Inc.*, the U.S. Supreme Court held that same-sex ~~sexual~~ harassment could be actionable under Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17).

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

   CSBA NOTE: Pursuant to 34 CFR 106.11, as amended by 89 Fed. Reg. 33474, Title IX grievance procedures are required for Title IX sex discrimination complaints, including sex-based harassment complaints, for conduct which occurs on or after August 1, 2024 under the district's education program or activity, which includes conduct alleged to be contributing to a hostile environment that occurred outside the district's education program or activity or outside the United States. Item #2 below reflects "hostile environment harassment" as defined by 34 CFR 106.2, as amended by 89 Fed. Reg. 33474.

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 ~~or not~~ 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.

~~For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which a district school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)~~

~~1. A district employee conditioning the provision of a district aid, benefit, or service on the person's participation in unwelcome sexual conduct~~

~~2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity~~

~~3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

Examples of ~~Sexual~~Sex Discrimination and Sex-Based Harassment

CSBA NOTE: Pursuant to Government Code 12940 and 34 CFR 106.11, the district may be held liable for ~~sexual~~sex-based harassment committed against employees by clients, customers, or other third parties if the district knew, or should have known, of the harassment and failed to take immediate and appropriate corrective action to stop the harassment. The following paragraph clarifies that ~~sexual~~sex-based harassment may include acts by supervisors, co-workers, or other parties and should be modified to reflect district practice.

Examples of actions that might constitute ~~sexual~~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 non-employee, include, but are not limited to:

1. Unwelcome verbal conduct such as ~~sexual~~sex-based flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for ~~sexual~~sex-based activity; ~~sexual~~sex-based jokes or stories; unwelcome ~~sexual~~sex-based slurs, epithets, threats, innuendoes~~,~~; derogatory comments~~, sexually~~; sex-based degrading descriptions~~,~~; or the spreading of ~~sexual~~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

CSBA NOTE: Pursuant to 34 CFR 106.8, districts that receive federal financial assistance are mandated to designate an employee to ensure district compliance with Title IX of the Education Amendments of 1972 and its implementing regulations. If the district has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over

those responsibilities and ensure the district's consistent compliance with its responsibilities under Title IX. The following paragraph specifies that the Title IX Coordinator will be the same person(s) designated to serve as the coordinator for nondiscrimination in employment pursuant to AR 4030 - Nondiscrimination in Employment. ~~Districts may modify this policy to designate separate district employees to serve these functions.~~

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX ~~of the Education Amendments of 1972~~ in accordance with ~~AR~~Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures, ~~as well as to~~ and oversee~~, investigate, and resolve sexual harassment~~ the district's response to discrimination complaints processed under ~~AR~~Administrative Regulation 4030 - Nondiscrimination in Employment. The Title IX Coordinator(s) may be contacted at:

_____
(title or position)
_____
(address)
_____
(telephone number)
_____
(email)

Training

CSBA NOTE: Government Code 12950.1~~, as amended by SB 778 (Ch. 215, Statutes of 2019),~~ requires districts with five or more employees to provide sexual harassment training and education to supervisory and nonsupervisory employees ~~by January 1, 2021 (or two years after a training provided in 2019) and~~ once every two years ~~thereafter. As amended~~. Additionally, Government Code 12950.1 requires that new nonsupervisory employees be provided the training within six months of hire, consistent with the requirement for all newly hired supervisors or employees promoted to a supervisory position. Compliance with this law does not insulate the district from any liability for harassment.

In addition, Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires that all employees receive training related to their duties under Title IX promptly upon hire or change of position that alters their duties under Title IX, and annually thereafter. The training provided to all employees is required to include the district's obligation to address sex discrimination, the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment, and the applicable notice and information requirements. 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires additional training for (1) 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, (2) facilitators of an informal resolution process, and (3) Title IX Coordinators and designees.

Governing Board members, as elected officials, are not usually considered "supervisors"; however,

since Board members have the authority to hire, reward, or discipline the Superintendent and other employees, Board members may also be required to receive ~~sexual~~sex-based harassment training. Districts should consult ~~with~~CSBA's District and County Office of Education Legal Services or district legal counsel to ensure that the appropriate individuals receive training.

The following section reflects sex discrimination and sex-based harassment training required for employees under both state and federal law.

The Superintendent or designee shall ensure that all employees receive training regarding sex discrimination and sex-based 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, ~~the type of training, and the name of the training provider.~~ ~~(2 CCR 11024)~~ type of training, and name of the training provider. (2 CCR 11024)

~~The Superintendent or designee shall notify employees that the district does not discriminate on the basis of sex as required by Title IX, that the Title IX nondiscrimination requirement extends to employment, and that inquiries about the application of Title IX to the district may be referred to the district's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)~~

~~The district shall notify employees, bargaining units, and applicants for employment of the name or title, office address, email address, and telephone number of the district's Title IX Coordinator. (34 CFR 106.8)~~

~~A copy of the Board policy and this administrative regulation shall:~~

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

CSBA NOTE: As part of its responsibility to monitor district compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, as amended by SB 153 (Ch. 38, Statutes of 2024), the California Department of Education is required to ensure that the district prominently and conspicuously displays its nondiscrimination policies in all areas that are accessible to, and commonly frequented by, school site employees, students, and members of the public at each school site and district office, including, but not limited to, in school office lobbies, staff lounges, student government meeting rooms, and on the district's website. Additionally, Title IX, and its implementing regulations, 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, require the district to provided notifications and take specified actions to prevent sex

discrimination, including sex-based harassment. For more information regarding measures to prevent discrimination, see AR 4030 – Nondiscrimination in Employment.

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)

~~4. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the district's web site (34 CFR 106.8)~~

~~5. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to employees or employee organizations (34 CFR 106.8)~~

CSBA NOTE: Government Code 12950 requires the California Civil Rights Department (~~CCRD~~CRD) to develop an information sheet on employment discrimination and the illegality of sexual harassment and a poster regarding the rights of transgender employees. These documents are available on ~~CCRD's web site.~~CRD's website. This list has been modified to make it applicable to sex-based harassment in general, not just sexual harassment.

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

1. The illegality of ~~sexual~~sex-based harassment

2. The definition of ~~sexual~~sex-based harassment under applicable state and federal law

3. A description of ~~sexual~~sex-based harassment, with examples

4. The district's complaint process available to the employee

5. The legal remedies and complaint process available through ~~CCRD~~CRD and the Equal Employment Opportunity Commission (EEOC)

6. Directions on how to contact ~~CCRD~~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 ~~CCRD~~CRD and the EEOC

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

Complaint Procedures

CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in AR 4030 – Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the process specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the process specified in AR 4030 – Nondiscrimination in Employment for this purpose. For more information regarding the Title IX grievance procedures, see AR 4119.12/4219.12/4319.12 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

All complaints and allegations of ~~sexual~~sex discrimination and sex-based harassment by and against employees shall be investigated and resolved ~~in accordance with law and district procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to AR 4030 - Nondiscrimination in Employment.~~ 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 ~~sexual~~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 ~~sexual~~sex discrimination or sex-based harassment, prevent recurrence, and address any continuing effects.

Policy Reference UPDATE Service
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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	Description
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	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	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
~~34~~29 CFR ~~106.1-106.9~~1636	~~Nondiscrimination on the basis of sex in education programs or activities~~Implementation of the Pregnant Workers Fairness Act
34 CFR 106.~~51~~1-106.~~61~~82	Nondiscrimination on the basis of sex in ~~employment in~~ education ~~program~~programs or activities
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	**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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Equal Employment Opportunity Com. Publication	Promising Practices for Preventing Harassment, November 2017
Website	CSBA District and County Office of Education Legal Services
Website	California Civil Rights Department
Website	~~U.S. Department of Education, Office for Civil Rights~~California Department of Education (https://www.cde.ca.gov/)
Website	~~U.S. Equal Employment Opportunity Commission~~U.S. Department of Education, Office for Civil Rights
Website	U.S. Equal Employment Opportunity Commission

Cross References

Code	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
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 Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~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
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.22	Dress And Grooming
4231	Staff Development
4244	Complaints
4244	Complaints
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4317.7	Employment Status Reports
4319.12	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.22	Dress And Grooming

4344	Complaints
4344	Complaints
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.7	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
5145.71	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	~~Title IX Sexual Harassment Complaint Procedures~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5146	Married/Pregnant/Parenting Students

Regulation 4319.12: Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures

Status: ADOPTED

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

~~CSBA NOTE: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sexual harassment, and mandates that the district adopt and publish complaint procedures.~~

~~The following administrative regulation reflects the Title IX complaint procedure detailed in 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, which must be used, effective August 14, 2020, to address any complaint of sexual harassment that meets the definition in 34 CFR 106.30. Pursuant to 34 CFR 106.30, allegations of sexual harassment governed by these regulations include (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Alleged sexual harassment in employment that does not meet this definition should be addressed through the district's complaint procedures described in AR 4030 - Nondiscrimination in Employment.~~

~~34 CFR 106.44 requires the district, when there is actual knowledge of sexual harassment, to respond promptly in a manner that is not deliberately indifferent. 34 CFR 106.30 defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of an elementary or secondary school. A district is deliberately indifferent only if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.~~

~~Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving employees, the applicable collective bargaining agreement. Districts with questions about specific complaints are strongly encouraged to consult legal counsel.~~

~~Also see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment for information about prohibited conduct, training, required notifications, and processes for reporting sexual harassment.~~

CSBA NOTE: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sex-based harassment, and **mandates** that the district adopt and publish complaint procedures. The following administrative regulation reflects the Title IX grievance procedures detailed in 34 CFR 106.44-106.45, as amended by 89 Fed. Reg. 33474.

Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving

employees, the applicable collective bargaining agreement. Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in AR 4030 – Nondiscrimination in Employment, it is unclear whether districts would additionally be required to follow the procedures specified in AR 4030 – Nondiscrimination in Employment. Due to this uncertainty, it is recommended that districts consult with CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the procedures specified in AR 4030 - Nondiscrimination in Employment for this purpose.

See AR 4030 – Nondiscrimination in Employment. Also see BP/AR 4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment for information about prohibited conduct, training, required notifications, and processes for reporting sex discrimination and sex-based harassment.

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 ~~in which a district school exercises substantial control over the context and respondent, was subjected to one or more of the following forms of sexual harassment: (34 CFR 106.30, 106.44)~~ , 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.

~~1. A district employee conditioning the provision of a district aid, benefit, or service on a person's participation in unwelcome sexual conduct~~

~~2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity~~

~~3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

~~All other sexual harassment complaints or allegations shall be investigated and resolved in accordance with AR 4030 - Nondiscrimination in Employment. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.~~

~~Because the complainant has a right to pursue a complaint under AR 4030 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for AR 4030 are concurrently met while implementing the Title IX procedure.~~

~~**Reporting Allegations/Filing a Formal Complaint**~~

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

CSBA NOTE: 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, requires that the district's grievance procedures follow specified basic requirements, which are reflected below.

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

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district may not disclose personally identifiable information obtained while complying with the Title IX complaint procedures, except as provided below.

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.

CSBA NOTE: Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, a "complaint" is defined as an oral or written request to the district that objectively can be understood as a request for the district to investigate and make a determination about alleged discrimination under Title IX.

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 106.2)

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)

~~CSBA NOTE: Pursuant to 34 CFR 106.30, the timeline for resolving a sexual harassment complaint begins when the district has actual knowledge of sexual harassment, defined as the receipt of a report by the Title IX Coordinator or other employee of an elementary or secondary school. The following paragraph reflects the requirement for any employee to forward the report to the Title IX Coordinator as stated in AR 4119.11/4219.11/4319.11 - Sexual Harassment and may be revised to reflect district practice.~~CSBA NOTE: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sex discrimination, including sex-based harassment, promptly and effectively, the Title IX Coordinator or designee should file a complaint even when the victim chooses not to do so, when, based on the considerations described below, the Title IX Coordinator or designee determines that a health or safety threat exists or when the district would be prevented from ensuring equal access based on sex in its programs or activities. In such cases, the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.

~~An employee who is~~ If the alleged victim chooses not to bring a complaint, or withdraws any or all of ~~sexual~~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 ~~may submit~~, would occur if a ~~report~~complaint is not initiated

4. The severity of ~~sexual~~the alleged sex discrimination or sex-based harassment ~~to the district's Title IX Coordinator using the contact~~, 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 ~~listed in AR 4119.11/4219.11/4319.11 - Sexual Harassment~~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 ~~employee's direct supervisor or other~~ district ~~administrator, who shall forward~~could end the ~~report to~~ alleged sex discrimination, including sex-based harassment, and prevent its recurrence without initiating the Title IX ~~Coordinator within one day of receiving the report.~~

   ~~Upon receiving such a report~~grievance procedures

If, after considering these factors, the Title IX Coordinator ~~shall inform~~determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant ~~of the right to file a formal complaint and the process for filing a formal complaint.~~

~~A formal complaint, with the complainant's physical or digital signature, may be filed with~~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 ~~in person,~~ may initiate a complaint.

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by ~~mail, by email, or by any other method authorized by the district. (34 CFR 106.30)~~89 Fed. Reg. 33474, the Title IX Coordinator or designee is required to take the steps described below upon initiating a complaint.

~~CSBA NOTE: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sexual harassment in a manner that is not deliberately indifferent, the Title IX Coordinator should file a complaint in certain situations even when the victim chooses not to do so, including, but not limited to, when a safety threat exists. In such cases, the Title IX Coordinator and the alleged victim are not named parties to the case, but the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.~~

~~Even if the alleged victim chooses not to file a formal~~ If the Title IX Coordinator initiates a complaint, the Title IX Coordinator shall ~~file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, 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~~ 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)

CSBA NOTE: Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, in addition to Title IX Coordinators or designees, investigators, and decisionmakers, persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures may not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent, and are required to receive specified training.

The Title IX Coordinator or designee, investigator, ~~decision-maker~~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.~~45~~8. (34 CFR 106.~~45~~)

~~**Supportive Measures**~~

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the Title IX Coordinator is required to monitor the district for barriers to reporting information about conduct that reasonably may constitute sex discrimination, including sex-based harassment, under Title IX, as specified below.

~~Upon receipt of a report of Title IX sexual~~ 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 ~~promptly contact the complainant to discuss the availability of supportive measures and shall consider~~monitor the ~~complainant's wishes with respect~~district for barriers to ~~the~~reporting and take steps reasonably calculated to address such barriers. (34 CFR 106.44, 106.45)

Supportive Measures

CSBA NOTE: 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, requires districts to offer and coordinate supportive measures ~~implemented. Supportive~~ as described below. Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, "supportive measures ~~shall be~~" are defined as individualized measures offered as appropriate, ~~as~~ reasonably available~~,~~ and without ~~charge to the~~ unreasonably burdening a complainant or ~~the~~ respondent ~~before~~, not for punitive or ~~after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and not unreasonably burden the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment.~~disciplinary reasons, and without charging a fee to the complainant or respondent to (1) restore or preserve the party's access to the district's education program or activity, including measures that are designed to protect the safety of the parties or the district's

educational environment, or (2) provide support during the recipients' grievance procedures specified in 34 CFR 106.45 or during any informal resolution process as specified in 34 CFR 106.44.]

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~~, and~~; monitoring of certain areas of the campus~~.~~ ~~(34 CFR 106.30, 106.44)~~

~~The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the~~ ; and, training and education programs related to sex-based harassment. (34 CFR 106.2, 106.44)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district's provision of supportive measures~~.~~ ~~(34 CFR 106.30)~~ does not require the district, its employees, or any other persons authorized to provide aid, benefit, or service on the district's behalf to alter the alleged discriminatory conduct for the purpose of providing the supportive measures unless there is an allegation of sex-based harassment or retaliation.

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)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district is required to provide both parties for whom supportive measures have been implemented with the opportunity to challenge, to an impartial employee, the implementation of such measures. An "impartial employee" must be someone other than the employee who made the decision to provide the supportive measures which are being challenged, but who has the authority to modify or reverse the decision if the employee determines that the decision to provide, deny, modify, or terminate the supportive measures was inconsistent with the definition of supportive measures as specified in 34 CFR 106.2.

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)

CSBA NOTE: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. ~~Districts should also note that~~Additionally, Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

34 CFR 106.44 allows a student to be removed in emergency situations as described below, but 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, requires that a student ~~should~~ not be "disciplined" prior to a finding being made pursuant to the Title IX grievance process ~~established by 34 CFR 106.45.~~. Due to this inconsistency in state and federal law, districts are advised to consult CSBA's District and County Office of Education Legal Services of district legal counsel as to the manner of imposing an emergency removal.

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 ~~immediate~~imminent and serious threat to the ~~physical~~ health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the ~~student~~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 ~~Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)~~ IDEA or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44)

~~**Dismissal of Complaint**~~

~~The Title IX Coordinator shall dismiss a formal complaint if the alleged conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer employed~~

by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)

Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)

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

Informal Resolution Process

When a formal complaint of sexual harassment is filed, the district may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility. The district shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)

The district may facilitate an informal resolution process provided that the district: (34 CFR 106.45)

Dismissal of Complaint

CSBA NOTE: The following section describes when the Title IX Coordinator or designee may dismiss a Title IX complaint and actions the Title IX Coordinator or designee is required to take when a complaint is dismissed pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance

procedures. The following paragraph should be revised to reflect the timeline established by the district.

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

CSBA NOTE: The following section reflects when the district may offer an informal resolution process, notification and consent requirements, criteria for the facilitator of the informal resolution process, and other required steps when an informal resolution process is implemented, as specified in 34 CFR 106.44, as amended by 89 Fed. Reg. 33474.

Additionally, 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, provides potential terms that may be included in an informal resolution agreement. Because such agreements will be fact-specific and reflective of sensitive topics, districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel when drafting informal resolution agreements.

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~~, and any consequences resulting~~; the inability to initiate or resume complaint procedures arising from ~~participating in~~ 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 ~~records~~the agreement would only be binding on the parties; and the information that the district will ~~be maintained or~~ maintain and whether and how the district could ~~be shared.~~ disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed

2. Obtains the parties' voluntary~~, written~~ 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)

~~Written~~ Notice of Allegations

CSBA NOTE: The following section reflects the notice districts are required to provide to the parties pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

~~If~~ If the district initiates a formal ~~complaint is filed~~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. ~~The allegations potentially constituting sexual harassment with sufficient details known~~ Sufficient information, available at the time, ~~including~~ to allow the parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident ~~if known,~~(s), the conduct allegedly constituting ~~sexual~~sex discrimination, including sex-based harassment, and the date(s) and location(s) of the alleged incident ~~if known.~~

   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

~~1.~~ 4. A statement that the ~~respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process~~

~~2.~~ ~~The opportunity for the~~ parties are entitled to ~~have~~ an ~~advisor of their choice who may be, but is not required~~ equal opportunity to ~~be, an attorney, and the ability to inspect and review~~access the relevant and not otherwise impermissible evidence

~~3.~~ ~~The prohibition against knowingly making false statements~~ or ~~knowingly submitting false information during the complaint process~~an accurate description of such evidence, as specified

CSBA NOTE: The following paragraph is optional. Although not required by law, a best practice is to provide notice to the parties of the name of the investigator, facilitator, and ~~decision-~~

~~maker~~decisionmaker in order to give the parties an opportunity to raise concerns of conflict of interest or bias as prohibited by 34 CFR 106.45.

The above notice ~~shall~~may also include the name of the investigator, facilitator of an informal process, and ~~decision-maker~~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

CSBA NOTE: The following section reflects the district's authority to consolidate complaints of sex discrimination, including sex-based harassment, as specified in 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, when investigating a ~~formal~~ complaint, the burden of proof rests on the district and not on the parties. However, the district must obtain the party's voluntary, written consent to access, consider, disclose, or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, which are made and maintained in connection with the provision of treatment to the party.

~~34 CFR 106.45 authorizes, but does not require, the district to conduct a live hearing at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions. If the district chooses to include such a hearing as a component of its complaint procedure, the following list should be modified to include requirements for the hearing in accordance with 34 CFR 106.45.~~

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~~, including fact and expert 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

~~2.~~ 4. ~~Not~~ Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of ~~either party to discuss the allegations under investigation or to gather~~the parties to obtain and present ~~relevant~~ evidence

~~3. Provide the parties with the same opportunities to have others present during any grievance proceeding~~, including ~~the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney~~

~~4.~~ ~~Not limit the choice~~, by speaking to witnesses; consulting with family members, confidential resources, or ~~presence of an advisor~~advisors; or otherwise preparing for ~~either the complainant or respondent~~or participating in ~~any meeting or~~ the grievance ~~proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties~~ procedures

~~5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate~~

~~6. Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report~~

~~7.~~ 5. Objectively evaluate all evidence that is relevant ~~evidence~~and not otherwise impermissible, including both inculpatory and exculpatory evidence, ~~and determine~~ including that credibility ~~in a manner that is~~determinations will not be based on a ~~person's~~person's status as ~~a~~ complainant, respondent, or witness

~~8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response~~

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. ~~Questions and~~ Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the ~~complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are~~complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct ~~alleged by the complainant~~ or ~~if the questions and~~ is evidence ~~concern~~about specific incidents of the ~~complainant's~~complainant's prior sexual ~~behavior~~conduct with ~~respect to~~ the respondent ~~and are~~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.

CSBA NOTE: The following paragraph should be amended to reflect district practice regarding the process established to enable the decisionmaker to question parties and witnesses adequately to assess a party's or witness's credibility.

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)

~~Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.~~

CSBA NOTE: Districts with questions about the application of a collective bargaining agreement in the context of a Title IX investigation should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

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.

~~**Written Decision**~~

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The district should revise the following paragraph to reflect the timeline established by the district.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the person designated as the ~~decision-maker~~decisionmaker of the determination of responsibility ~~cannot~~may be the same person designated as the Title IX Coordinator~~, an~~ or designee and/or investigator, ~~or the person who considers appeals~~so long as there is no conflict of interest or bias. The following paragraph may be revised to reflect the position designated by the district to provide a written determination of responsibility. While designation decisions will depend on the size of the district, a best practice is to designate an upper-level administrator as the ~~decision-maker~~decisionmaker and designate the Superintendent as the person to consider appeals.

The Superintendent shall designate an employee as the ~~decision-maker~~decisionmaker to determine responsibility for the alleged conduct, who ~~shall not~~may be the Title IX Coordinator or ~~a person involved in~~ designee or the ~~investigation~~ investigator so long as there is no conflict of ~~the matter.~~interest or bias. (34 CFR 106.45)

~~After~~Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall: (34 CFR 106.45)

1. Use the ~~investigative report~~preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has ~~been sent to~~ occurred

2. Notify the parties ~~but before reaching a~~ in writing of the determination ~~regarding responsibility, the decision-maker~~of whether sex discrimination, including sex-based harassment, occurred

The notification shall ~~afford each party the opportunity~~ include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to ~~submit~~appeal, if applicable.

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The district should revise the following paragraph to reflect the timeline established by the district.

The written~~, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party~~

~~The decision-maker~~ decision shall ~~issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)~~be issued within ____ days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

Appeal of the Decision

~~CSBA NOTE: 34 CFR 106.45 requires that the district's complaint process include a "reasonably prompt" timeframe for concluding the complaint process, but does not specify the number of days within which the final decision must be issued. Districts may revise the following paragraph to~~

include a different timeline as long as it would satisfy the requirement to act promptly.CSBA NOTE: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision, and requires the district to offer the parties an appeal process that at a minimum is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints, such as AR 4030 – Nondiscrimination in Employment. The district may revise the following section to reflect applicable timelines and appeal process established by the district.

The following section should also be revised to identify the person who has been designated as the decisionmaker(s) for the appeal. Pursuant to 34 CFR 106.45, the decisionmaker for the appeal cannot be the same person as the decisionmaker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

The written decision shall be issued within 60 calendar days of the receipt of the complaint.

The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)

CSBA NOTE: 34 CFR 106.45 mandates that the district's complaint procedures state whether the district's determination of responsibility will be based on a "preponderance of evidence" standard or "clear and convincing evidence" standard. The following paragraph reflects the "preponderance of evidence" standard, which is a less stringent standard to prove misconduct, and should be revised if the district chooses to use a "clear and convincing evidence" standard. The standard selected by the district must be applied uniformly for all Title IX sexual harassment complaints. The district should consult with legal counsel in determining which standard to use.

In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. (34 CFR 106.45)

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30

2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process

3. Findings of fact supporting the determination

4. Conclusions regarding the application of the district's code of conduct or policies to the facts

5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant

6. The district's procedures and permissible bases for the complainant and respondent to appeal

~~Appeals~~

~~CSBA NOTE: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision. The district may revise the following section to reflect applicable timelines established by the district.~~

~~The following section should also be revised to identify the person who has been designated as the decision-maker(s) for the appeal. Pursuant to 34 CFR 106.45, the decision-maker for the appeal cannot be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.~~

~~Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)~~

1. ~~Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties~~

2. ~~Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator~~

3. ~~Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome~~

4. ~~Issue a written decision describing the result of the appeal and the rationale for the result~~

5. ~~Provide the written decision simultaneously to both parties~~

~~An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.~~

~~A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.~~

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.

~~Remedies~~Extension of Timelines

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to 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.

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~~CSBA NOTE: 34 CFR 106.45 mandates that the district's Title IX complaint process list, or describe the range of possible remedies that the district may implement following any determination of responsibility. The following section may be revised to reflect district practice.~~

~~When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent.~~

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 ~~sexual~~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.

~~**Record-Keeping**~~

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

~~1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if~~

~~applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom.~~

~~2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the district's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances.~~

~~All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s),~~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

CSBA NOTE: The following paragraph reflects Title IX record-keeping requirements pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474.

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~~.~~

~~3.~~ The district shall make such training materials ~~publicly available on its web site, or if the district does not maintain a web site,~~ 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 Procedure340.1):

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 UPDATE Service
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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	**Description**
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 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-~~262.4~~4270	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	**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
Management Resources	**Description**
Court Decision	Reese v. Jefferson School District (~~2001~~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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Department of Justice, Federal Bureau of Investigation Publication	National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	CSBA
Website	California Department of Education
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Department of Justice, Federal Bureau of Investigation (https://www.justice.gov/doj/federal-bureau-investigation)

Cross References

Code	Description
1313	Civility
3580	District Records
3580	District Records
3600	Consultants
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action

4118	Dismissal/Suspension/Disciplinary Action
4119.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4119.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4131	Staff Development
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4219.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4317.7	Employment Status Reports
4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment

Exhibit 4319.12-E(1): Title IX ~~Sexual~~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:** ~~10~~07/01/~~2020~~2024

~~CSBA NOTE: 34 CFR 106.8 requires the district to provide notice to employees, bargaining units, and job applicants of its policy prohibiting sexual harassment and its grievance procedures that provide for the prompt and equitable resolution of sexual harassment complaints. The following exhibit presents a sample notification that meets these requirements and may be modified to reflect district practice. For a sample notice for students and parents/guardians, see E 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~

~~Pursuant to 34 CFR 106.8, the district must provide the Title IX Coordinator's contact information on its web site and in any employee handbook. In addition, state law (Education Code 231.5) requires that the district's sexual harassment policy be provided to employees at the beginning of the school year and when newly hired, displayed in district and school offices, and included in any publication that sets forth standards of employee conduct.~~

CSBA NOTE: 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires the district to provide notice to employees, bargaining units, and job applicants that the district does not discriminate on the basis of sex as required by Title IX; that inquiries about the application of Title IX may be referred to the district's Title IX Coordinator and/or to the U.S. Department of Education, Office for Civil Rights; the Title IX Coordinator's contact information; how to locate the district's policy prohibiting sex discrimination, including sex-based harassment, the district's grievance procedures that provide for the prompt and equitable resolution of sex discrimination and sex-based harassment complaints; how to report information about conduct that may constitute sex discrimination, including sex-based harassment; and how to make a complaint of sex discrimination, including sex-based harassment. The following exhibit presents a sample notification that meets these requirements.

Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, the notice is required to be prominently included on the district's website, and in each handbook, catalog, announcement, bulletin, and application that it makes available to employees, bargaining units, and job applicants. If necessary due to the format or size of any publication specified above, the Superintendent or designee may include in the publication a statement that the district prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the district's Title IX Coordinator, and provide the website location of the notice of nondiscrimination.

Additionally, Education Code 231.5 requires that the district's sexual harassment policy be provided to employees at the beginning of the school year and when newly hired, prominently displayed in

district and school offices, and included in any publication that sets forth standards of employee conduct.

NOTICE OF TITLE IX ~~SEXUAL HARASSMENT POLICY~~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.

~~Title IX requires a school~~The district is required, as specified in Title IX, to take ~~immediate~~prompt and ~~appropriate~~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.

CSBA NOTE: The district should enter the name/title and contact information of the district's Title IX Coordinator below. Such information should be consistent with the person/position identified in AR ~~5145.7 - Sexual~~4119.11/4219.11/4319.11 – Sex Discrimination and Sex-Based Harassment.

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 ~~sexual harassment, sexual assault, dating violence, domestic violence, and stalking~~sex-based harassment:

_____
(name and/or title/position)
_____
(address)
_____
(telephone number)
_____
(email address)

CSBA NOTE: The district may expand the following paragraph to include other means of contact or reporting methods available in the district, such as online submission forms or mobile applications.

Pursuant to 34 CFR 106.8, the district must provide notice to employees, bargaining units, and job applicants of the district's grievance procedures, and process, including how to report ~~or file a formal complaint of sexual~~conduct that may constitute sex discrimination ~~and/or,~~ including sex-based harassment, ~~and how the district will respond~~or file a complaint of sex discrimination, including sex-based harassment.

Any individual may report sex discrimination, including ~~sexual~~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 ~~sexual~~sex discrimination, including sex-based 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 ~~sexual~~sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see ~~BP/AR~~Board Policy/Administrative Regulation 4119.11/4219.11/4319.11 ~~-~~ ~~Sexual~~ Sex Discrimination and Sex-Based Harassment, and ~~AR~~Administrative Regulation 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~ Sex Discrimination and Sex-Based Harassment Complaint Procedures on the district's ~~web site~~ website at _____(insert website link)_____.

To inspect or obtain a copy of the district's ~~sexual~~ 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), ~~decision-maker~~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 ~~also~~ ~~publicly~~ available ~~on the district's web site or~~ at the district office upon request.

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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	Description
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 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-~~262.4~~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	**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

Management Resources	**Description**
Court Decision	Reese v. Jefferson School District (~~2001~~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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Department of Justice, Federal Bureau of Investigation Publication	National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)

Website	CSBA District and County Office of Education Legal Services
Website	CSBA
Website	California Department of Education
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Department of Justice, Federal Bureau of Investigation (https://www.justice.gov/doj/federal-bureau-investigation)

Cross References

Code	Description
1313	Civility
3580	District Records
3580	District Records
3600	Consultants
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4119.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4131	Staff Development
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4219.11	~~Sexual~~ ~~Harassment~~Sex Discrimination and Sex-Based Harassment
4317.7	Employment Status Reports

4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment
4319.11	~~Sexual Harassment~~Sex Discrimination and Sex-Based Harassment

Policy 5145.3: Nondiscrimination/Harassment

Status: ADOPTED

Original Adopted Date: 10/01/2014 **| Last Revised Date:** ~~10~~07/01/~~2023~~2024 **| Last Reviewed Date:** ~~10~~7/01/~~2023~~2024

CSBA NOTE: The following **mandated** policy reflects various provisions of state and federal law which prohibit discrimination against students in educational programs and activities based on certain actual or perceived characteristics of an individual. Education Code 220 prohibits discrimination based on disability, race, nationality, immigration status, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55. Government Code 11135 prohibits discrimination based on most of the foregoing characteristics and on sex, color, ancestry, age, medical condition, marital status, and an individual's genetic information. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination based on race, color, or national origin. Title IX (20 USC 1681-1688; 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474) prohibits discrimination based on sex~~,~~; sex stereotypes; sex characteristics; gender~~,~~; gender identity~~,~~; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation; and, parental, marital, and family status. The Age Discrimination Act of 1975 (42 USC 6101-6107) prohibits discrimination based on age. The Americans with Disabilities Act (ADA) (20 USC 12101-12213) and Section 504 (29 USC 794) prohibit discrimination based on disability. Education Code 260 gives the Governing Board primary responsibility for ensuring that district programs and activities are free from discrimination based on age or any of the characteristics listed in Education Code 220. ~~See also~~For more information regarding the requirement for district programs and activities to be free from discrimination, see BP 0410 - Nondiscrimination in District Programs and Activities.

~~Moreover, this sample Board~~For policy ~~and the accompanying administrative regulation reflect the statutory right of a transgender~~addressing student ~~to participate in sex-segregated educational programs and use facilities consistent with one's gender identity as specified in Education Code 221.5,~~ discrimination and sex-based harassment, see BP/AR 5145.7 – Sex Discrimination and ~~best practices based on existing state~~Sex-Based Harassment, and ~~federal law. Districts with questions about the rights of transgender~~for language regarding Title IX sex discrimination, including sex-based harassment, complaint procedures, see AR/E(1) 5145.71 – Title IX Sex Discrimination and ~~gender-nonconforming students should consult CSBA's District and County Office of Education Legal Services or district legal counsel. For more information on the rights of transgender students, see CSBA's, "Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools."~~ Sex-Based Harassment Complaint Procedures.

Education Code 234.1 **mandates** that districts adopt policy ~~as well as a process for~~ prohibiting discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics listed above, which applies to all acts related to school activity or school attendance occurring within a school ~~or~~ under the ~~authority~~jurisdiction of the district, ~~including discriminatory harassment, intimidation,~~ and ~~bullying, based on the foregoing characteristics.~~a process for receiving and investigating such complaints. The California Department of Education~~,~~ (CDE),

through its Federal Program Monitoring process, reviews districts' uniform complaint procedures (UCP) and other anti-discrimination policies and processes to ensure compliance with these requirements. In addition, the U.S. Department of Education's Office for Civil Rights (OCR) is responsible for the administrative enforcement of federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability, and age in programs and activities that receive federal financial assistance from the department, and requires the adoption of nondiscrimination policies and complaint procedures.

Education Code 234.1, as amended by AB 1078 (Ch. 229, Statute of 2023), also requires that the district's nondiscrimination policy include a statement that the policy applies to all acts ~~related to a school activity or school attendance and, as amended by AB 1078 (Ch. 229, Statute of 2023), all acts~~ of the Board and the Superintendent in enacting policies and procedures that govern the district. Education Code 234.1, as amended by AB 1078, contains similar language regarding the County Board of Education and the County Superintendent of Schools.

Education Code 243, as added by AB 1078, clarifies when it is unlawful discrimination for the Board to (1) refuse to approve the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library or (2) prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library. The Board may not refuse to approve such use on the basis that the material includes a study of the role and contributions of specified individuals or groups, unless the study of the role and contributions reflects adversely upon legally protected groups. Additionally, the Board may not prohibit such use on the basis that the study of the role and contributions contain inclusive or diverse perspectives.

In addition, the Board's action to ban or censor a textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction on any of the bases described above may also constitute unlawful discrimination pursuant to Education Code 220. And, pursuant to Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), the Board is prohibited 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 pursuant to Education Code 220. For more information regarding instructional materials adoption, see BP/AR/E(1) 6161.1 – Selection and Evaluation of Instructional materials, CSBA's publication, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," and corresponding Fact Sheet and Reference, and the California Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books."

OCR has clarified in several publications that conduct that occurs off campus may have an adverse effect on a student at school (e.g., create a "hostile environment" for the student). When that happens, the district has an obligation to investigate and to take steps to protect the student.

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.

CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status.

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~~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~~, marital status,~~; 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.

~~CSBA NOTE:~~ CSBA NOTE: OCR's May 2024 Dear Colleague Letter, "Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics," which expands and clarifies the U.S. Department of Education's 2023, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Schools," provides that Title VI's protections from race, color, and national origin discrimination extends to students who experience discrimination based on actual or perceived (1) shared ancestry or ethnic characteristics or (2) citizenship or residency in a country with a dominant religion or distinct religious identity. While Title VI does not protect individuals based solely on religious discrimination, it does apply to antisemitism and other forms of discrimination when based on shared ancestry or ethnic characteristics. The guidance includes clarifying examples regarding existing legal requirements under Title VI.

Additionally, OCR's November 2023 Dear Colleague Letter, "Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics," states that all students, including students who are or are perceived to be Jewish, Israeli, Muslim, Arab, or Palestinian, as well as students who come from, or are perceived to come from, all regions of the world, are entitled to a school environment free from discrimination based on race, color, or national origin. The Dear Colleague Letter provides that Title VI also protects students from discrimination which is based on (1) actual or perceived citizenship or residency in a country with a dominant religion or distinct religious identity, including Jewish, Muslim, Sikh, Hindu, Christian, and Buddhist students, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes, (2) a student's skin color, physical features, or style of dress that reflects both ethnic and religious traditions, and (3) where a student came from or is perceived to have come from. Discrimination based on a student's foreign accent, foreign name, or a student speaking a foreign language may also violate Title VI's prohibitions against discrimination.

OCR's August 2023 Dear Colleague Letter, "Race and School Programming," states that a district may not separate students based on race, but may include group discussions or activities that focus

on race as part of the curriculum, courses, or programs so long as access or participation is not permitted or limited based on race. ~~OCR~~OCR's guidance also provides that a school-sponsored program with emphasis on race, such as a student club, that is open to all students, typically would not violate Title VI solely because of its race-related theme.

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.

CSBA NOTE: In addition to the types of prohibited student conduct described above, unlawful discrimination includes different treatment of students with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services. See BP 0410 - Nondiscrimination in District Programs and Activities.

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.

CSBA NOTE: Unlawful discrimination may occur when disciplining students. OCR's guidance, "Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973," "Resource on Confronting Racial Discrimination in Student Discipline," and "Creating Inclusive and Nondiscriminatory School Environments for LGBTQI Students," address discrimination in the use of discipline based on disability, race, and gender expression.

For more information regarding student discipline, see BP/AR 5144 - Discipline, BP/AR 5144.1 - Suspension and Expulsion/Due Process, and AR 5144.2 - Suspension and Expulsion/Due Process (Students With Disabilities).

Because unlawful discrimination ~~may~~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).

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.

CSBA NOTE: Pursuant to Education Code 234.1 and 34 CFR 106.8, a district is required to publicize its nondiscrimination policies to the school community. ~~In addition~~Additionally, Education Code 234.1, as amended by SB 153, and 234.6 ~~requires~~require the district to make readily

accessible on its website its nondiscrimination, ~~sexual~~harassment, intimidation, bullying, sex-based harassment, suicide prevention, and other specified policies and information related to specified state and federal laws and resources. In addition, 34 CFR 104.8 requires districts to take "continuing steps" to notify students, parents/guardians, applicants for admission, and employees that it does not discriminate on the basis of disability in its education programs or activities.

For further information regarding specific posting requirements, see "Measures to Prevent Discrimination" in the accompanying administrative regulation.

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.

CSBA NOTE: Policies related to discrimination must be consistent with the First Amendment right to free speech. Education Code 48950 prohibits a district from subjecting a high school student to disciplinary sanctions solely on the basis of speech or other communication that would be constitutionally protected if engaged in outside of campus. However, Education Code 48950 also specifies that the law does not prohibit discipline for harassment, threats, or intimidation unless constitutionally protected. Whether such speech might be entitled to constitutional protection would be determined on a case-by-case basis, with consideration for the specific words used and the circumstances involved. ~~The district should~~It is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel as necessary.

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.

CSBA NOTE: The following paragraph may be revised to reflect district practice. Pursuant to Education Code 48900.5, as amended by AB 1165 (Ch. 22, Statutes of 2023), the district is

encouraged 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, in addition to the other measures specified in the following paragraph; see BP/AR 5131.2 – Bullying.

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.

~~CSBA NOTE: Education Code 234.1 requires that districts adopt a process~~CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow the Title IX grievance procedures when investigating and resolving the complaint. A complaint may also fall within the complaint process adopted by the district pursuant to Education Code 234.1 for receiving and investigating complaints of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying that is consistent with the district's UCP specified in 5 CCR 4600-4670. It is unclear whether districts would additionally be required to follow the UCP when investigating and resolving such a complaint. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the UCP for this purpose. For more information regarding the Title IX grievance procedures, see AR 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

~~All allegations~~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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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	Liability of parent or 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 48950	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
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment

Federal	Description
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 106.45~~	~~Grievance process for formal complaints of sexual harassment~~
34 CFR 106.81-106.82	~~Designation of coordinator; dissemination of policy, and adoption of grievance procedures~~Discrimination on the basis of sex; effectuating Title IX
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	Description
34 CFR 106.30	Discrimination on the basis of sex; definitions
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, April 2018
CA Office of the Attorney General Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024 (https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf)
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56)
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024 (https://www.csba.org/-

	/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558)
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-StateRoles.ashx?la=en&rev=f00baf9bd1af4844b94f99135ca65588)
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	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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
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	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, August 2013
U.S. DOE Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023 (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)

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 (https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf)
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Discrimination, including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023 (https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf)
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	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
U.S. DOE, Office for Civil Rights Publication	Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Race and School Programming, August 2023
~~U.S. DOE, Office for Civil Rights Publication~~	~~Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016~~
Website	CSBA District and County Office of Education Legal Services
Website	First Amendment Center
Website	California Interscholastic Federation (https://www.cifstate.org/landing/index)
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

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1240	Volunteer Assistance
1240	Volunteer Assistance
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1313	Civility
1340	Access To District Records
1340	Access To District Records
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3553	Free And Reduced Price Meals

3553	Free And Reduced Price Meals
3580	District Records
3580	District Records
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	Sex Discrimination and Sex-Based Harassment
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
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
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development

5000	Concepts And Roles
5030	Student Wellness
5111	Admission
5111	Admission
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
5116.2	Involuntary Student Transfers
5125	Student Records
5125	Student Records
5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
5125.3	Challenging Student Records
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.5	Vandalism And Graffiti
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.27	Food Allergies/Special Dietary Needs
5141.27	Food Allergies/Special Dietary Needs
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention

5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
5145.7	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
5145.71	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/Pregnant/Parenting Students
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6153	School-Sponsored Trips

6153	School-Sponsored Trips
6159.4	Behavioral Interventions For Special Education Students
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6163.1	Library Media Centers
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.2	Guidance/Counseling Services
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
7110	Facilities Master Plan

Regulation 5145.3: Nondiscrimination/Harassment

Status: ADOPTED

Original Adopted Date: 09/01/2016 **| Last Revised Date:** ~~12~~07/01/~~2021~~2024 **| Last Reviewed Date:** ~~12~~07/01/~~2021~~2024

CSBA NOTE: The following **mandated** administrative regulation provides measures that may be implemented by a district to comply with state and federal laws and regulations prohibiting unlawful discrimination at school or in school-sponsored or school-related activities, including discriminatory harassment, intimidation, and bullying, of any student 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, genetic information, or any other legally protected category or association with a person or group with one or more of these actual or perceived characteristics. 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Federal and state law also prohibit retaliation against those who engage in activity to protect civil rights.

5 CCR 4621 **mandates** the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying. ~~In addition~~Additionally, 34 CFR 106.8 and other federal regulations mandate districts that receive federal financial assistance to adopt procedures for the "prompt and equitable" resolution of student and employee discrimination complaints, including the designation of one or more responsible employees to ensure district compliance with federal laws and regulations governing the district's educational programs.

During the Federal Program Monitoring process, California Department of Education (CDE) staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for investigating complaints. The U.S. Department of Education's ~~(USDOE)~~ Office for Civil Rights (OCR) is the agency responsible for the administrative enforcement of federal antidiscrimination laws and regulations in programs and activities that receive federal financial assistance from the department. In reviewing a district's discrimination policies and procedures, OCR will examine whether the district has identified the employee(s) responsible for coordinating compliance with federal civil rights laws, including the investigation of complaints.

The following paragraph identifies the employee(s) designated to coordinate the district's efforts to comply with state and federal civil rights laws as the same person designated to ensure district compliance, and receive, investigate and resolve discrimination complaints under AR 1312.3 - Uniform Complaint Procedures. Districts may modify the following paragraph to designate different district employees to serve these functions. Note also that a district may designate more than one

employee to coordinate compliance and/or receive and investigate complaints, although each employee designated as a coordinator/compliance officer must be properly trained.

34 CFR 106.8~~, as amended by 85 Fed. 30026,~~ requires that the employee designated by the district to coordinate its responsibilities under Title IX be referred to as the Title IX Coordinator. ~~The~~If the district has more than one Title IX Coordinator ~~is responsible for receiving complaints~~, it must designate one of ~~sexual harassment and determining whether the complaint should be appropriately addressed through AR 1312.3 or the federal~~its Title IX ~~complaint procedures pursuant to 34 CFR 106.44-106.45. The~~Coordinators to retain ultimate oversight over those responsibilities and ensure the district's consistent compliance with its responsibilities under Title IX. It is recommended that the Title IX Coordinator ~~may~~ be the same person designated below and in AR 1312.3~~.~~ – Uniform Complaint Procedures, and, if the district wishes to separate out these responsibilities, for one individual to designate designees and maintain oversight. See AR 5145.7 - ~~Sexual~~Sex Discrimination and Sex-Based Harassment ~~and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~.

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~~Compliance Officer(s) specified in ~~AR~~Administrative Regulation 1312.3 - Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination ~~targeting a student, including discriminatory harassment, intimidation, or bullying, 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, genetic information, or any other legally protected status or association with a person or group with one or more of these actual or perceived characteristics. The coordinator/compliance officer~~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)

_____
(title or position)
_____
(address)
_____
(telephone number)
_____
(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:

CSBA NOTE: As part of its responsibility to monitor district compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, as amended by SB 153 (Ch. 38, Statutes of 2024), CDE is required to ensure that the district ~~posts~~prominently and conspicuously displays its nondiscrimination policies in all ~~schools, offices~~areas that are accessible to, and commonly frequented by, school site employees, students, and members of the public at each school site and district office, including, but not limited to, in school office lobbies, staff lounges, ~~and~~ student government meeting rooms~~.~~, and on the district's website.

In addition, federal regulations enforced by OCR require the district to notify students, parents/guardians, and employees of its policies prohibiting discrimination on the basis of sex (34 CFR 106.8~~, 106.9~~), disability (34 CFR 104.8 and 28 CFR 35.107), and age (34 CFR 110.25) and of related complaint procedures.

For additional notification requirements ~~specifically pertaining~~specific to ~~sexual~~sex discrimination and sex-based harassment, see BP/AR 5145.7 - ~~Sexual~~Sex Discrimination and Sex-Based Harassment.

1. Publicize the district's nondiscrimination policy and related complaint procedures, including the ~~coordinator/compliance officer's~~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

CSBA NOTE: Education Code 234.1, as amended by SB 153, and 234.6 requires a district to post its nondiscrimination policies on its ~~web site~~website as specified below. In addition to the policies listed below, if the district has a policy in regard to the prevention and response to hate violence, it is also required to be posted, and the following item should be modified accordingly. See BP 5145.9 - Hate-Motivated Behavior.

2. Post the district's policies and procedures prohibiting discrimination, harassment, student ~~sexual~~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 ~~web site~~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 ~~web site~~website in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)

CSBA NOTE: Education Code 221.61 requires districts and public schools to post on their ~~web sites~~websites information related to Title IX (20 USC 1681-1688). Education Code 234.6 requires districts to post the Title IX information required pursuant to 221.61 in a prominent location on the district's ~~web site~~website in a manner that is easily accessible to parents/guardians and students. Additionally, districts are required to provide a link to the Title IX information included on CDE's website pursuant to Education Code 221.6, in the same manner. A comprehensive list of rights based on the federal regulations implementing Title IX can be found in Education Code 221.8. A district that does not maintain a ~~web site~~website may comply by posting the information below on

the ~~web site~~website of its county office of education. A school without a ~~web site~~website may comply by posting the information on the ~~web site~~website of the district or county office of education.

4. Post in a prominent location on the district ~~web site~~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 ~~web sites~~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 ~~web site~~ 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~~Education's (CDE) ~~web site~~ website

CSBA NOTE: Item #5 is for districts that participate in the California Interscholastic Federation (CIF). In order to track racial discrimination, harassment, or hazing that occurs at high school sporting games or events, Education Code 33353, as amended by AB 1327 (Ch. 366, Statutes of 2023), requires a district that participates in CIF to post on its website, by April 1, 2025, a standardized incident form developed by CDE, including information on how to submit a completed incident form to the district. The district is required to submit information related to any completed standardized incident form to CDE, if requested.

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)

CSBA NOTE: Pursuant to Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, districts are required to provide a notice of nondiscrimination on the basis of sex, as specified below.

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.

~~5.~~ 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~~. Such resources shall be posted in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.5, 234.6)~~ (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)

~~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~~.~~

~~7.~~ 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~~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.

CSBA NOTE: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires school districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's 2003 , "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons~~.~~" Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on balancing four factors: (1) the number or proportion of LEP individuals likely to encounter or be served by the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient and costs. State law is more specific than federal law. Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.

~~8.~~ 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.

~~9.~~ 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 discrimination-free environment for all district students~~.~~

CSBA NOTE: Item #12 applies to districts that serve students in any of grades 7-12. Pursuant to Education Code 234.1, as amended by SB 153, a district is required to provide certificated school employees serving students in any of 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 as specified below.

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)

CSBA NOTE: Item #13 applies to districts that serve students in any of grades 7-12. Starting in the 2025-26 school year through the 2029-2030 school year, Education Code 218.3, as added by AB 5 (Ch. 220, Statutes of 2023), requires a district serving students in any of grades 7-12 to provide at least one hour of training annually to all teachers and certificated employees serving students in grades 7-12 which incorporates CDE's online training curriculum to support LGBTQ+ cultural competency. The district is required to maintain records documenting the date that each employee completed the training and the name of the entity that provided the training.

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

~~10.~~ 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)

CSBA NOTE: Item #~~11~~15 below may be revised to reflect district practice. In some situations, the district may need to provide assistance to a student to protect the student from harassment or bullying. Each situation will need to be analyzed to determine the most appropriate course of action to meet the needs of the student, based on the circumstances involved.

~~11.~~ 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~~.~~

~~**Enforcement of District Policy**~~

~~The Superintendent 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 students, 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 the district's policy and regulation regarding unlawful discrimination~~

4. Consistent with laws regarding the confidentiality of student and personnel records, communicating to students, parents/guardians, and the community the school's response plan to unlawful discrimination or harassment

5. Taking appropriate disciplinary action against students, employees, and anyone determined to have engaged in wrongdoing in violation of district policy, including any student who is found to have filed a complaint of discrimination that the student knew was not true

Process for Initiating and Responding to Complaints

CSBA NOTE: Education Code 234.1 requires that districts adopt a process for receiving and investigating complaints of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying. Such a process, which is required to be consistent with the uniform complaint procedures (UCP) specified in 5 CCR 4600-4670, must include (1) a requirement that school personnel who witness an act take immediate steps to intervene when safe to do so, (2) a timeline for investigating and resolving complaints, (3) an appeal process, and (4) translation of forms when required by Education Code 48985. In addition, federal regulations require districts to adopt procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25). OCR guidance on federal civil rights requirements notes that districts may have a responsibility to respond to notice of discrimination whether or not a formal complaint is filed.

Complaints of sexual harassment must be addressed through the federal Title IX complaint procedures established pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, if the alleged conduct meets the federal definition of sexual harassment. Pursuant to 34 CFR 106.30, sexual harassment includes (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Allegations that do not meet this definition should be addressed through the district's UCP. See BP/AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

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 officerCompliance 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 officerCompliance Officer, Title IX Coordinator, or principal, regardless of whether or not the alleged victim files a complaint.

CSBA NOTE: The following paragraph related to employee reporting of unlawful discrimination should be revised to reflect the district's timeline.

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 officerCompliance Officer, Title IX Coordinator, or principal within a school day,one workday, regardless of 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)

CSBA NOTE: Though a formal complaint must be in writing pursuant to 5 CCR 4600, the district's obligation to provide a safe school environment for its students overrides the need to comply with formalities. Thus, once the district receives notice of an incident, whether verbally or in writing, it is good practice to begin the investigation of the report and to take steps to stop any prohibited conduct and address any effect on students. The following paragraph reflects such practice.

Pursuant to 34 CFR 106.11 and ~~is consistent~~106.44, as amended by 89 Fed. Reg. 33474, a district with ~~OCR recommendation~~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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the scope of the UCP, it is unclear whether districts would additionally be required to follow the UCP. Due to this uncertainty, districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the UCP for this purpose. For more information regarding the Title IX grievance procedures, see AR 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the principal, Compliance Officer, or ~~compliance officer,~~ Title IX Coordinator, the principal , Compliance officer, or ~~compliance officer~~Title IX Coordinator shall notify the student or parent/guardian of the right to file a formal complaint in accordance with ~~AR~~Administrative Regulation 1312.3 - Uniform Complaint Procedures or, for complaints of ~~sexual~~sex discrimination, including sex-based harassment ~~that meet~~, the ~~federal~~ right to initiate the Title IX ~~definition, AR~~grievance procedures as specified in Administrative Regulation 5145.71 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures. Once notified verbally or in writing, the ~~compliance officer~~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~~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.

~~**Issues Unique to Intersex, Nonbinary, Transgender and Gender-Nonconforming Students**~~

~~CSBA NOTE: The terms and definitions used below are consistent with California law, case law, and generally accepted terms within academia and in publications issued by state and federal agencies such as CDE and OCR, including provisions in the California Gender Recognition Act that recognize three gender options, female, male, and nonbinary, and define "nonbinary" and other~~

related terms such as "intersex" and "transgender". In addition to consistency with the above, the definition of "gender identity" below is consistent with the Resolution Agreement between the Arcadia Unified School District, OCR, and the U.S. Department of Justice, Civil Rights Division, which defines "gender identity" as "one's internal sense of gender, which may be different from one's assigned sex, and which is consistently and uniformly asserted, or for which there is other evidence that the gender identity is sincerely held as part of the student's core identity."

The following section is also consistent with OCR's fact sheet "Supporting Intersex Students: A Resource for Students, Families, and Educators," issued in October 2021 and CDE's "Update FLASH #158, Guidance for Changing a Student's Gender in CALPADS," which provides guidance on changing a student's gender and/or legal name on the student's mandatory permanent record.

Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense, whether or not 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 or not 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, 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 which are prohibited in the district and which may constitute gender-based 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. Physically assaulting a student motivated by hostility toward the student because of the student's gender, gender identity, or gender expression

The district's uniform complaint procedures (AR 1312.3) or Title IX sexual harassment procedures (AR 5145.71), as applicable, shall be used to report and resolve complaints alleging discrimination against intersex, nonbinary, transgender, and gender-nonconforming students.

Examples of bases for complaints include, but are not limited to, the above list, as well as improper rejection by the district of a student's asserted gender identity, denial of access to facilities that correspond with a student's gender identity, improper disclosure of a student'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 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:

CSBA NOTE: Timelines included in items #1-2 below may be modified to reflect district practice.

Pursuant to state and federal law, a district has the responsibility to ensure a safe, nondiscriminatory school environment for all students and equal access to the educational program for intersex, nonbinary, transgender, or gender non-conforming students. As part of its obligation, the district must keep a student's private information, including a student's gender, gender identity, or gender expression, confidential. CDE's "School Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions," references a transgender student's informational privacy right under Article I, Section I of the California Constitution as protecting the student's gender identity from disclosure. However, CDE specifies that, pursuant to 34 CFR 99.36, disclosure of such information to appropriate parties is permitted in connection with an emergency, as necessary to protect the health or safety of the student or other individuals. Therefore, a district is required to take measures such as those specified in the following paragraph, to prevent unintentional release of students' private information and should contact legal counsel before disclosing a student's gender identity without the student's consent.

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. In any case, the district shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by the district pursuant to 34 CFR 99.31. 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 desire 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.

CSBA NOTE: Pursuant to Education Code 221.5, a district is required to permit a student to use facilities and participate in sex-segregated school programs and activities consistent with the student's gender identity, regardless of the gender listed on the student's educational records. In implementing state law, districts may review recommended practices in the USDOE's Office of Elementary and Secondary Education's Examples of Policies and Emerging Practices for Supporting Transgender Students. For more information on the rights of transgender students, see CSBA's Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against 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.

CSBA NOTE: Education Code 49062.5 and 49070 require districts to update a former student's records to change the student's name and/or gender as specified below. See AR 5125 - Student Records. Pursuant to 5 CCR 432, a district is required to maintain for each student a mandatory permanent student record that includes the student's legal name, sex, and other specified details. While 5 CCR 4910 refers to "sex" as the "biological condition or quality of being a female or male human being," it also defines "gender" to mean "sex," which includes "a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth." When responding to a request to change the gender or legal name of intersex, nonbinary, transgender, or gender non-conforming students, districts should be mindful of laws prohibiting gender-based discrimination. In CALPADS' "Update FLASH #158, Guidance for Changing a Student's Gender in CALPADS", CDE distinguishes the process for updating a student's legal name from the process for updating a student's gender. According to CDE, a district must receive formal documentation that a student's name has been legally changed before the student's recorded legal name may be changed in the student's mandatory permanent student record (official record). When documentation is not provided, CDE states the district should nonetheless update all other school records (unofficial records such as attendance sheets, report cards, and school identification) to reflect the name change. On the other hand, to change a student's gender in the student's official records, CDE states that there is no specific requirement regarding formal documentation or process that a district should review or require in determining the gender to be recorded in the official records. Pursuant to Education Code 49061, only a parent/guardian may authorize a change to a student's gender in the student's official record. The district should consult legal counsel in developing a policy in this regard.

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 district 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.

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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	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	Liability of parent or 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 48950	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
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment

Federal	**Description**
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 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.81-106.82	Designation of coordinator; dissemination of policy, and adoption of grievance proceduresDiscrimination on the basis of sex; effectuating Title IX
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	**Description**
34 CFR 106.30	Discrimination on the basis of sex; definitions
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, April 2018
CA Office of the Attorney General Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024 (https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf)
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56)
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558)
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-StateRoles.ashx?la=en&rev=f00baf9bd1af4844b94f99135ca65588)
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	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	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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
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	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, August 2013
U.S. DOE Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023 (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)
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 (https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf)
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Discrimination, including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023 (https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202311-discrimination-harassment-shared-ancestry.pdf)
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	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
U.S. DOE, Office for Civil Rights Publication	Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Race and School Programming, August 2023
~~U.S. DOE, Office for Civil Rights Publication~~	~~Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016~~
Website	CSBA District and County Office of Education Legal Services
Website	First Amendment Center
Website	California Interscholastic Federation (https://www.cifstate.org/landing/index)
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

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
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1114	District-Sponsored Social Media
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1240	Volunteer Assistance
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1312.1	Complaints Concerning District Employees

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1312.3	Uniform Complaint Procedures
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1312.4-E(2)	Williams Uniform Complaint Procedures
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4131	Staff Development

4212.6	Personnel Files
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5145.7	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
5145.7	Sex Discrimination and ~~Sexual~~Sex-Based Harassment

5145.71	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
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Policy 5145.7: ~~Sexual~~Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 03/01/2012 **| Last Revised Date:** ~~10~~07/01/~~2020~~2024 **| Last Reviewed Date:** ~~10~~07/01/~~2020~~2024

CSBA NOTE: Education Code 231.5 and 34 CFR 106.8 **mandate** the district to have written policies on ~~sexual~~sex discrimination and sex-based harassment. The following policy addresses sex discrimination and sex-based harassment ~~by and of~~against students in the school setting. As part of this mandate, the district should also adopt a ~~sexual~~sex discrimination and sex-based harassment policy related to employees; see BP/AR 4119.11/4219.11/4319.11 ~~-~~ ~~Sexual~~ – Sex Discrimination and Sex-Based Harassment and AR 4119.12/4219.12/4319.12 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Moreover, this Board policy and the accompanying administrative regulation reflect the right of a transgender student to participate in sex-segregated educational programs and use facilities consistent with one's gender identity, as specified in Education Code 221.5 and 34 CFR 106.31, as amended by 89 Fed. **Reg.** 33474, and best practices based on existing state and federal law.

Both federal law ~~(~~, Title IX of the Education Amendments of 1972~~)~~ (20 USC 1681-1688; 34 CFR 106.1-106.82~~)~~), and state law (Education Code 220, 231.5~~)~~), prohibit ~~sexual~~sex discrimination, including sex-based harassment and require districts to establish procedures for the prompt and equitable resolution of ~~sexual~~ sex discrimination, including sex-based harassment complaints. Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. **Reg.** ~~Whether~~33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint ~~is addressed through~~based on the ~~federal Title IX~~ alleged conduct. As such a complaint ~~procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed.~~ may also fall within ~~30026, or~~ the ~~state~~scope of the uniform complaint procedures ~~adopted pursuant to 5 CCR 4600-4670~~ (UCP) as specified in BP/AR 1312.3 – Uniform Complaint Procedures, it is ~~dependent on~~unclear whether ~~the alleged conduct meets~~districts would additionally be required to follow the process specified in BP/AR 1312.3 – Uniform Complaint Procedures. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the UCP for this purpose. For more ~~stringent federal definition or the state definition of sexual harassment. In order to meet~~information regarding the ~~applicable timelines, in some instances it may be necessary to review a complaint under both~~Title IX grievance procedures ~~concurrently. See the accompanying administrative regulation, BP/AR 1312.3 - Uniform Complaint Procedures, and~~ , see AR 5145.71 ~~-~~ – Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures.

34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status.

~~A~~ Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg, 33474, a district can be held liable for civil damages for ~~the sexual~~sex discrimination, including sex-based harassment of students pursuant to Title IX if the district ~~is found to have been "deliberately indifferent" in its response to known sexual~~has knowledge of conduct that reasonably may constitute sex-based harassment~~. Pursuant to 34 CFR 106.30, a district is deliberately indifferent if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.~~ in its education program or activity and does not respond promptly and effectively.

In addition to filing a private civil lawsuit, an alleged victim of ~~sexual~~sex discrimination, including sex-based harassment, may file a complaint with the California Department of Education (CDE) and/or the U.S. Department of Education's Office for Civil Rights (OCR), the federal agency responsible for administrative enforcement of federal laws and regulations that prohibit discrimination in programs and activities that receive federal financial assistance from the U.S. Department of Education.

The Governing Board is committed to maintaining a welcoming, safe, and supportive school environment that is free from ~~harassment and~~ discrimination~~.~~ and harassment. The Board prohibits~~,~~ at school or at school-sponsored or school-related activities, ~~sexual~~ 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.

CSBA NOTE: Districts are required to prohibit retaliation when a right or privilege secured by ~~anyone. The~~Title IX is interfered with, including when a person reports possible sex discrimination, made a sex-discrimination complaint, or participated or refused to participate in any way in the district's Title IX process. Pursuant to 34 CFR 106.71, as amended by 89 Fed. Reg. 33474, when the district has information about conduct that reasonably may constitute retaliation under Title IX, including peer retaliation, the district is required to respond to such conduct using the procedures used for other forms of sex discrimination as specified in 34 CFR 106.44 and 106.45; see AR/E(1) 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to Education Code 220.1, as added by AB 1955 (Ch. 95, Statutes of 2024), a district, including a Governing Board ~~also~~member, may not retaliate or otherwise take 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 Education Code 220.1, 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.

Additionally, the Board prohibits retaliatory behavior or action against any person who ~~reports, files a complaint~~complains or testifies about~~, or otherwise supports a complainant in alleging sexual~~ 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)

CSBA NOTE: ~~34 CFR 106.44, as added by 85 Fed.~~ The following two paragraphs relate~~30026, requires the district, when there is actual knowledge of sexual harassment in an education~~

~~program or activity,~~ to ~~respond promptly in a manner that is not unreasonable in light of the known circumstances. 34 CFR 106.30, as added, defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any~~student and employee ~~of an elementary or secondary school.~~ reporting of sex discrimination, including sex-based harassment. It is important to note that ~~a referral~~reporting to law enforcement and/or child protective services does not relieve a school district of its responsibility to investigate ~~the~~a complaint ~~as a matter~~ of sex discrimination, including sex-based harassment.

The district strongly encourages students who feel that they are being or have ~~been sexually harassed~~experienced sex discrimination, including sex-based harassment, on school grounds or at a school-sponsored or school-related activity ~~by another student,~~ or ~~an adult, or who have experienced~~ off-campus ~~sexual harassment that~~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.

CSBA NOTE: 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, requires a district to respond promptly and effectively when it has knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment in its education program or activity. 34 CFR 106.44 further obligates a district to require its Title IX Coordinator to monitor the district's programs and activities for barriers to reporting information of such conduct and its employees to notify the Title IX Coordinator when they have such information.

The following paragraph should be revised to reflect the district's timeline.

Any employee who receives a report or observes an incident of ~~sexual harassment~~ sex discrimination, including sex-based harassment, by or against a student in a district education program or activity shall ~~notify~~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 ~~AR 5145.71 - Title IX Sexual Harassment Complaint Procedures or BP/AR 1312.3 - Uniform Complaint Procedures, as applicable. Because a complaint or allegation that is dismissed or denied under the Title IX complaint procedure may still be subject to consideration under state law, the Title IX Coordinator shall ensure that any implementation of AR 5145.71 concurrently meets the requirements of BP/AR 1312.3.~~

~~The Title IX Coordinator shall offer supportive measures to the complainant and respondent, as deemed appropriate under the circumstances.~~Administrative Regulation 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

~~CSBA NOTE: Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires districts, beginning in the 2020-21 school year, to post the district's written policy on sexual harassment in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students.~~

~~Education Code 231.6, as added by AB 543 (Ch. 428, Statutes of 2019), requires districts serving students in grades 9-12 to create a poster that notifies students of the district's sexual harassment policy, and to display it prominently and conspicuously in each bathroom and locker room on campus.~~

~~Education Code 231.5, as amended by AB 543, requires the district to provide a copy of the district's sexual harassment policy as part of any orientation program conducted for new and continuing students.~~

~~Pursuant to 34 CFR 106.8, the district is required to notify students, parents/guardians, employees, and bargaining units of its policy to not discriminate on the basis of sex as well as its complaint procedures and processes, and to post this information in a prominent location on the district's web site and in student and staff handbooks.~~

~~Requirements related to the dissemination of the district's sexual harassment policy and procedures and best practices for reinforcing the policy are addressed in the accompanying administrative regulation.~~

~~The Superintendent or designee shall inform students and parents/guardians of the district's sexual harassment policy by disseminating it through parent/guardian notifications, publishing it on the district's web site, and including it in student and staff handbooks. All district staff shall be trained regarding the policy.~~

~~**Instruction/Information**~~

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, when the Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination, including sex-based harassment, the Title IX Coordinator is required to offer and coordinate supportive measures 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 the respondent, as appropriate.

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.

CSBA NOTE: 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires that all employees receive training related to their duties under Title IX promptly upon hire or change of position that alters their duties under Title IX, and annually thereafter. The training provided to all employees is required to include the district's obligation to address sex discrimination, the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment, and the applicable notice and information requirements. 34 CFR 106.8, as amended 89 Fed. Reg. 33474, requires additional training for (1) 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, (2) facilitators of an informal resolution process, and (3) Title IX Coordinators and designees.

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

CSBA NOTE: Pursuant to Education Code 231.7, as added by AB 1071 (Ch. 65, Statutes of 2023), CDE is required to make available on its website (1) resources on abuse, including sexual, emotional, and physical abuse, and teen dating violence prevention for professional learning purposes, (2) information about local and national hotlines and services for youth experiencing teen dating violence, and (3) other relevant materials for parents/guardians, and other caretakers of students.

The Superintendent or designee shall ensure that all district students receive age-appropriate information on ~~sexual~~sex discrimination and sex-based harassment. Such instruction and information shall include:

1. What acts and behavior constitute ~~sexual~~sex discrimination and sex-based harassment, including the fact that ~~sexual~~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 ~~sexual~~sex discrimination or sex-based harassment under any circumstance

3. Encouragement to report observed incidents of ~~sexual~~sex discrimination and sex-based harassment even when the alleged victim of the discrimination or harassment has not complained

CSBA NOTE: Where ~~sexual~~sex discrimination, or sex-based harassment or violence, occurs in the context of other possible rule violations, students may be reluctant to report ~~sexual harassment or violence.~~ such conduct. For example, a student who ~~is sexually harassed~~experiences sex-based harassment while away from school without permission may be reluctant to file a complaint if the student believes discipline will be imposed for the violation. As such, ~~item~~Item #4 below clarifies that any other rule violation will be addressed separately from the ~~sexual~~sex discrimination and/or sex-based harassment complaint in order to encourage students to report the harassment.

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 ~~sexual~~sex discrimination or sex-based harassment incident will be addressed separately and will not affect the manner in which the ~~sexual~~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 ~~sexual~~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 ~~sexual~~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 ~~sexual~~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 ~~sexual~~sex discrimination or sex-based harassment and/or other students during an investigation

Disciplinary Actions

CSBA NOTE: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for ~~sexual~~sex-based harassment. Education Code 48915(c) requires the Superintendent ~~ordesignee~~or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. ~~See~~For more information regarding suspension and expulsion, see AR 5144.1 - Suspension and Expulsion/Due Process and AR 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities).

When there is an allegation of Title IX sex discrimination, including sex-based harassment, 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, prohibits the district from imposing any disciplinary sanctions against a respondent for the allegedly discriminatory behavior until the grievance procedures are completed.

Upon completion of an investigation of ~~a sexual~~sex discrimination and/or sex-based harassment ~~complaint~~, any student found to have engaged in ~~sexual~~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 ~~a sexual~~sex discrimination and/or sex-based harassment ~~complaint~~, any employee found to have engaged in ~~sexual~~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

CSBA NOTE: Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, the district is required to keep the following records for at least seven years: (1) for each complaint of sex discrimination, including sex-based harassment, records documenting any informal resolution process implemented in accordance with 34 CFR 106.44 or grievance procedures implemented in accordance with 34 CFR 106.45, (2) for each notification the Title IX Coordinator receives of information about conduct that may reasonably constitute sex discrimination under Title IX, actions taken to fulfill the district's obligations as specified in 34 CFR 106.44, including supportive measures, and (3) all materials used to train district employees; the Title IX Coordinator and designees; 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; and any person who facilitates an informal resolution process.

~~In accordance with law and district policies and regulations, the Superintendent or designee shall maintain a record of all reported cases of sexual~~ 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.

Policy Reference UPDATE Service
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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	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	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 200-262.4	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
Ed. Code 35292.5	School restrooms; all-gender restrooms
Ed. Code 48900	Grounds for suspension or expulsion
Ed. Code 48900.2	Additional grounds for suspension or expulsion; sexual harassment
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49060-49079	Student records
Gov. Code 12950.1	Sexual harassment training

Federal	Description
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	**Description**
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 (2001, 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
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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
~~U.S. DOE, Office for Civil Rights~~California Department of Education Publication	~~Q&A on Campus Sexual Misconduct, September 2017~~California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019
U.S. DOE, Office for Civil Rights Publication	Sexual Harassment: It's Not Academic, September 2008
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

U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
~~U.S. DOE, Office for Civil Rights Publication~~	~~Dear Colleague Letter: Title IX Coordinators, April 2015~~
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
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)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3580	District Records
3580	District Records
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment

4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4131	Staff Development
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4219.11	Sex Discrimination and ~~Sexual~~Sex Harassment
4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4231	Staff Development
4317.7	Employment Status Reports
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
5125	Student Records
5125	Student Records
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.5	Vandalism And Graffiti
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting

5141.52	Suicide Prevention
5141.52	Suicide Prevention
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.71	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology

Regulation 5145.7: ~~Sexual~~Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 10/01/2014 **| Last Revised Date:** ~~10~~07/01/~~2020~~2024 **| Last Reviewed Date:** ~~10~~07/01/~~2020~~2024

CSBA NOTE: Education Code 231.5 and Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibit discrimination based on sex, including ~~sexual~~sex-based harassment, and **mandate** that the district adopt and publish complaint procedures. ~~Also~~For more information regarding Title IX complaint procedures, see AR 5145.71 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures.

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

~~CSBA NOTE: Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. For purposes of suspension and expulsion, Education Code 48900.2 defines sexual harassment as conduct, when considered from the perspective of a reasonable person of the same gender as the victim, that is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment for the victim; see AR 5144.1 - Suspension and Expulsion/Due Process. Conduct that meets the federal definition of sexual harassment in 34 CFR 106.30 (i.e., (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291) requires investigation and resolution through Title IX regulations; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.~~CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that sex discrimination includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Those provisions further clarify that sex-based harassment includes harassment on the basis of a sex stereotype, sex characteristic, any of the other specified bases, and when sex-based harassment may create a hostile environment.

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.

CSBA NOTE: Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. For purposes of suspension and expulsion, Education Code 48900.2 defines sexual harassment as conduct, when considered from the perspective of a reasonable person of the same gender as the victim, that is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment for the victim; see AR 5144.1 - Suspension and Expulsion/Due Process.

Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, sex-based harassment includes (1) a district employee, agent, or other individual authorized by the district to provide an aid, benefit, or service under the district's education program or activity explicitly or impliedly conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct, (2) "hostile environment harassment," defined as unwelcome sex-based conduct that, based on the totality of the circumstance, 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, or (3) sexual assault, dating violence, domestic violence, or stalking, as defined in 34 CFR 106.2.

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

   CSBA NOTE: Pursuant to 34 CFR 106.11, as amended by 89 Fed. Reg. 33474, Title IX grievance procedures are required for Title IX sex discrimination complaints, including sex-based harassment complaints, for conduct which occurs on or after August 1, 2024 under the district's education program or activity, which includes conduct alleged to be contributing to a hostile environment that occurred outside the district's education program or activity or outside the United States. Item #2 below reflects "hostile environment harassment" as defined by 34 CFR 106.2, as amended by 89 Fed. Reg. 33474.

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.

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sexual harassment in violation of district policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

For purposes of applying the complaint procedures specified in Title IX of the Education Amendments of 1972, sexual harassment is defined as any of the following forms of conduct that occurs in an education program or activity in which a district school exercises substantial control over the context and respondent: (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on the student's participation in unwelcome sexual conduct

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the district's education program or activity

3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291

Examples of Sexual Sex Discrimination and Sex-Based Harassment

CSBA NOTE: The following list contains common examples of sexual harassment from the U.S. Department of Education's Office for Civil Rights (OCR) January 2001 Revised Sexual Harassment

Guidance, which has been rescinded, and definitions specified in 5 CCR 4916. Some items on this list have been modified to make them applicable to sex-based harassment in general, not just sexual harassment.

Examples of types of conduct which are prohibited in the district and which may constitute ~~sexual~~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 ~~sexual~~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. ~~Sexual~~ Sex-based jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature

5. Spreading ~~sexual~~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

CSBA NOTE: Pursuant to 34 CFR 106.8, districts that receive federal financial assistance are mandated to designate an employee to ensure district compliance with Title IX and its implementing regulations. If the district has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over those responsibilities. The following paragraph specifies that the Title IX Coordinator will be the same person(s) designated to serve as the ~~compliance officer~~Compliance Officer(s) for the district's uniform complaint procedures (UCP).

pursuant to AR 1312.3 - Uniform Complaint Procedures. Districts may modify this regulation to designate separate district employees to serve these functions.

The district designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX ~~of~~ . The individual(s) shall also serve as the ~~Education Amendments of 1972~~Compliance Officer(s) specified in ~~accordance with AR 5145.71 - Title IX Sexual Harassment Complaint Procedures, as well as to oversee investigate, and/or resolve sexual harassment complaints processed under AR~~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:

_____
(title or position)
_____
(address)
_____
(telephone number)
_____
(email)

Notifications

~~The Superintendent or designee shall notify students and parents/guardians that the district does not discriminate on the basis of sex as required by Title IX and that inquiries about the application of Title IX to the district may be referred to the district's Title IX Coordinator and/or to the Assistant Secretary for Civil Rights, U.S. Department of Education. (34 CFR 106.8)~~

~~The district shall notify students and parents/guardians of the name or title, office address, email address, and telephone number of the district's Title IX Coordinator. (34 CFR 106.8)~~

~~A copy of the district's sexual harassment policy and regulation shall:~~

1. ~~Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)~~

CSBA NOTE: As part of its responsibility to monitor district compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, as amended by SB 153 (Ch. 38, Statutes of 2024), the California Department of Education (CDE) is required to ensure that the district prominently and conspicuously displays its nondiscrimination policies in all areas that are accessible to, and commonly frequented by, school site employees, students, and members of the public at each school site and district office, including, but not limited to, in school office lobbies, staff lounges, student government meeting rooms, and on the district's website. Additionally, Title IX, and its implementing regulations, 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, require the district to provide notifications and take specified actions to prevent sex discrimination, including sex-based harassment. For more information regarding measures to prevent discrimination, see AR 5145.3 – Nondiscrimination/Harassment.

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:

~~2.~~ 1. ~~Be~~ 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)

CSBA NOTE: Education Code 231.6~~, as added by AB 543 (Ch. 428, Statutes of 2019),~~ requires districts serving students in grades 9-12 to create a poster that notifies students of the district's sexual harassment policy, and to display it, as specified below. The district may partner with local, state, or federal agencies, or nonprofit organizations, for the purposes of the design and content of the poster.

~~3.~~ 2. ~~Be~~ 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 ~~a charge of~~ sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)

~~CSBA NOTE: Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires districts, beginning in the 2020-21 school year, to post on the district's web site the district's written policy on sexual harassment as well as other state and federal law requirements, in the manner specified below. 34 CFR 106.8 also requires districts that have web sites to prominently display the contact information for the Title IX Coordinator and the district's nondiscrimination policy on its web site.~~

~~3. Be posted, along with the name or title and contact information of the Title IX Coordinator, in a prominent location on the district's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6; 34 CFR 106.8)~~

~~CSBA NOTE: Education Code 231.5, as amended by AB 543, requires the district to provide a copy of the district's sexual harassment policy as part of any orientation program conducted for new and continuing students.~~

~~4.~~ ~~Be~~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)

~~5.~~ ~~Appear~~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)

6. Be included, along with the name or title and contact information of the Title IX Coordinator, in any handbook provided to students or parents/guardians (34 CFR 106.8)

CSBA NOTE: Education Code 234.6, as added by AB 34, requires a district, starting in the 2020-21 school year, to post the definitions specified below. Also see AR 5145.3 - Nondiscrimination/Harassment for language reflecting this requirement and other notifications related to sex discrimination.

Reporting Complaints Reports and Complaints

CSBA NOTE: The Superintendent or designee shall also post the definitionfollowing paragraph relates to student and employee reporting 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 web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6) sex-based harassment, and should be revised to reflect the district's timeline.

A student or a student's parent/(s)/guardian(s) who believes that the student has been subjected to sexualsex discrimination, including sex-based harassment by another student, an employee, or a third party, in a district program or activity or who has witnessed sexualsex discrimination, including sex-based harassment, is strongly encouraged to report the incident to the district's Title IX Coordinator, a teacher, the principal, the district's Title IX Coordinator, or any other available school employee. Within one school dayworkday 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 an incident of sexualsex discrimination or sex-based harassment involving a student shall, within one school dayworkday, report the observation to the principal or 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 sexualsex 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.

When a verbal or informal report of sexual harassment is submitted, the Title IX Coordinator shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with applicable district complaint procedures.

Complaint Procedures

All complaints and allegations of sexual harassment by and against students shall be investigated and resolved in accordance with law and district procedures. The Title IX Coordinator shall review the allegations to determine the applicable procedure for responding to the complaint. All complaints that meet the definition of sexual harassment under Title IX shall be investigated and resolved in accordance with AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Other sexual harassment complaints shall be investigated and resolved pursuant to BP/AR 1312.3 - Uniform Complaint Procedures.

If sexual harassment is found following an investigation, the Title IX Coordinator, or designee in consultation with the Coordinator, shall take prompt action to stop the sexual harassment, prevent recurrence, implement remedies, and address any continuing effects.

Complaint Procedures

CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the scope of the UCP as specified in BP/AR 1312.3 – Uniform Complaint Procedures, it is unclear whether districts would additionally be required to follow the process specified in BP/AR 1312.3 – Uniform Complaint Procedures. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the UCP for this purpose. For more information regarding the Title IX grievance procedures, see AR 5145.71 – Sex Discrimination and Sex-Based Harassment 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

CSBA NOTE: The terms and definitions used below are consistent with California law, case law, and generally accepted terms within academia and in publications issued by state and federal agencies such as CDE and OCR, including provisions in the California Gender Recognition Act that recognize three gender options, female, male, and nonbinary, and define "nonbinary" and other related terms such as "intersex" and "transgender". In addition to consistency with the above, the definition of "gender identity" below is consistent with the Resolution Agreement between the Arcadia Unified School District, OCR, and the U.S. Department of Justice, Civil Rights Division, which defines "gender identity" as "one's internal sense of gender, which may be different from one's assigned sex, and which is consistently and uniformly asserted, or for which there is other evidence that the gender identity is sincerely held as part of the student's core identity."

The following section is also consistent with OCR's fact sheet "Supporting Intersex Students: A Resource for Students, Families, and Educators," issued in October 2021 and CDE's "Update FLASH #158, Guidance for Changing a Student's Gender in CALPADS," which provides guidance on changing a student's gender and/or legal name on the student's mandatory permanent record.

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.

CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status.

Starting in the 2025-26 school year through the 2029-2030 school year, Education Code 218.3, as added by AB 5 (Ch. 220, Statutes of 2023), requires a district serving students in any of grades 7-12 to provide at least one hour of training annually to all teachers and certificated employees serving students in grades 7-12 which incorporates CDE's online training curriculum to support lesbian, gay bisexual, transgender, queer, and questioning (LGBTQ+) cultural competency. The district is required to maintain records documenting the date that each employee completed the training and the name of the entity that provided the training; see AR 5145.3 – Nondiscrimination/Harassment.

Pursuant to Education Code 219, as added by SB 857 (Ch. 228, Statutes of 2023), the State Superintendent of Public Instruction has established the LGBTQ+ Statewide Advisory Task Force (LGBTQ+SAT) to identify the needs of LGBTQ+ students and to make recommendations to assist in implementing supportive policies and initiatives including: (1) mental health and feelings of safety and support, (2) inclusive and safe access to school facilities, (3) inclusive instructional material and school curriculum, (4) prevention of, response to, and oversight of, bullying and harassment to determine the effectiveness of policies and programs, and (5) inclusive participation in school activities. For more information on the LGBTQ+SAT, see CDE's website.

Districts with questions about the rights of transgender and gender-nonconforming students should consult CSBA's District and County Office of Education Legal Services or district legal counsel. For more information on the rights of transgender students, see CSBA's, "Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools."

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:

CSBA NOTE: Timelines included in Items #1-2 below may be modified to reflect district practice.

Pursuant to state and federal law, a district has the responsibility to ensure a safe, nondiscriminatory school environment for all students and equal access to the educational program for intersex, nonbinary, transgender, or gender non-conforming students. As part of its obligation, the district must keep a student's private information, including a student's gender, gender identity, or gender expression, confidential. CDE's "School Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions," available on its website, references a transgender student's informational privacy right under Article I, Section I of the California Constitution as protecting the student's gender identity from disclosure. However, CDE specifies that, pursuant to 34 CFR 99.36, disclosure of such information to appropriate parties is permitted in connection with an emergency, as necessary to protect the health or safety of the student or other individuals.

Education Code 220.3 and 220.5, as added by AB 1955 (Ch. 95, Statutes of 2024), clarify 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.

Therefore, a district is required to take measures such as those specified in the following paragraph, to prevent unintentional release of students' private information and should contact CSBA's District and County Office of Education Legal Services or district legal counsel before disclosing a student's gender identity without the student's consent.

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.

CSBA NOTE: Pursuant to Education Code 221.5, a district is required to permit a student to use facilities and participate in sex-segregated school programs and activities consistent with the student's gender identity, regardless of the gender listed on the student's educational records. Additionally, 34 CFR 106.31, as amended by 89 Fed. Reg. 33474, provides that a district (1) 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, (2) 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 (3) 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. In commentary accompanying the Final Rule, the U.S. Department of Education (USDOE) clarifies that Title IX protects students from sex discrimination, including sex-based harassment, when they access sex-separate facilities. This protection applies with equal force to all students, including transgender and nonbinary students, requiring districts to provide access to sex-separate facilities, including bathrooms, in a manner that does not cause more than de minimis harm. USDOE intends to issue a separate final rule to address Title IX's application to sex-separate athletic teams which is governed by 34 CFR 106.41, rather than 34 CFR 106.31 as described above.

Beginning July 1, 2026, Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), requires each school maintaining any of grades 1-12 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.

For more information on the rights of transgender students, see CSBA's updated, "Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools."

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.

CSBA NOTE: Education Code 49062.5 and 49070 require districts to update a former student's records to change the student's name and/or gender as specified below. See AR 5125 - Student

Records. Pursuant to 5 CCR 432, a district is required to maintain for each student a mandatory permanent student record that includes the student's legal name, sex, and other specified details. While 5 CCR 4910 refers to "sex" as the "biological condition or quality of being a female or male human being," it also defines "gender" to mean "sex," which includes "a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth." When responding to a request to change the gender or legal name of intersex, nonbinary, transgender, or gender non-conforming students, districts should be mindful of laws prohibiting gender-based discrimination. In "Update FLASH #158, Guidance for Changing a Student's Gender in CALPADS," CDE distinguishes the process for updating a student's legal name from the process for updating a student's gender. According to CDE, a district must receive formal documentation that a student's name has been legally changed before the student's recorded legal name may be changed in the student's mandatory permanent student record (official record). When documentation is not provided, CDE states the district should nonetheless update all other school records (unofficial records such as attendance sheets, report cards, and school identification) to reflect the name change. On the other hand, to change a student's gender in the student's official records, CDE states that there is no specific requirement regarding formal documentation or process that a district should review or require in determining the gender to be recorded in the official records. Pursuant to Education Code 49061, only a parent/guardian may authorize a change to a student's gender in the student's official record. The district should consult CSBA's District and County Office of Education Legal Services or district legal counsel in developing a policy in this regard.

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

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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	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	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 200-262.4	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
Ed. Code 35292.5	School restrooms; all-gender restrooms
Ed. Code 48900	Grounds for suspension or expulsion
Ed. Code 48900.2	Additional grounds for suspension or expulsion; sexual harassment
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49060-49079	Student records
Gov. Code 12950.1	Sexual harassment training

Federal	Description
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	**Description**
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 (2001, 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
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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
~~U.S. DOE, Office for Civil Rights~~California Department of Education Publication	~~Q&A on Campus Sexual Misconduct, September 2017~~California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019
U.S. DOE, Office for Civil Rights Publication	Sexual Harassment: It's Not Academic, September 2008
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
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
~~U.S. DOE, Office for Civil Rights Publication~~	~~Dear Colleague Letter: Title IX Coordinators, April 2015~~
Website	CSBA District and County Office of Education Legal Services

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

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
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)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3580	District Records
3580	District Records
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4119.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4131	Staff Development

4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4219.11	Sex Discrimination and ~~Sexual~~Sex Harassment
4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4231	Staff Development
4317.7	Employment Status Reports
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.11	Sex Discrimination and ~~Sexual~~Sex-Based Harassment
4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
5125	Student Records
5125	Student Records
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.5	Vandalism And Graffiti
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5144	Discipline
5144	Discipline

5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.71	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology

Regulation 5145.71: Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures

Status: ADOPTED

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

~~CSBA NOTE: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sexual harassment, and mandates that the district adopt and publish complaint procedures.~~

~~The following administrative regulation reflects the Title IX complaint procedure detailed in 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, which must be used, effective August 14, 2020, to address any complaint of sexual harassment that meets the definition in 34 CFR 106.30. Pursuant to 34 CFR 106.30, allegations of sexual harassment governed by these regulations include (1) a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 and 34 USC 12291. Alleged sexual harassment that does not meet this definition should be addressed through the district's uniform complaint procedures (UCP); see BP/AR 1312.3 - Uniform Complaint Procedures.~~

~~34 CFR 106.44 requires the district, when there is actual knowledge of sexual harassment in an education program or activity, to respond promptly in a manner that is not deliberately indifferent. 34 CFR 106.30 defines "actual knowledge" as notice of sexual harassment or allegations of sexual harassment being submitted to the district's Title IX Coordinator, any official of the district who has authority to institute corrective measures, or any employee of the district. A district is deliberately indifferent only if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.~~

~~Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state law, federal law, and, in cases involving employees, the applicable collective bargaining agreement. Districts with questions about specific complaints are strongly encouraged to consult legal counsel.~~

~~See BP/AR 5145.7 - Sexual Harassment for information about prohibited conduct, student instruction, required notifications, and processes for reporting sexual harassment.~~

CSBA NOTE: Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibits discrimination based on sex, including sex-based harassment, and mandates that the district adopt and publish complaint procedures. The following administrative regulation reflects the Title IX grievance procedures detailed in 34 CFR 106.44-106.45, as amended by 89 Fed. Reg. 33474.

Application of the Title IX complaint procedures to the facts of a specific complaint may implicate complicated questions about the intersection of state and federal law. Pursuant to 34 CFR 106.11

and 106.44, as amended by 89 Fed. Reg. 33474, 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, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in AR 1312.3 – Uniform Complaint Procedures, it is unclear whether districts would additionally be required to follow the procedures specified in AR 1312.3 – Uniform Complaint Procedures. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to utilizing the procedures specified in AR 1312.3 – Uniform Complaint Procedures for this purpose.

See AR 1312.3 – Uniform Complaint Procedures. Also see AR 5145.3 Nondiscrimination/Harassment and BP/AR 5145.7 – Sex Discrimination and Sex-Based Harassment for information about prohibited conduct, training and instruction, required notifications, and processes for reporting sex discrimination and sex-based harassment.

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 ~~in which a district school exercises substantial control over the context and respondent~~, was subjected to ~~one~~conduct on or ~~more~~after August 1, 2024, including, but not limited to, conduct that is under the authority of the ~~following forms of sexual~~district, that constitutes sex discrimination, including sex-based harassment: ~~(34 CFR 106.30, 106.44)~~ . 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.

~~1. A district employee conditioning the provision of a district aid, benefit, or service on the student's participation in unwelcome sexual conduct~~

~~2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the district's education program or activity~~

~~3. Sexual assault, dating violence, domestic violence, or stalking as defined in 20 USC 1092 or 34 USC 12291~~

~~All other sexual harassment complaints or allegations brought by or on behalf of students shall be investigated and resolved in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. The determination of whether the allegations meet the definition of sexual harassment under Title IX shall be made by the district's Title IX Coordinator.~~

~~Because the complainant has a right to pursue a complaint under BP/AR 1312.3 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for BP/AR 1312.3 are concurrently met while implementing the Title IX procedure.~~

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

CSBA NOTE: 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, requires that the district's grievance procedures follow specified basic requirements, which are reflected below.

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

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district may not disclose personally identifiable information obtained while complying with the Title IX complaint procedures, except as provided below.

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.

~~**Reporting Allegations/Filing a Formal Complaint**~~**Filing a Complaint**

Upon receiving information from an allegation of sex discrimination, include 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.

CSBA NOTE: Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, a "complaint" is defined as an oral or written request to the district that objectively can be understood as a request for the district to investigate and make a determination about alleged discrimination under Title IX.

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)

~~CSBA NOTE: Pursuant to 34 CFR 106.30, the timeline for resolving a sexual harassment complaint begins when the district has actual knowledge of sexual harassment, defined as the receipt of a report by the Title IX Coordinator or other employee of an elementary or secondary school. The following paragraph reflects the requirement for any employee to forward the report to the Title IX Coordinator as stated in AR 5145.7 - Sexual Harassment and may be revised to reflect district practice.~~CSBA NOTE: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sex discrimination, including sex-based harassment, promptly and effectively, the Title IX Coordinator or designee should file a complaint even when the victim chooses not to do so, when, based on the considerations described below, the Title IX Coordinator or designee determines that a health or safety threat exists or when the district would be prevented from ensuring equal access based on sex in its programs and activities. In such cases, the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.

~~A student who is~~ If the alleged victim chooses not to bring a complaint, or withdraws any or all of ~~sexual~~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 ~~or the student's parent/guardian may submit a report of sexual~~, would occur if a complaint is not initiated

4. The severity of the alleged sex discrimination or sex-based harassment ~~to the district's Title IX Coordinator using the contact information listed in AR 5145.7 - Sexual Harassment or to any other available school~~, 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~~, who shall forward~~ of the ~~report~~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 ~~Coordinator within one day of receiving the report.~~

~~Upon receiving such a report~~grievance procedures

If, after considering these factors, the Title IX Coordinator ~~shall inform~~determines that the alleged conduct presents an imminent and serious threat to the health and safety of the complainant ~~of the right to file a formal complaint and the process for filing a formal complaint.~~ ~~(34 CFR 106.44)~~

~~A formal complaint, with the complainant's physical or digital signature, may be filed with~~ 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 ~~in person, by mail, by email, or by any other method authorized by the district.~~ ~~(34 CFR 106.30)~~may initiate a complaint.

~~CSBA NOTE: Given the district's duty pursuant to 34 CFR 106.44 to respond to reports of sexual harassment in a manner that is not deliberately indifferent, the Title IX Coordinator should file a complaint in certain situations even when the victim chooses not to do so, including, but not limited to, when a safety threat exists. In such cases, the Title IX Coordinator and the alleged victim are not named parties to the case, but the alleged victim must receive notices as required by the Title IX regulations at specific points in the complaint process.~~

~~Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the district's obligation to not be deliberately indifferent to known allegations of sexual harassment. In such cases, the Title IX Coordinator shall provide the alleged victim notices as required by the Title IX regulations at specific points in the complaint process.~~

~~The Title IX Coordinator, investigator, decision-maker, 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 106.45.~~ ~~(34 CFR 106.45)~~

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the Title IX Coordinator or designee is required to take the steps described below upon initiating 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)

CSBA NOTE: Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, in addition to Title IX Coordinators or designees, investigators, and decisionmakers, persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures may not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent, and are required to receive specified training.

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)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the Title IX Coordinator is required to monitor the district for barriers to reporting information about conduct that reasonably may constitute sex discrimination, including sex-based harassment, under Title IX, as specified below.

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

CSBA NOTE: 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, requires districts to offer and coordinate supportive measures as described below. Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, "supportive measures" are defined as individualized measures offered as appropriate, reasonably available and without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without charging a fee to the complainant or respondent to (1) restore or preserve the party's access to the district's education program or activity, including measures that are designed to protect the safety of the parties or the district's educational environment, or (2) provide support during the recipients' grievance procedures specified in 34 CFR 106.45 or during any informal resolution process as specified in 34 CFR 106.44.

~~Upon receipt of a report of Title IX sexual harassment, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures and shall consider the complainant's wishes with respect to the supportive measures implemented. Supportive measures shall be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures shall be nondisciplinary, nonpunitive, and designed to restore or preserve equal access to the district's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment or to deter sexual harassment. Supportive measures may include, but are not limited to, counseling, course-related adjustments, modifications of class schedules, mutual restrictions on contact, increased security, and monitoring of certain areas of the campus. (34 CFR 106.30, 106.44)~~

~~The district shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the district's ability to provide the supportive measures. (34 CFR 106.30)~~

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-related 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)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district's provision of supportive measures does not require the district, its employees, or any other persons authorized to provide aid, benefit, or service on the district's behalf to alter the alleged discriminatory conduct for the purpose of providing the supportive measures unless there is an allegation of sex-based harassment or retaliation.

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)

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, the district is required to provide both parties for whom supportive measures have been implemented with the opportunity to challenge, to an impartial employee, the implementation of such measures. An "impartial employee" must be someone other than the employee who made the decision to provide the supportive measures which are being challenged, but who has the authority to modify or reverse the decision if the employee determines that the decision to provide, deny, modify, or terminate the supportive measures was inconsistent with the definition of supportive measures as specified in 34 CFR 106.2.

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

~~CSBA NOTE: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. Districts should also note that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.~~

~~34 CFR 106.44 allows a student to be removed in emergency situations as described below, but requires that a student should not be "disciplined" prior to a finding being made pursuant to the grievance process established by 34 CFR 106.45. Due to this inconsistency in state and federal law, districts are advised to consult legal counsel as to the manner of imposing an emergency removal.~~

CSBA NOTE: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. Districts should also note that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

34 CFR 106.44 allows a student to be removed in emergency situations as described below, but 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, requires that a student not be "disciplined" prior to a finding being made pursuant to the Title IX grievance process. Due to this inconsistency in state and federal law, districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel as to the manner of imposing an emergency removal.

A student shall not be disciplined for alleged ~~sexual~~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 ~~immediate~~imminent and serious threat to the ~~physical~~ health or safety of a complainant or any student, employee, or other individual arising from the allegations, and provides the ~~student~~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 ~~Individuals with Disabilities Education Act~~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 shall dismiss a formal complaint if the alleged conduct would not constitute~~

~~sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator shall also dismiss any complaint in which the alleged conduct did not occur in the district's education program or activity or did not occur against a person in the United States, and may dismiss a formal complaint if the complainant notifies the district in writing that the complainant would like to withdraw the complaint or any allegations in the complaint, the respondent is no longer enrolled or employed by the district, or sufficient circumstances prevent the district from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)~~

~~Upon dismissal, the Title IX Coordinator shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a formal complaint or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)~~

~~If a complaint is dismissed, the conduct may still be addressed pursuant to BP/AR 1312.3 - Uniform Complaint Procedures as applicable.~~

CSBA NOTE: The following section describes when the Title IX Coordinator or designee may dismiss a Title IX complaint and actions the Title IX Coordinator or designee is required to take when a complaint is dismissed pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

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

   CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The following paragraph should be revised to reflect the timeline established by the district.

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

~~CSBA NOTE: As part of an informal resolution, the parties may agree upon discipline, including suspension or expulsion, without the need for an investigation (Analysis of Comments and Changes, 85 Fed. Reg. 30026, pages 30232, 30406-30407). This is an exception to the general rule provided in 34 CFR 106.44 which prohibits the district from imposing discipline on a respondent for sexual~~

~~harassment until the full investigation process is complete. Also see the section "Stipulated Expulsion" in AR 5144.1 - Suspension and Expulsion/Due Process.~~CSBA NOTE: The following section reflects when the district may offer an informal resolution process, notification and consent requirements, criteria for the facilitator of the informal resolution process, and other required steps when an informal resolution process is implemented, as specified in 34 CFR 106.44, as amended by 89 Fed. Reg. 33474.

Additionally, 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, provides potential terms that may be included in an informal resolution agreement. Because such agreements will be fact-specific and reflective of sensitive topics, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel when drafting informal resolution agreements.

~~When a formal complaint of sexual~~At any time prior to determining whether sex discrimination, including sex-based harassment ~~is filed~~, 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 Tite IX or when a complaint of sex discrimination is made, an informal resolution process, such as mediation, ~~at any time prior to reaching a determination regarding responsibility.~~ 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 ~~adjudication~~determination of a complaint as a ~~formal complaint.~~ ~~(34 CFR 106.45~~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 106.45~~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~~, and any consequences resulting~~; the inability to initiate or resume complaint procedures arising from ~~participating in~~ 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 ~~records~~the agreement would only be binding on the parties; and the information that the district will ~~be maintained or~~ maintain and whether and how the district could ~~be shared.~~disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed

2. Obtains the parties' voluntary~~, written~~ 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)

~~Written~~ Notice Notice of Allegations

CSBA NOTE: The following section reflects the notice districts are required to provide to the parties pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

~~If a formal complaint is filed, the Title IX Coordinator~~ 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. ~~The allegations potentially constituting sexual harassment with sufficient details known~~Sufficient information, available at the time, ~~including~~to allow parties to respond to the allegations, including, to the extent available, the identity of parties involved in the incident ~~if known,~~(s), the conduct allegedly constituting ~~sexual~~sex discrimination, including sex-based harassment, and the date(s) and location(s) of the alleged incident ~~if known.~~

   ~~2.~~ 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

~~3.~~ ~~A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the complaint process~~

~~4. The opportunity for the~~ parties are entitled to ~~have~~ an ~~advisor of their choice who may be, but is not required~~ equal opportunity to ~~be, an attorney, and the ability to inspect and review~~access the relevant and not otherwise impermissible evidence

~~5.~~4. ~~The prohibition against knowingly making false statements or knowingly submitting false information during the complaint process~~an accurate description of such evidence, as specified

CSBA NOTE: The following paragraph is optional. Although not required by law, a best practice is to provide notice to the parties of the name of the investigator, facilitator, and ~~decision-maker~~decisionmaker in order to give the parties an opportunity to raise concerns of conflict of interest or bias as prohibited by 34 CFR 106.45.

The above notice ~~shall~~may also include the name of the investigator, facilitator of an informal process, and ~~decision-maker~~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

CSBA NOTE: The following section reflects the district's authority to consolidate complaints of sex discrimination, including sex-based harassment, as specified in 34 CFR 106.45, as amended by 89 Fed. Reg. 33474.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, when investigating a formal complaint, the burden of proof rests on the district and not on the parties. However, the district must obtain the party's voluntary, written consent to access, consider, disclose, or otherwise use a party's records that are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, which are made and maintained in connection with the provision of treatment to the party.

~~34 CFR 106.45 authorizes, but does not require, the district to conduct a live hearing at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions. If the district chooses to include such a hearing as a component of its complaint procedure, the following list should be modified to include requirements for the hearing in accordance with 34 CFR 106.45.~~

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 ~~witnesses, including fact and expert~~fact witnesses, and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible

2. ~~Not~~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

2. Take reasonable steps to protect the privacy of parties and witnesses which do not restrict the ability of ~~either party to discuss the allegations under investigation or to gather~~the parties to obtain and present ~~relevant~~ evidence

3. ~~Provide the parties with the same opportunities to have others present during any grievance proceeding~~, including ~~the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney~~

4. ~~Not limit the choice~~, by speaking to witnesses; consulting with family members, confidential resources, or ~~presence of an advisor~~advisors; or otherwise preparing for ~~either the complainant or respondent~~or participating in ~~any meeting or~~ the grievance ~~proceeding, although the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties~~ procedures

5. ~~Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate~~

6. ~~Send in an electronic format or hard copy to both parties and their advisors, if any, the evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report~~

~~7.~~5. Objectively evaluate all evidence that is relevant ~~evidence~~and not otherwise impermissible, including both inculpatory and exculpatory evidence, ~~and determine~~ including that credibility ~~in a manner that is~~determinations will not be based on a ~~person's~~person's status as ~~a~~ complainant, respondent, or witness

8. ~~Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response~~

6. ~~Questions and~~ 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 sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are~~complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct ~~alleged by the complainant~~ or ~~if the questions and~~ is evidence ~~concern~~about specific incidents of the ~~complainant's~~complainant's prior

sexual ~~behavior~~conduct with ~~respect~~ ~~to~~ the respondent ~~and~~ ~~are~~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.

CSBA NOTE: The following paragraph should be amended to reflect district practice regarding the process established to enable the decisionmaker to question parties and witnesses adequately to assess a party's or witness's credibility.

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)

~~Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.~~

CSBA NOTE: Districts with questions about the application of a collective bargaining agreement in the context of a Title IX investigation should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

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.

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The district should revise the following paragraph to reflect the timeline established by the district.

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

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the person designated as the ~~decision-maker~~decisionmaker of the determination of responsibility ~~cannot~~may be the same person designated as the Title IX Coordinator~~,~~ ~~an~~ or designee and/or investigator, ~~or the person who considers appeals~~so long as there is no conflict of interest or bias. The following paragraph may be revised to reflect the position designated by the district to provide a written determination of responsibility. While designation decisions will depend on the size of the district, a best practice is to designate an upper-level administrator as the ~~decision-maker~~decisionmaker and designate the Superintendent as the person to consider appeals.

The Superintendent shall designate an employee as the ~~decision-maker~~decisionmaker to determine responsibility for the alleged conduct, who ~~shall not~~may be the Title IX Coordinator or ~~a person involved in~~ designee or the ~~investigation~~ investigator so long as there is no conflict of ~~the matter.~~interest or bias. (34 CFR 106.45)

~~After~~Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the district shall: (34 CFR 106.45)

1. Use the ~~investigative report~~preponderance of the evidence standard of proof to determine whether sex discrimination, including sex-based harassment, has ~~been sent to~~ occurred

2. Notify the parties ~~but before reaching a~~ in writing of the determination ~~regarding responsibility, the decision-maker~~of whether sex discrimination, including sex-based harassment, occurred

The notification shall ~~afford each party the opportunity~~ include the rationale for such determination and the procedures and permissible bases for the complainant and respondent to ~~submit~~appeal, if applicable.

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to establish reasonably prompt timeframes for the major stages of the grievance procedures. The district should revise the following paragraph to reflect the timeline established by the district.

The written~~, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party~~

~~The decision-maker~~ decision shall ~~issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)~~be issued within _____ days after the investigation is completed, unless such time is extended in accordance with this administrative regulation.

~~CSBA NOTE: 34 CFR 106.45 requires that the district's complaint process include a "reasonably prompt" timeframe for concluding the complaint process, but does not specify the number of days within which the final decision must be issued. The following paragraph specifies a 60-day period in order to align with the requirements of the UCP which are simultaneously triggered when a complaint of sexual harassment is received. Districts may revise the following paragraph to include a different timeline as long as it would satisfy the requirement to act promptly.~~

~~The written decision shall be issued within 60 calendar days of the receipt of the complaint.~~

~~The timeline may be temporarily extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. (34 CFR 106.45)~~

~~CSBA NOTE: 34 CFR 106.45 mandates that the district's complaint procedures state whether the district's determination of responsibility will be based on a "preponderance of evidence" standard or "clear and convincing evidence" standard. The following paragraph reflects the "preponderance of evidence" standard, which is a less stringent standard to prove misconduct, and should be revised if the district chooses to use a "clear and convincing evidence" standard. The standard selected by the district must be applied uniformly for all Title IX sexual harassment complaints. The district should consult with legal counsel in determining which standard to use.~~

~~In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. The same standard of evidence shall be used for formal complaints against students as for complaints against employees. (34 CFR 106.45)~~

The written decision shall include the following: (34 CFR 106.45)

1. Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR 106.30

2. A description of the procedural steps taken from receipt of the formal complaint through the written decision, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held if the district includes hearings as part of the grievance process

3. Findings of fact supporting the determination

4. Conclusions regarding the application of the district's code of conduct or policies to the facts

5. A statement of, and rationale for, the result as to each allegation, including a decision regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's educational program or activity will be provided by the district to the complainant

6. The district's procedures and permissible bases for the complainant and respondent to appeal

Appeals

CSBA NOTE: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision. The district may revise the following section to reflect applicable timelines established by the district.

The following section should also be revised to identify the person who has been designated as the decision-maker(s) for the appeal. Pursuant to 34 CFR 106.45, the decision-maker for the appeal cannot be the same person as the decision maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

Either party may appeal the district's decision or dismissal of a formal complaint or any allegation in the complaint, if the party believes that a procedural irregularity affected the outcome, new evidence is available that could affect the outcome, or a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome. If an appeal is filed, the district shall: (34 CFR 106.45)

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties

2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator

3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome

4. Issue a written decision describing the result of the appeal and the rationale for the result

5. Provide the written decision simultaneously to both parties

~~An appeal must be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.~~

~~A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.~~

~~CSBA NOTE: 5 CCR 4632-4633 provide that complainants may appeal to CDE if they disagree with the district's decision on any matter within the scope of the UCP. As amended by Register 2020, No. 21, 5 CCR 4632 changes the timeline for filing an appeal with CDE from 15 calendar days to 30 calendar days.~~

~~The district's decision may be appealed to the California Department of Education within 30 days of the written decision in accordance with BP/AR 1312.3.~~

Appeal of the Decision

CSBA NOTE: 34 CFR 106.45 allows either the complainant or respondent to appeal the district's decision, and requires the district to offer the parties an appeal process that at a minimum is the same as it offers in all other comparable proceedings, if any, including proceedings related to other discrimination complaints, such as AR 1312.3 – Uniform Complaint Procedures and AR 4030 – Nondiscrimination in Employment. The district may revise the following section to reflect applicable timelines and appeals process established by the district.

The following section should also be revised to identify the person who has been designated as the decisionmaker(s) for the appeal. Pursuant to 34 CFR 106.45, the decisionmaker for the appeal cannot be the same person as the decisionmaker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

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.

~~CSBA NOTE: The following paragraph is consistent with requirements under Education Code 262.3, 5 CCR 4622, and the California Department of Education's Federal Program Monitoring instrument to provide notice regarding civil law remedies in the annual UCP notice and in the final written decision in the UCP process.~~

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

CSBA NOTE: Pursuant to 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, the district is required to 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.

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

~~CSBA NOTE: 34 CFR 106.45 mandates that the district's Title IX complaint process list, or describe the range of, possible remedies that the district may implement following any determination of responsibility. The following section may be revised to reflect district practice.~~

~~When a determination of responsibility for sexual harassment has been made against the respondent, the district shall provide remedies to the complainant. Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent.~~

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 ~~sexual~~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 ~~sexual~~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.

Record-Keeping

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

~~1. A record of all reported cases and Title IX investigations of sexual harassment, any determinations of responsibility, any audio or audiovisual recording and transcript if applicable, any disciplinary sanctions imposed, any remedies provided to the complainant, and any appeal or informal resolution and the results therefrom~~

~~2. A record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, including the district's basis for its conclusion that its response was not deliberately indifferent, the measures taken that were designed to restore or preserve equal access to the education program or activity, and, if no supportive measures were provided to the complainant, the reasons that such a response was not unreasonable in light of the known circumstances~~

~~All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s),~~
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)

CSBA NOTE: The following paragraph reflects Title IX record-keeping requirements pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474.

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~~.~~

~~3.~~ The district shall make such training materials ~~publicly available on its web site, or if the district does not maintain a web site,~~ 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 Procedure340.1):

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 UPDATE Service
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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	**Description**
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 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-~~262.4~~4270	Prohibition of discrimination on the basis of sex
Ed. Code 200-262.4	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	**Description**
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	**Description**
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 (2001, 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
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance ~~May 19, 2020, Vol. 85, No. 97, pages 30026-30579~~ April 29, 2024, Vol. 89, No. 83, pages 33474-33896 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
U.S. Department of Justice, Federal Bureau of Investigation Publication	National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014 (https://www.csba.org/~/media/E68E16A652D34EADA2BFDCD9668B1C8F.ashx)
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011 (https://www.csba.org/GovernanceAndPolicyResources/ConditionsOfChildren/~/~/media/722EF232A117447F9711112F75FBC212.ashx)

U.S. DOE, Office for Civil Rights	Sexual Harassment: It's Not Academic, September 2008 (https://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.html)
~~U.S. DOE, Office for Civil Rights Publication~~	~~Q&A on Campus Sexual Misconduct, September 2017~~
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 (https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf)
~~U.S. DOE, Office for Civil Rights Publication~~	~~Dear Colleague Letter: Title IX Coordinators, April 2015~~
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016 (https://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Department of Justice, Federal Bureau of Investigation (https://www.justice.gov/doj/federal-bureau-investigation)

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
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
3552	Summer Meal Program
3552	Summer Meal Program
3580	District Records
3580	District Records
4030	Nondiscrimination in Employment
4117.7	Employment Status Reports

4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4131	Staff Development
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4317.7	Employment Status Reports
4319.11	Sexual Harassment
4319.11	Sexual Harassment
5030	Student Wellness
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.9	Hate-Motivated Behavior
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6159	Individualized Education Program
6159	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

Exhibit 5145.71-E(1): Title IX ~~Sexual~~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:** ~~10~~07/01/~~2020~~2024

CSBA NOTE: 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires the district to provide notice to students ~~and~~, parents/guardians ~~of its~~, or other authorized legal representatives of elementary and secondary school students, that the district does not discriminate on the basis of sex as required by Title IX; that 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 of Civil Rights; the Title IX Coordinator's contact information; how to locate the district's policy prohibiting ~~sexual~~sex discrimination, including sex-based harassment ~~and its~~; the district's grievance procedures that provide for the prompt and equitable resolution of ~~sexual~~sex discrimination, including sex-based harassment complaints~~.~~ ; how to report information about conduct that may constitute sex discrimination, including sex-based harassment; and how to make a complaint of sex discrimination, including sex-based harassment. The following exhibit presents a sample notification that meets these requirements ~~and may be modified to reflect district practice. For a sample notice for employees, bargaining units, and applicants for employment, see E 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures.~~.

Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, the notice is required to be prominently included on the district's website, and in each handbook, catalog, announcement, bulletin, and application that it makes available to students, parents/guardians, or other authorized legal representative of students. If necessary due to the format or size of any publication specified above, the Superintendent or designee may include in the publication a statement that the district ~~must~~prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the district's Title IX Coordinator, and provide the ~~Title IX Coordinator's contact information on its web site and in any handbook for students or parents/guardians. In addition~~website location of the notice of nondiscrimination.

Additionally, state law, ~~(~~Education Code 231.5, 231.6, 234.6, and 48980~~)~~, ~~requires~~ require distribution of the district's sexual harassment policy through the parental notification at the beginning of the school year, in any orientation program for new and continuing students, in any publication of rules of student conduct, and by posting the policy on the district's ~~web site,~~website, displaying prominently in school offices, and in a poster displayed in locker rooms and bathrooms.

NOTICE OF TITLE IX ~~SEXUAL HARASSMENT POLICY~~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.

~~Title IX requires a school~~The district is required, as specified in Title IX, to take ~~immediate~~prompt and ~~appropriate~~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.

CSBA NOTE: The district should enter the name/title and contact information of the district's Title IX Coordinator below. Such information should be consistent with the person/position identified in AR 5145.7 - ~~Sexual~~ Sex Discrimination and Sex-Based Harassment.

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 ~~sexual harassment, sexual assault, dating violence, domestic violence, and stalking~~sex-based harassment:

_____
(name and/or title/position)
_____
(address)
_____
(telephone number)
_____
(email address)

CSBA NOTE: The district may expand the following paragraph to include other means of contact or reporting methods available in the district, such as online submission forms or mobile applications.

Pursuant to 34 CFR 106.8, the district must provide notice to ~~employees, bargaining units, and job applicants~~students, parents/guardians, or other authorized legal representatives of students, of the district's grievance procedures and process, including how to report ~~or file a formal complaint of sexual~~conduct that may constitute sex discrimination ~~and/or~~, including sex-based harassment, ~~and how the district will respond~~or file a complaint of sex discrimination, including sex-based harassment.

Any individual may report sex discrimination, including ~~sexual~~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 ~~sexual~~sex harassment, including sex-based 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 ~~sexual~~sex discrimination, including sex-based harassment, including the grievance process that complies with 34 CFR 106.45, please see ~~BP/AR~~Board Policy/Administrative Regulation 5145.7 - ~~Sexual~~ Sex

Discrimination and Sex-Based Harassment and ~~AR~~Administrative Regulation 5145.71 - Title IX ~~Sexual~~Sex Discrimination and Sex-Based Harassment Complaint Procedures on the district's ~~web site~~website at _____(insert website link)_____.

To inspect or obtain a copy of the district's ~~sexual~~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), ~~decision-maker~~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 ~~also~~ ~~publicly~~ available ~~on the district's web site or~~ at the district office upon request.

Policy Reference UPDATE Service
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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	**Description**
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 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-~~262.4~~270	Prohibition of discrimination on the basis of sex
Ed. Code 200-262.4	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	**Description**
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
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U.S. Department of Justice, Federal Bureau of Investigation Publication	National Incident-Based Reporting System (https://ucr.fbi.gov/nibrs/2018/resource-pages/nibrs_offense_definitions-2018.pdf)
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014 (https://www.csba.org/~/media/E68E16A652D34EADA2BFDCD9668B1C8F.ashx)

CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011 (https://www.csba.org/GgovernanceAndPolicyResources/ConditionsOfChildren/~/~/media/722EF232A117447F9711112F75FBC212.ashx)
U.S. DOE, Office for Civil Rights	Sexual Harassment: It's Not Academic, September 2008 (https://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.html)
~~U.S. DOE, Office for Civil Rights Publication~~	~~Q&A on Campus Sexual Misconduct, September 2017~~
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 (https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf)
~~U.S. DOE, Office for Civil Rights Publication~~	~~Dear Colleague Letter: Title IX Coordinators, April 2015~~
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016 (https://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights
Website	U.S. Department of Justice, Federal Bureau of Investigation (https://www.justice.gov/doj/federal-bureau-investigation)

Cross References

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5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.9	Hate-Motivated Behavior
6145	Extracurricular And Cocurricular Activities

6145	Extracurricular And Cocurricular Activities
6159	Individualized Education Program
6159	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

Policy 5146: Married/Pregnant/Parenting Students

Status: ADOPTED

Original Adopted Date: 12/01/2013 **| Last Revised Date:** ~~12~~07/01/~~2018~~2024 **| Last Reviewed Date:** ~~12~~07/01/~~2018~~2024

CSBA NOTE: The following optional policy may be revised to reflect district practice.

Pursuant to Education Code 48410, students may be exempted from compulsory attendance in continuing education classes if they must render personal services to a dependent. See AR 5112.1 - Exemptions from Attendance.

The Governing Board recognizes that responsibilities ~~related~~pertaining to marriage, pregnancy, or parenting ~~and~~, including related ~~responsibilities~~obligations, medical conditions, or recovery, may disrupt a student's education and increase the chance of a student dropping out of school. The Board ~~therefore~~ desires to ~~support~~minimize interruption to such students' educational progress by supporting married, pregnant, and parenting students ~~to continue~~in their continued education, assisting them to attain strong academic and parenting skills, and ~~promote~~promoting the healthy development of their ~~children.~~child(ren).

CSBA NOTE: Pursuant to Education Code 221.51, ~~as added by AB 2289 (Ch. 942, Statutes of 2018), codifies federal and state regulations that prohibit~~ districts are prohibited from applying any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex~~.~~, or from excluding or denying any student from any educational program or activity, including extracurricular activity, solely on the basis of a student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from such conditions. Additionally, 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, prohibits discrimination on the basis of sex in the district's education program or activity, including current, potential, or past pregnancy, childbirth, termination of pregnancy, or lactation, and related medical conditions or recovery, and parental, marital, and family status; see BP/AR 5145.7 – Sex Discrimination and Sex-Based Harassment.

The district shall not exclude or deny any student from any educational program or activity, including any class or extracurricular activity, solely on the basis of the student's current, potential, or past pregnancy, childbirth, false pregnancy, termination of pregnancy, lactation, or related medical conditions or recovery. In addition, the district shall not adopt any rule concerning a student's actual ~~or~~, potential, or past parental, family, or marital status that discriminates against and/or treats ~~students~~a student differently on the basis of sex. (Education Code 221.51, 230; 5 CCR 4950; 34 CFR 106.40)

CSBA NOTE: Education Code 222.5~~, as added by AB 2289,~~ requires the following annual notifications.

The Superintendent or designee shall annually notify parents/guardians at the beginning of the school year of the rights and options available to pregnant and parenting students under the law. In addition, pregnant and parenting students shall be notified of the rights and options available ~~to them~~ under the law through annual school year welcome packets and through independent study packets. (Education Code 222.5, 48980)

CSBA NOTE: Pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, when a student or a person who has a legal right to act on behalf of a student, informs any employee of the student's pregnancy or related conditions, the employee is required to provide that person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination, including sex-based harassment, and ensure the student's equal access to the district's education program or activity.

Any employee who is informed by a student, or a person who has a legal right to act on behalf of a student, of a student's pregnancy or related conditions shall provide that person with the Title IX Coordinator's contact information and inform the person that the Title IX Coordinator can coordinate specific acts to prevent sex discrimination, including sex-based harassment, and ensure the student's equal access to the district's education program or activity. (34 CFR 106.8)

CSBA NOTE: Pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, once notified of a student's pregnancy or related conditions, the district is required to take specified actions, as described below, to protect the student against sex discrimination.

When notified of a student's pregnancy or related conditions, the Title IX Coordinator shall provide the student, and if applicable the person who has a legal right to act on behalf of the student and who notified the Title IX Coordinator of the student's pregnancy or related conditions, with the district's notice of nondiscrimination, as specified in Administrative Regulation 5145.3 – Nondiscrimination/Harassment and Exhibit (1) 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. The Title IX Coordinator shall also coordinate actions specified in 34 CFR 106.40 to prevent discrimination against, and ensure equal access to, the student, including the following: (34 CFR 106.44)

1. Notifying the student that the district is required to not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions

   However, a student's voluntary participation in a separate portion of the district's education program or activity does not constitute prohibited discrimination if the district ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

2. To the extent consistent with 34 CFR 106.40(b)(3), ensuring that pregnancy or related conditions are treated in the same manner and under the same policies as any other temporary medical condition with respect to any medical or hospital benefit, service, plan, or policy the district administers, operates, offers, or participates in with respect to students admitted to the district's education program or activity

3. Informing the student that the district may not require the student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person verifying that the student is physically able to participate in the district's class, program, or extracurricular activity unless the certified level of physical ability of health is necessary for participation in the class, program, or extracurricular activity; the district requires such certification of all participating students; and, the information obtained is not used as a basis for Title IX discrimination

CSBA NOTE: Pursuant to Family Code 7002, any person under the age of 18 years who enters into a valid marriage is an emancipated minor and therefore has the same rights as an adult. Such rights include, but are not limited to, those related to the verification of student absences (see AR 5113 - Absences and Excuses), application for a work permit (see AR 5113.2 - Work Permits), and access to student records (see AR 5125 - Student Records).

For school-related purposes, a student under the age of 18 years who enters into a valid marriage shall have all the rights and privileges of students who are 18 years ~~old~~of age or older, even if the marriage has been dissolved. (Family Code 7002)

Education and Support Services for Pregnant and Parenting Students

Pregnant and parenting students shall retain the right to participate in the regular education program or an alternative education program. The classroom setting shall be the preferred instructional strategy unless an alternative is necessary to meet the needs of the student and/or the student's child.

CSBA NOTE: Both federal law (34 CFR 106.40) and state law (Education Code 221.51; 5 CCR 4950) prohibit districts from requiring a student to take a course or participate in a separate program or school for pregnant and parenting students. When students voluntarily participate in such alternative programs, federal law requires that the alternative program be "comparable" to the regular education program, and state law requires that the program be "equal" to the regular education program. The following paragraph reflects the state standard which is more stringent and thus would prevail.

~~The California Women's Law Center, in Educational Rights of Pregnant and Parenting Teens: Title IX and California State Law Requirements, describes the difficulty in ensuring that alternative programs are comparable or equal to the regular education program, and cites factors that districts should consider. Such factors may include, but are not limited to, the educational benefits provided (i.e., quality, range, and content of curriculum and other services; quality and availability of instructional materials and technology); extracurricular offerings; staff qualifications; geographic accessibility; and the quality, accessibility, and availability of facilities and resources. Because of the difficulty in meeting this standard, the California Women's Law Center cautions that districts must ensure that pregnant students are not pushed or lured into alternative programs through either overt or subtle practices.~~

Any alternative education program, activity, or course that is offered separately to pregnant or parenting students, including any class or extracurricular activity, shall be equal to that offered to other district students. A student's participation in such programs shall be voluntary. (Education Code 221.51; 5 CCR 4950)

CSBA NOTE: Education Code 221.51~~, as added by AB 2289,~~ authorizes districts to require certification by a physician or nurse practitioner that a student is physically and emotionally able to participate in the regular education program or activity. ~~However~~However, 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, prohibits districts from requiring a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person verifying that the student is physically able to participate in the district's class, program, or extracurricular activity unless the certified level of physical ability of health is necessary for participation in the class, program, or extracurricular activity; the district requires such certification of all participating students; and, the information obtained is not used as a basis for sex

discrimination. Additionally, Education Code 221.51 and 34 CFR 106.40 require that pregnancy, childbirth, false pregnancy, termination of pregnancy, lactation, or related ~~recovery~~conditions be treated in the same manner as any other temporary disabling condition. Thus, the district cannot require a student who is pregnant ~~student~~or has related conditions to provide a physician's note to participate in physical education classes unless the certified level of physical ability is necessary for participation and such certification is required of all students ~~with temporary medical conditions, but a~~. A student who is pregnant ~~student~~or who has related conditions who cannot accomplish the requirements of the regular physical education curriculum may be offered ~~an alternative physical education curriculum.~~accommodations, as specified in "Accommodations" below, or voluntary access to a comparable program, as described above. Education Code 48206.3 defines a "temporary disability" as a physical, mental, or emotional disability after which the student can reasonably be expected to return to regular day classes or an alternative education program; see AR 6183 - Home and Hospital Instruction.

~~If required for students with any other temporary disabling condition, the~~The Superintendent or designee ~~may~~shall not require a student, based on pregnancy, childbirth, false pregnancy, termination of pregnancy, lactation, or related medical conditions or recovery, to obtain certification from a physician or nurse practitioner indicating that the student is physically and emotionally able to continue participation in the ~~regular~~district's education program or activity, including an extracurricular activity, unless the certified level of physical ability is necessary for participation and such certification is required of all students. (Education Code 221.51; 5 CCR 4950; 34 CFR 106.40)

CSBA NOTE: Items #1-7 below are optional and may be revised to reflect district practice.

To the extent feasible, the district shall provide educational and related support services, either directly or in collaboration with community agencies and organizations, to meet the needs of pregnant and parenting students and their children. Such services may include, but are not limited to:

CSBA NOTE: The district may choose to offer child care and development services as an incentive to encourage the school attendance of parenting students, as provided in ~~item~~Item #1 below. ~~Child~~For more information about child care and development services ~~are subject to applicable sections of Education Code 8200-8498 and the health and safety requirements of 22 CCR 101151-101239.2 and 101351-101439.1;~~, see BP/AR 5148 - Child Care and Development.

1. Child care and development services for the children of parenting students on or near school site(s) during the school day and during school-sponsored activities

2. Parenting education and life skills instruction

CSBA NOTE: The federal Women, Infants, and Children grant program (42 USC 1786; 7 CFR 246.1-246.28) provides funding that may be used for special school nutrition supplements for low-income pregnant and lactating students as provided in ~~item~~Item #3 below; see the U.S. Department of Agriculture's ~~web site~~website. Education Code 49553 specifies nutritional standards for these special school nutrition supplements.

3. Special school nutrition supplements for pregnant and lactating students pursuant to Education Code 49553, 42 USC 1786, and 7 CFR 246.1-246.28

4. Health care services, including prenatal care

CSBA NOTE: Health and Safety Code 104460 requires districts receiving Tobacco-Use Prevention Education funds to provide access to tobacco-use prevention and intervention services to pregnant and parenting students; see AR 5131.62 - Tobacco.

5. Tobacco, alcohol, and/or drug prevention and intervention services

6. Academic and personal counseling

7. Supplemental instruction to assist students in achieving grade-level academic standards and progressing toward graduation

As appropriate, teachers, administrators, and/or other personnel who work with pregnant and parenting students shall receive related professional development.

Absences

Pregnant or parenting students may be excused for absences for medical appointments and other purposes specified in BP/AR 5113 - Absences and Excuses.

CSBA NOTE: Education Code 48205~~, as amended by AB 2289,~~ authorizes an excused absence without a note from a physician for a parenting student to care for a sick child. ~~Also~~For more information regarding excused absences, see AR 5113 - Absences and Excuses.

A student shall be excused for absences to care for a sick child for whom the student is the custodial parent. A note from a physician shall not be required for such an absence. (Education Code 48205)

Parental Leave

CSBA NOTE: Education Code 46015~~, as added by AB 2289,~~ provides that a pregnant or parenting student is entitled to eight weeks of parental leave, or longer if deemed medically necessary by the student's physician. Pursuant to Education Code 46015, the student's failure to notify the school as required below does not abridge the student's rights. Additionally, 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, requires the district to allow a student who is pregnant or who has related conditions to voluntarily take a leave of absence to cover, at a minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. If the district has a leave policy that allows for a greater period of time than the medically necessary period, and the student qualifies for leave under such policy, the district is required to permit the student to take leave under that policy.

A student who is pregnant or parenting ~~student~~, or has a related condition, shall be entitled to ~~eight weeks of~~ parental leave in order to protect the health of the student ~~who gives or expects to give birth and~~ and/or the infant, and to allow the ~~pregnant or parenting~~ student to care for and bond with the infant. The period of the leave shall be the greater of eight weeks, or the length of time deemed medically necessary by the student's healthcare provider, or, if the district has a leave policy for which the student qualifies, the amount of time provided for in such policy. Such leave may be taken before the birth of the student's infant if there is a medical necessity and after childbirth during the school year in which the birth takes place, inclusive of any mandatory summer instruction. ~~The Superintendent or designee may grant parental leave beyond eight weeks if deemed medically necessary by the student's physician.~~ (Education Code 46015; 34 CFR 106.40)

The student, if age 18 years or older, or the student's parent/guardian shall notify the school of the student's intent to take parental leave. (Education Code 46015)

No student shall be required to take all or part of the parental leave. (Education Code 46015; 34 CFR 106.40)

When a student takes parental leave, the attendance supervisor shall ensure that absences from the regular school program are excused until the student is able to return to the regular school program or an alternative education program. ~~A~~A student who is pregnant or parenting ~~student~~, or has related conditions, shall not be required to complete academic work or other school requirements during the period of the parental leave. (Education Code 46015)

CSBA NOTE: Pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, when a student returns to school after taking parental leave, the district is required to reinstate the student to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

~~Following the leave, a pregnant or parenting student~~ Following the leave, a student who is pregnant or parenting, or has related conditions, may elect to return to the school and the course of study in which the student was enrolled before taking parental leave or to an alternative education option provided by the district. (Education Code 46015; 34 CFR 106.40)

Upon return to school, a pregnant or parenting student shall have opportunities to make up work missed during the leave, including, but not limited to, makeup work plans and reenrollment in courses. (Education Code 46015)

When necessary to complete high school graduation requirements, the student may remain enrolled in school for a fifth year of instruction, unless the Superintendent or designee makes a finding that the student is reasonably able to complete district graduation requirements in time to graduate by the end of the fourth year of high school. (Education Code 46015)

Accommodations

~~CSBA NOTE: According to the U.S. Department of Education (USDOE) pamphlet Supporting the Academic Success of Pregnant and Parenting Students under Title IX of the Education Amendments of 1972, when necessary to ensure a pregnant student's access to the educational program, the district must make adjustments to the regular program that are reasonable and responsive to the student's pregnancy status. Examples in the USDOE pamphlet include providing a larger desk, allowing frequent trips to the restroom, or permitting temporary access to elevators as necessary. Pursuant to 34 CFR 106.40, the school also must~~CSBA NOTE: Pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, the district is required to provide reasonable accommodations for students who are pregnant or parenting, or have related conditions, as specified below. Additionally, pursuant to 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, the school is required to provide any services to pregnant students that it provides to other students with temporary medical conditions, such as at-home instruction or tutoring for students who miss school because of such medical conditions. ~~The USDOE publication lists additional programs and strategies that, although not required by federal law, may assist in addressing the needs of pregnant and parenting students.~~

When necessary, the district shall provide reasonable accommodations to enable a student who is pregnant or parenting ~~student~~ , or with related conditions, to access the educational program. The district shall consult with the student when identifying potential modifications. Any modification accepted by the student shall be implemented. Any proposed modification that would fundamentally alter the nature of the district's education program or activity shall not be implemented. (34 CFR 106.40)

Reasonable modifications may include, but are not limited to: (34 CFR 106.40)

1. Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
2. Intermittent absences to attend medical appointments
3. Access to online or homebound education
4. Changes in schedule or course sequence
5. Extensions of time for coursework and rescheduling of tests and examinations
6. Allowing a student to sit or stand, or carry or keep water nearby
7. Counseling
8. Changes in physical space or supplies, such as access to a larger desk or a footrest
9. Elevator access
10. Any other change to policies, practices, or procedures

A student who is pregnant ~~student~~ or who has a related condition shall have access to any services available to other students with temporary ~~disabilities or~~ medical conditions. (34 CFR 106.40)

CSBA NOTE: In addition to lactation accommodations required by state law, 34 CFR 106.40, as amended by 89 Fed. Reg. 33474, requires that a student who is lactating has access to a lactation space other than a bathroom, that is clean, shielded from view, and free from intrusion from others that may be used to express breast milk or breastfeed.

The school shall provide reasonable accommodations to any lactating student to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. A student shall not incur an academic penalty for using any of these reasonable accommodations, and shall be provided the opportunity to make up any work missed due to such use. Reasonable accommodations include, but are not limited to: (Education Code 222; 34 CFR 106.40)

1. Access to a private and secure room, other than a restroom, that is clean, shielded from view, and free from intrusion by others to express breast milk or breastfeed an infant child
2. Permission to bring onto a school campus a breast pump and any other equipment used to express breast milk
3. Access to a power source for a breast pump or any other equipment used to express breast milk
4. Access to a place to store expressed breast milk safely

5. A reasonable amount of time to accommodate the student's need to express breast milk or breastfeed an infant child

Complaints

CSBA NOTE: Since a student's current, potential, or past parental, family, or marital status is protected from discrimination pursuant to Title IX and its implementing regulations, as amended by 89 Fed. Reg. 33474, districts are required to follow Title IX grievance procedures when investigating and resolving a complaint based on alleged conduct that occurred on or after August 1, 2024. As such a complaint may also fall within Education Code 46015, ~~as added by AB 2289,~~which authorizes the use of the district's uniform complaint procedures (UCP) established pursuant to 5 CCR 4600-4670 ~~for complaints alleging~~, it is unclear whether districts would additionally be required to follow the ~~district's noncompliance with requirements related to the provision of parental leave or other requirements~~UCP. Due to this uncertainty, it is recommended that districts consult CSBA's District and County Office of Education ~~Code 46015~~Legal Services or district legal counsel prior to utilizing the UCP for this purpose. For more information regarding the Title IX grievance procedures, see AR 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Any complaint alleging discrimination on the basis of a student's current, potential, or past pregnancy, family, or marital ~~or parental~~ status, district noncompliance with the requirements of Education Code 46015 or 34 CFR 106.40, or district noncompliance with the requirement to provide reasonable accommodations for lactating students, shall be ~~addressed through the district's uniform complaint procedures~~ investigated and resolved in accordance with ~~5 CCR 4600-4670 and BP/AR 1312.3 - Uniform~~the Title IX grievance procedures as specified in 34 CFR 106.44 and 106.45 and Administrative Regulation 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. ~~A complainant who is not satisfied with the district's decision may appeal the decision to the California Department of Education (CDE). If the district or CDE finds merit in an appeal, the district shall provide a remedy to the affected student.~~ (Education Code 222, 46015; 5 CCR 4600- 4670; 34 CFR 106.44, 106.45)

Program Evaluation

The Superintendent or designee shall periodically report to the Board regarding the effectiveness of district strategies to support current, potential, and past married, pregnant, and parenting students, which may include data on student participation in district programs and services, academic achievement, school attendance, graduation rate, and/or student feedback on district programs and services.

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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	Description
22 CCR 101151-101239.2	General requirements; licensed child care centers
22 CCR 101351-101439.1	Infant care centers

5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4950	Nondiscrimination; marital and parental status
Civ. Code 51	Unruh Civil Rights Act
Ed. Code 221.51	Nondiscrimination; married, pregnant, and parenting students
Ed. Code 222	Reasonable accommodations; lactating students
Ed. Code 222.5	Pregnant and parenting students; notification of rights
Ed. Code 230	Sex discrimination
Ed. Code 46015	Parental leave
Ed. Code 48050	Residents of adjoining states
Ed. Code 48205	Excused absences
Ed. Code 48206.3	Temporary disability; definition
Ed. Code 48220	Compulsory education requirement
Ed. Code 48410	Persons exempted from continuation classes
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49553	Nutrition supplements for pregnant/lactating students
Ed. Code 51220.5	Parenting skills and education
Ed. Code 51745	Independent study
Ed. Code 52610.5	Enrollment of pregnant and parenting students in adult education
Ed. Code 8200-8490	Child Care and Development Services Act
Fam. Code 7002	Description of emancipated minor
H&S Code 104460	Tobacco prevention services for pregnant and parenting students

Federal	**Description**
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Discrimination on the basis of sex; effectuating Title IX
34 CFR 106.40	Marital or parental status
42 USC 1786	Special supplemental nutrition program for women, infants, and children
7 CFR 246.1-246.28	Special supplemental nutrition program for women, infants, and children

Management Resources	**Description**
Attorney General Opinion	87 Ops.Cal.Atty.Gen. 168 (2004)

California Women's Law Center Publication	Pregnant Students and Confidential Medical Services, 2013 (https://www.cwlc.org/dev2019/download/pregnant-students-and-confidential-medical-services/)
~~California Women's Law Center Publication~~	~~Educational Rights of Pregnant and Parenting Teens: Title IX and California State Law Requirements, 2012~~
California Women's Law Center Publication	The Civil Rights of Pregnant and Parenting Teens in California Schools, 2002 (https://www.cwlc.org/dev2019/download/the-civil-rights-of-pregnant-and-parenting-teens-in-california-schools/)
Court Decision	American Academy of Pediatrics et al v. Lungren et al (1997) 16 Cal.4th 307
U.S. Department of Education Publication	Supporting the Academic Success of Pregnant and Parenting Students under Title IX of the Education Amendments of 1972, rev. ~~June 2013~~June 2013 (https://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.html)
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 (https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal)
Website	CSBA District and County Office of Education Legal Services
Website	California Women's Law Center
Website	U.S. Department of Agriculture, Women, Infants, and Children Program
Website	U.S. Department of Education
Website	California Department of Education

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1400	Relations Between Other Governmental Agencies And The Schools
4131	Staff Development

5030	Student Wellness
5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5141.25	Availability Of Condoms
5141.6	School Health Services
5141.6	School Health Services
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sex Discrimination and Sex-Based Harassment
5145.71	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5147	Dropout Prevention
5148	Child Care And Development
5148	Child Care And Development
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6143	Courses Of Study

6143	Courses Of Study
6158	Independent Study
6158	Independent Study
6164.5	Student Success Teams
6164.5	Student Success Teams
6184	Continuation Education
6184	Continuation Education

Policy 0510: School Accountability Report Card

Status: ADOPTED

Original Adopted Date: 11/01/2003 **| Last Revised Date:** ~~03~~09/01/~~2008~~2024 **| Last Reviewed Date:** ~~03~~09/01/~~2008~~2024

CSBA NOTE: The following optional policy may be revised to reflect district practice. Education Code 35256 requires the Governing Board to annually issue a school accountability report card (SARC) for each school site, reporting all conditions listed in Education Code 33126 and 41409.3. The goal of the SARC is to provide data by which parents/guardians can make meaningful comparisons between schools, thus enabling them to make informed decisions regarding which school they wish their children to attend.

In addition, pursuant to 20 USC 6311, any district that receives Title I, Part A funding ~~(see BP/AR 6171 - Title I Programs) must~~is required to prepare and disseminate an annual report card which includes specified information. ~~As amended by the Every Student Succeeds Act (P.L. 114-95),~~Districts are authorized, pursuant to 20 USC 6311 ~~expands the required content of the report card but no longer requires that it include annual measurable objectives, adequate yearly progress, or teacher quality information. Rather than issuing a district-level report card, districts are allowed by 20 USC 6311,~~ to incorporate the information required to be in the annual report card into the SARC, rather than issuing a separate district-level report card. For more information on requirements for schools that receive Title I funding, see BP/AR 6171 – Title I Programs.

The Governing Board recognizes its responsibility to inform parents/guardians and the community about the conditions, needs, and progress at each district school and to provide data by which parents/guardians can make meaningful comparisons between schools. The process of gathering and analyzing data also provides opportunities for school and district staff to review achievements and identify areas for improvement.

The Board shall annually issue a school accountability report card (SARC) for each school site. (Education Code 35256)

CSBA NOTE: Education Code 33126.1 requires that the California Department of Education (CDE) develop a standardized template for use by districts in creating their SARCs. This template is posted on ~~the~~ CDE's ~~web site; districts may download it and then enter SARC data electronically.~~website. The template lists the specific legal requirements and definitions ~~(~~, including federal Title I requirements for district report cards pursuant to 20 USC 6311~~),~~, as well as references to help access the data.

In preparing the district's report cards, the Superintendent or designee may choose to use or adapt the model template provided by the California Department of Education. If the model template is not used, the Superintendent or designee shall ensure that data ~~are~~is reported in a manner that is consistent with the definitions for school conditions as provided in the template. At least every three years, the Board shall compare the content of the district's ~~report cards~~SARCs to the state's model template, recognizing that variances are allowed by law as necessary to meet local needs. (Education Code 33126.1, 35256)

The Board shall annually approve the SARCs for all district schools and shall evaluate the data contained in the SARCs as part of the Board's regular review of the effectiveness of the district's programs, personnel, and fiscal operations.

The Superintendent or designee shall develop strategies for communicating the information contained in the SARCs to all stakeholders, including opportunities for staff and the community to discuss their content.

Notification and Dissemination of SARCs

CSBA NOTE: Education Code 35256 requires districts to notify parents/guardians about the availability of the SARC and to provide a paper copy of the SARC upon request. ~~Education Code 35258 requires any district that is connected~~Pursuant to ~~the Internet to make the information contained in the SARC available via the Internet; some county offices of education make SARCs available on their web sites for district schools within the county. AB 1061 (Ch. 530, Statutes of 2007) amended~~ Education Code 35256 and 35258 ~~to require that, commencing in the 2008-09 school year~~, districts ~~must~~ are required to make the SARC available, in both hard copy and on ~~the Internet~~their website as applicable, by February 1 of each year~~.~~; some county offices of education make SARCs for district schools within the county available on their websites. Districts are not required to submit their SARCs to ~~the~~ CDE, but are required by Education Code 33126.1 to ensure that ~~the~~ CDE has the district's current SARC ~~web site~~website address for linkage from ~~the~~ CDE's ~~web site~~website. Districts ~~that are~~may submit SARCs by utilizing CDE's online electronic SARC template available on myCDEconnect accounts, which submits the entirety of the SARC to CDE. Districts may also elect not ~~connected~~ to ~~the Internet may modify the following paragraph accordingly.~~use the template and instead use a myCDEconnect account to upload an accurate URL where the SARC has been posted on the school or district website. Both methods of submission fulfill the requirement pursuant to Education Code 33126.1.

Additionally, 20 USC 6311 requires districts receiving Title I, Part A funds to disseminate the Title I report card information to all district schools and to all parents/guardians of students attending those schools. Pursuant to 20 USC 6311, the district's Title I report card must be concise; presented in an understandable and ~~to make~~uniform format, and to the extent practicable, in a language that parents can understand; and be accessible to the public, including posting the report card on the district's website. Districts without a website may publicize the report card by providing the information ~~widely available through public means, such as posting on the Internet, distribution to the media, and distribution through~~ to the public ~~agencies. In its nonregulatory guidance Report Cards, dated September 12, 2003, the U.S. Department of Education states that because not all parents/guardians have access to the Internet, the Internet alone is not a sufficient means of disseminating report cards. The~~in another manner as determined by the district. CDE ~~has interpreted this recommendation, in conjunction with state law, to require~~recommends that all parents/guardians be notified of the availability of the full report and be provided information as to how they can access the full report on the Internet or request a paper copy~~. The CDE also encourages~~, and that districts ~~to provide an abbreviated copy~~make copies of the SARC available in the school office and at public forums, such as ~~part of this notice~~parent information nights.

~~The Superintendent or designee shall annually publicize the issuance of the SARCs and notify parents/guardians that a paper copy will be provided upon request. On~~Annually, on or before February 1 of each year, the Superintendent or designee shall publicize the issuance of the SARCs, make the SARCs available ~~in paper copy and~~ on the ~~Internet.~~district's website, and notify

parents/guardians that a hard copy shall be provided upon request. (Education Code 33126, 35256), 35258)

CSBA NOTE: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by the parent/guardian in English or the primary language. In addition, 20 USC 6311 and 6312 require that districts receiving Title I funds provide parent/guardian notices in an understandable and uniform format and, to the extent practicable, in a language that parents/guardians understand.

Additionally, when 15 percent or more of a school's students speak a single primary language other than English, the SARC shall be translated into that other language. (Education Code 48985)

In addition, the SARC shall be provided in an understandable and uniform format and, to the extent practicable, provided in a language that parents/guardians can understand. (Education Code 33126, 35256; 20 USC 6311)

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State	Description
CA Constitution Article 16, Section 8.5(e)	Allocations to State School Fund
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17002	State School Building Lease-Purchase Law, including definition of good repair
Ed. Code 17014	Plan for building maintenance
Ed. Code 17032.5	Portable classroom maintenance
Ed. Code 17070.15	School Facilities Act; definitions
Ed. Code 17089	Portable classroom maintenance
Ed. Code 33126	School accountability report card
Ed. Code 33126.1	School Accountability Report Card model template
Ed. Code 33126.15	School Accountability Report Card template
Ed. Code 33126.2	Secretary of Education school accountability report card study
Ed. Code 35256	School Accountability Report Card

Ed. Code 35256.1	Information required in the School Accountability Report Card
Ed. Code 35258	Internet access to the School Accountability Report Card
Ed. Code 41409	Calculation of statewide averages
Ed. Code 41409.3	Salary information required in the School Accountability Report Card
Ed. Code 46112	Minimum school day for grades 1 through 3
Ed. Code 46113	Minimum school day for grades 4 through 8
Ed. Code 46117	Minimum kindergarten school day
Ed. Code 46141	Minimum school day (high school)
Ed. Code 51225.3	High school graduation requirements
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 60119	Textbook sufficiency
Ed. Code 60600-60618	General provisions
Ed. Code 60640-60648.5	California Assessment of Student Performance and Progress
Ed. Code 60800	Physical fitness testing

Federal	**Description**
20 USC 6311	State plan

Management Resources	**Description**
U.S. DOE~~,~~ Guidance	~~Report Cards, September 12, 2003~~Opportunities and Responsibilities for State and Local Report Cards under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act, September 2019 (https://www2.ed.gov/policy/elsec/leg/essa/report-card-guidance-final.pdf)
California Department of Education Publication	Frequently Asked Questions about the School Accountability Report Card (https://www.cde.ca.gov/ta/ac/sa/questions.asp)
California Department of Education Publication	SARC Preparation Guide for Public Schools (https://www.cde.ca.gov/ta/ac/sa/publicschlguide.asp)
California Department of Education Publication	Adjusted Cohort Graduation Rate Federal Program Monitoring Instrument (https://www.cde.ca.gov/ta/cr/)
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education, School Accountability Report Card
~~Website~~	~~CSBA, SARC Select~~
Website	U.S. Department of Education

Cross References

Code	Description
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0420.4	Charter School Authorization
0420.4	Charter School Authorization
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0500	Accountability
1000	Concepts And Roles
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6000	Concepts And Roles
6117	Year-Round Schedules
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6162.5	Student Assessment
6190	Evaluation Of The Instructional Program
9000	Role Of The Board

Administrative Regulation 0510: School Accountability Report Card

Status: ADOPTED

Original Adopted Date: 09/01/2024 **| Last Reviewed Date:** 09/01/2024

Contents

CSBA NOTE: The following optional administrative regulation includes a non-exhaustive list of the components which the law explicitly requires be included in each school site's school accountability report card (SARC) and may be revised to reflect district practice.

Each year the principal or designee at each school shall prepare a school accountability report card (SARC), which shall include, but is not limited to: (Education Code 33126)

1. Student achievement by grade level, as measured by the results of the statewide assessment

   CSBA NOTE: Pursuant to 20 USC 6311, a district that receives Title I Funds is required to include high school graduation rates, including a four-year adjusted cohort graduate rate, on its annual report card. The California Department of Education monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM process includes a review of a district's written policies and procedures to maintain required documentation for students who transfer or withdraw from a district school, including the exit reasons and documentation to support the exit reasons.

2. Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Educational Data System (CBEDS) for the school over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code 52052

3. Estimated expenditures per student and types of services funded, including the actual salaries of personnel assigned to the school

   The assessment of estimated expenditures per student shall be reported in total, in subtotal by restricted and by unrestricted source, and include a reporting of the average of actual salaries paid to certificated instructional personnel at that school.

4. Progress toward reducing class sizes and teaching loads, including the average class size and the distribution of class sizes at the school by grade level, using CBEDS for the most recent three-year period

5. The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period

6. The quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards, the ratio of textbooks per student, and the year the textbooks were adopted

7. The availability of sufficient textbooks and other instructional materials, as determined pursuant to Education Code 60119, for each student, including English learners, in each of the areas of the core curriculum areas of reading/language arts, mathematics, science, and history/social science; world language and health; science laboratory equipment for grades 9 to 12, inclusive, as appropriate; and visual and performing arts

   If the Governing Board determines, pursuant to Education Code 60119, that there are insufficient textbooks or instructional materials, or both, it shall include information for each school in which an insufficiency exists, identifying the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in each subject area identified above.

8. The availability of qualified personnel to provide counseling and other student support services, including the ratio of academic counselors per student

9. Safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair

10. The annual number of school days dedicated to staff development for the most recent three-year period

11. Suspension and expulsion rates for the most recent three-year period

CSBA NOTE: Education Code 33126 requires schools to include the Academic Performance Index (API) in each SARC. However, the API was replaced in 2017 with the new accountability and continuous improvement system known as the California School Dashboard.

Additionally, pursuant to Education Code 33126, the data in the SARC is required to be disaggregated for each numerically significant subgroup, as defined in Education Code 52052, which, as amended by SB 114 (Ch. 48, Statutes of 2023), includes "long-term English learners." Pursuant to Education Code 52052, as amended by SB 141 (Ch. 194, Statutes of 2023), a "long-term English learner" is defined as a student who has not attained English language proficiency within seven years of initial classification as an English learner.

12. The Academic Performance Index, which is reflected in the California School Dashboard, including the disaggregation of student subgroups identified in Education Code 52052, the decile rankings, and a comparison of schools

13. Contact information for organized opportunities for parent/guardian involvement

CSBA NOTE: The following two criteria apply to schools serving students in grades 9-12.

14. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University, including the course requirements for high school graduation pursuant to Education Code 51225.3, and the percentage of students enrolled in those courses, as reported by CBEDS

15. The number of advanced placement courses offered, by subject

16. Career technical education (CTE) data measures, including:

    a. A list of programs offered by the district that students at the school may participate in and are aligned to the model curriculum standards adopted pursuant to Education Code 51226 and program sequences offered by the district

       The list shall identify which courses are conducted by a regional occupational center or program and those that are conducted directly by the district.

    b. A list of the district's primary representative of the CTE advisory committee and the industries represented

    c. The number of students participating in CTE

    d. The percentage of students that complete a CTE program and earn a high school diploma

    e. The percentage of CTE courses that are sequenced or articulated between a school and postsecondary education schools

CSBA NOTE: Pursuant to Education Code 41409.3, the following requirements do not apply to single school districts and should be deleted by such districts.

Additionally, each SARC shall also include the following information: (Education Code 41409.3)

1. The beginning, median, and highest salary paid to teachers in the district, as reflected in the district's salary scale

2. The average salary for school-site principals in the district

3. The salary of the Superintendent
4. The percentage expended for the salaries of administrative personnel, as specified
5. The percentage expended for the salaries of teachers
6. For Items #1-5 above, the statewide average in districts of the same size and type based on information provided by the State

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Policy Reference Disclaimer:
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State	Description
CA Constitution Article 16, Section 8.5(e)	Allocations to State School Fund
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17002	State School Building Lease-Purchase Law, including definition of good repair
Ed. Code 17014	Plan for building maintenance
Ed. Code 17032.5	Portable classroom maintenance
Ed. Code 17070.15	School Facilities Act; definitions
Ed. Code 17089	Portable classroom maintenance
Ed. Code 33126	School accountability report card
Ed. Code 33126.1	School Accountability Report Card model template
Ed. Code 33126.15	School Accountability Report Card template
Ed. Code 33126.2	Secretary of Education school accountability report card study
Ed. Code 35256	School Accountability Report Card
Ed. Code 35256.1	Information required in the School Accountability Report Card

Ed. Code 35258	Internet access to the School Accountability Report Card
Ed. Code 41409	Calculation of statewide averages
Ed. Code 41409.3	Salary information required in the School Accountability Report Card
Ed. Code 46112	Minimum school day for grades 1 through 3
Ed. Code 46113	Minimum school day for grades 4 through 8
Ed. Code 46117	Minimum kindergarten school day
Ed. Code 46141	Minimum school day (high school)
Ed. Code 51225.3	High school graduation requirements
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 60119	Textbook sufficiency
Ed. Code 60600-60618	General provisions
Ed. Code 60640-60648.5	California Assessment of Student Performance and Progress
Ed. Code 60800	Physical fitness testing

Federal	**Description**
20 USC 6311	State plan

Management Resources	**Description**
U.S. DOE Guidance	Opportunities and Responsibilities for State and Local Report Cards under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act, September 2019 (https://www2.ed.gov/policy/elsec/leg/essa/report-card-guidance-final.pdf)
California Department of Education Publication	Frequently Asked Questions about the School Accountability Report Card (https://www.cde.ca.gov/ta/ac/sa/questions.asp)
California Department of Education Publication	SARC Preparation Guide for Public Schools (https://www.cde.ca.gov/ta/ac/sa/publicschlguide.asp)
California Department of Education Publication	Adjusted Cohort Graduation Rate Federal Program Monitoring Instrument (https://www.cde.ca.gov/ta/cr/)
Website	CSBA District and County Office of Education Legal Services

Website	California Department of Education, School Accountability Report Card
Website	U.S. Department of Education

Cross References

Code	Description
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0420.4	Charter School Authorization
0420.4	Charter School Authorization
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0500	Accountability
1000	Concepts And Roles
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6000	Concepts And Roles
6117	Year-Round Schedules
6142.7	Physical Education And Activity

6142.7	Physical Education And Activity
6162.5	Student Assessment
6190	Evaluation Of The Instructional Program
9000	Role Of The Board

Policy 1114: District-Sponsored Social Media

Status: ADOPTED

Original Adopted Date: 07/01/2011 **| Last Revised Date:** 09/01/2024 | **Last Reviewed Date:** ~~07~~09/01/~~2011~~2024

CSBA NOTE: The following optional policy is for use by districts that have created an official district (i.e., district-sponsored) social media ~~platform~~account. "Social media" is defined in the accompanying administrative regulation as an online platform for collaboration, interaction, ~~and~~or active participation, or that allows users to post content, including social networking sites such as Instagram, TikTok, Facebook, X/Twitter, SnapChat, YouTube, LinkedIn, ~~or blogs. Districts that have not created such platforms should delete this policy and regulation.~~ etc.

District strategies for effective use of online social media may be incorporated into the district's comprehensive communications plan; see BP 1100 - Communication ~~with the~~With The Public.

The Governing Board recognizes the value of ~~technology such as~~ social media ~~platforms in promoting~~to share district information with families and the community and promote community involvement and collaboration~~.~~ in district decisions. The purpose of any official district social media ~~platform~~account shall be to further the district's vision and mission, to support student learning and staff professional development, and to enhance communication and engagement with students, ~~parents/guardians~~families, staff, and community members. The Superintendent or designee shall ensure that the content posted by the district on an official district social media account is accessible to individuals with disabilities.

CSBA NOTE: To minimize liability to the district, it is important ~~that the district's social media policy~~to clearly define the official social media ~~platforms over~~accounts which ~~it has control~~the district sponsors and to specify the standards, guidelines, and protocols for their use. ~~An "official district social media platform" is defined in the accompanying~~ Board policies and administrative ~~regulation. District policy and guidelines~~regulations do not apply to personal social media ~~platforms~~accounts that may be created by students, staff members, or other individuals which may sometimes include discussion of district-related issues but are not sponsored by the district.

The Superintendent or designee shall develop content guidelines and protocols for official district social media ~~platforms~~accounts to ensure ~~the~~public access, appropriate and responsible use ~~of these resources~~, and compliance with law, ~~Board~~board policy, and administrative regulation.

Guidelines for Content

CSBA NOTE: ~~Because of the open accessibility of social~~Social media~~,~~ platforms typically allow users to post or reply to content ~~will be~~ posted ~~by members of~~on users' accounts, which is or can be made viewable to other users and even the public ~~on the district's official platform without prior approval by district staff. By allowing the public to post comments, some legal analysts have opined that~~. This may create a ~~"~~"limited public forum~~"~~ ~~is created~~," which grants individuals certain freedom of speech rights and limits the district's ability to remove comments or posts. ~~In order to protect against possible constitutional challenges, any~~Any removal of content by the district should be based on viewpoint-neutral considerations~~, such as prohibitions of posts~~ to protect

against possible legal challenges. This may include, but is not limited to, removing content that ~~violate laws against~~constitutes discrimination ~~or~~, harassment, or bullying, as specified in the accompanying administrative regulation, or that ~~are~~is unrelated to the purpose of the ~~site. In addition~~account. Additionally, in order to help maintain the district's ability to remove content, users should be informed of the purpose of the ~~site~~account(s) and the limited nature of the discussion ~~and district~~. District staff should regularly monitor ~~sites~~all such accounts so that materials are removed ~~in an even-handed and consistent manner~~as permitted by law. See the accompanying administrative regulation for language regarding removal of posts and monitoring of ~~sites~~accounts. It is recommended that ~~the~~districts consult CSBA's District and County Office of Education Legal Services or district ~~consult~~ legal counsel ~~prior to adopting this policy and regulation~~ to ensure that any provisions related to removal of posts or discipline of students or staff are consistent with law.

Official district social media ~~platforms~~accounts shall be used only for their stated purposes and in a manner consistent with this policy and administrative regulation. ~~By creating these official sites and allowing for public comment, the Board does~~ This policy is not ~~intend~~intended to create ~~a limited~~an open public forum or otherwise guarantee an individual's right to free speech on any of the official district social media accounts even if one or more features on the account that permit interaction with and between members of the public are enabled.

The Superintendent or designee shall ensure that the limited purpose of ~~the~~ official district social media ~~platforms~~accounts is clearly communicated to users. Each ~~site~~account shall contain a statement ~~that specifies~~specifying the ~~site's~~ purposes ~~along with a statement~~of the account, that ~~users are expected to use~~ the ~~site~~account shall only be used for ~~those~~such purposes~~. Each site shall also contain a statement that users are personally responsible for the content of their posts~~, and any other user expectations or conditions as specified in the accompanying administrative regulation.

Official district social media ~~platforms~~accounts may not contain content that is obscene, libelous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, violation of school rules, or substantial disruption of the school's orderly operation.

CSBA NOTE: Staff and students who post prohibited content on official district social media ~~platforms~~accounts are subject to discipline in accordance with ~~district~~board policies and administrative regulations. Pursuant to Education Code 48900(r), a student may be subject to suspension or expulsion if ~~he/she~~the student engages in an act of bullying by means of an electronic act as defined in Education Code 32261; see AR 5144.1 - Suspension and Expulsion/Due Process. ~~AB 746 (Ch. 72, Statutes of 2011) broadened the definition of "electronic act" in~~ Pursuant to Education Code 32261 ~~to include~~, an "electronic act" includes, but is not limited to, posts on a social networking site.

When staff and students misuse the district's technological resources, they also may be subject to cancellation of user privileges in accordance with the district's Acceptable Use Agreement; see BP/E 4040 - Employee Use of Technology and BP/E 6163.4 - Student Use of Technology.

Staff or students who post prohibited content or otherwise engage with an official district social media account in a manner that violates board policies and administrative regulations shall be subject to discipline in accordance with ~~district~~such applicable policies and ~~administrative~~ regulations.

~~CSBA NOTE: Communication on social media platforms may raise legal issues for users regarding public records laws. In addition, individual Governing Board members using social media platforms must be careful not to violate the Brown Act. Pursuant to Government Code 54952.2, a prohibited serial meeting may result from a series of communications involving a majority of the Board to discuss, deliberate, or take action on any item of district business outside of an authorized meeting. See BB 9012 - Board Member Electronic Communications. In addition, information posted may be considered a record subject to the Public Records Act (Government Code 7920.000 - 7930.170).~~

Users of official district social media ~~platforms~~accounts, and anyone who posts, replies, or otherwise leaves a digital footprint on an official district social media account, should be aware of the public nature and accessibility of social media and that such information posted or left on an official district social media account may be considered a public record subject to disclosure under the Public Records Act. ~~The Board expects users to conduct themselves in a respectful, courteous, and professional manner.~~

Privacy

~~The~~To the extent practicable, the Superintendent or designee shall ensure that the privacy rights of students, parents/guardians, staff, Board members, and other individuals are protected on official district social media ~~platforms.Board policy pertaining~~accounts.

As it pertains to the posting of student photographs and the privacy of telephone numbers, home addresses, and email addresses, ~~as specified~~official district social media accounts shall operate in ~~BP~~accordance with Board Policy 1113 - District and School ~~Web Sites, shall also apply to official district social media platforms.~~Websites.

Social media and ~~networking sites and~~ other online platforms shall not be used by district employees to transmit confidential information about students, employees, or district operations.

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State	Description
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 35182.5	Contracts for advertising
Ed. Code 48900	Grounds for suspension or expulsion
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations

Ed. Code 48950	Speech and other communication
Ed. Code 49061	Definitions; directory information
Ed. Code 49073	Release of directory information
Ed. Code 60048	Commercial brand names, contracts or logos
Gov. Code 3307.5	Publishing identity of public safety officers
Gov. Code 54952.2	Brown Act; definition of meeting
Gov. Code 7920.000-7930.215	California Public Records Act

Federal	**Description**
17 USC 101-1101	Federal copyright law
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
29 USC 157	Employee rights to engage in concerted, protected activity
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 99.1-99.67	Family Educational Rights and Privacy

Management Resources	**Description**
Court Decision	Aaris v. Las Virgenes Unified School District (1998) 64 Cal.App.4th 1112
Court Decision	Board of Education, Island Trees Union Free School District, et. al. v. Pico (1982) 457 U.S. 853
Court Decision	Lindke v. Freed (2024) 601 U.S. 187
Court Decision	Page v. Lexington County School District (2008, 4th Cir.) 531 F.3d 275
Court Decision	Perry Education Association v. Perry Local Educators' Association (1983) 460 U.S. 37
Court Decision	Downs v. Los Angeles Unified School District (9th Cir. 2000) 228 F.3d 1003
Facebook Publication	Facebook for Educators Guide, ~~2011~~2013 (https://cdpsdocs.state.co.us/safeschools/Resources/Facebook%20Guide%20for%20Educators.pdf)
National Labor Relations Board Decision 18-CA-1908	Sears Holdings, December 4, 2009
Website	CSBA District and County Office of Education Legal Services
Website	~~Facebook for Educators~~Meta in Education
~~Website~~	~~Facebook in Education~~
Website	Facebook, privacy resources
Website	California School Public Relations Association

Website	CSBA

Cross References

Code	Description
0000	Vision
0410	Nondiscrimination In District Programs And Activities
0440	District Technology Plan
0440	District Technology Plan
0510	School Accountability Report Card
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1160	Political Processes
1230	School-Connected Organizations
1230	School-Connected Organizations
1260	Educational Foundation
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1325	Advertising And Promotion
3515.7	Firearms On School Grounds
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action

4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4132	Publication Or Creation Of Materials
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4232	Publication Or Creation Of Materials
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4332	Publication Or Creation Of Materials
5022	Student And Family Privacy Rights
5022	Student And Family Privacy Rights
5125	Student Records
5125	Student Records
5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
5131	Conduct
5142.2	Safe Routes To School Program
5142.2	Safe Routes To School Program
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process

5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
6020	Parent Involvement
6020	Parent Involvement
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
9010	Public Statements
9012	Board Member Electronic Communications

Regulation 1114: District-Sponsored Social Media

Status: ADOPTED

Original Adopted Date: 07/01/2011 **| Last Revised Date:** 09/01/2024 | **Last Reviewed Date:** 0709/01/20112024

CSBA NOTE: The following optional administrative regulation may be revised to reflect district practice and the types of ~~online platforms~~social media accounts used by the district.

Definitions

Social media means any online platform for collaboration, interaction, ~~and~~or active participation, or that allows users to post content, including, but not limited to, social networking sites such as Instagram, TikTok, Facebook, X/Twitter, SnapChat, YouTube, and LinkedIn~~, or blogs~~.

CSBA NOTE: To minimize liability to the district, it is important that the district clearly define the official social media ~~platforms~~accounts over which it has control and to specify the standards, guidelines, and protocols for their use. The following definition may be revised to reflect district practice. ~~District policy~~Board policies and ~~guidelines~~administrative regulations do not apply to personal social media ~~platforms~~accounts that may be created by students, staff members, or other individuals which may sometimes include discussion of district-related issues but are not sponsored by the district.

~~Official~~An official district social media account is an account on a social media platform ~~is a site~~ authorized by the Superintendent or designee. ~~Sites~~

An account that ~~have not been authorized by the Superintendent or designee but that contain~~contains content related to the district or comments ~~on~~about district operations but that has not been created based on authorization or direction from the Superintendent or designee, such as ~~a site~~an account created by a parent-teacher organization, booster club, or other school-connected organization or a student's or employee's personal ~~site, are~~account, is not ~~considered official district social media platforms.~~

~~**Authorization for Official District Social Media Platforms**~~

~~The Superintendent or designee shall authorize the development of any official district social media platform. Teachers~~an official district social media account.

School-level employees such as teachers and coaches shall obtain ~~approval~~authorization from the school principal before creating an official ~~classroom or team~~ social media ~~platform.~~account.

Guidelines for Content

~~The Superintendent or designee shall ensure that official district social media platforms provide current information regarding district programs, activities, and operations, consistent with the goals and purposes of this policy and regulation. Official district social media platforms~~Each official district social media account shall contain content that is useful and appropriate for all audiences

CSBA NOTE: Federal copyright law (17 USC 107) and the courts have generally provided that teachers, students, and schools are allowed to make "fair use" of materials for instructional purposes in situations which are not likely to deprive a publisher or an author of income; see BP/AR 6162.6 - Use of Copyrighted Materials. ~~Unless there is a clear statement that text, art, or photos are in the "public domain" and available for free use, such material should not be replicated without prior permission of the owner of the copyright.~~However, as this is a fact-specific determination, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel.

~~The Superintendent or designee~~District employees or agents in charge of posting or adding information to an official district social media account shall ensure that copyright laws are not violated in the use of material on official district social media ~~platforms~~accounts.

CSBA NOTE: ~~Because of the open accessibility of social~~Social media~~,~~ platforms typically allow users to post or reply to content ~~will~~on each other's accounts, which is or can be ~~posted by members of~~made viewable to other users and even the public ~~on the district's official platform without prior approval by district staff. By allowing the public to post comments, some legal analysts have opined that~~. This may create a ~~"~~"limited public forum~~"~~ ~~is created,~~" which grants individuals certain freedom of speech rights and limits the district's ability to remove comments or posts.

~~Decisions by the National Labor Relations Board (NLRB) (e.g., Sears Holdings) point to the need to be cautious in establishing policy related to employee use of electronic communications so as to not~~ Any removal of content by the district should be based on viewpoint-neutral considerations to protect against possible legal challenges. This may include, but is not limited to, removing content that constitutes discrimination, harassment, or bullying, as specified in the accompanying Bboard Policy, or that is unrelated to the purpose of the account. Additionally, in order to help maintain the district's ability to remove content, users should be informed of the purpose of the account(s) and the limited nature of the discussion. District staff should regularly monitor all such accounts so that materials are removed as permitted by law. It is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel to ensure that any provisions related to removal of posts or discipline of students or staff are consistent with law.

In *Sears,* the National Labor Relations Board (NLRB) advised caution when establishing policy related to employee use of electronic communications as it might interfere with an employee's right to engage in protected, concerted activity granted by 29 USC 157. The NLRB has held that social media policies can prohibit the disclosure of confidential information and address legitimate concerns for managing the workplace, but cannot expressly or by implication prohibit employees from talking with each other about wages, hours, and other terms and conditions of employment.

~~In addition~~Additionally, Education Code 48907 grants students the right to freedom of speech except for speech which is obscene, libelous, or which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, violation of lawful school regulations, or substantial disruption of the orderly operation of the school. Also see BP/AR 5145.2 - Freedom of Speech/Expression and BP/AR 6145.5 - Student Organizations and Equal Access.

Furthermore, if the district chooses to post advertising of a commercial nature on an official

district social media ~~platforms~~account, then the ability to remove comments of a commercial nature posted by others may be limited as removing some commercial content and not others may constitute viewpoint discrimination. Districts should also be cautious about the use of district resources, such as its official district social media ~~platforms~~account, for political purposes; see BP 1160 - Political Processes.

~~In order~~ Pursuant to ~~protect against possible constitutional challenges, any removal of content by~~ the U.S. Supreme Court's decision in *Lindke v. Freed*, a district ~~should be based on viewpoint-neutral considerations~~official who limits or prevents critics from speaking, such as ~~preventing~~by blocking them on social media or deleting their posts, violates the ~~violation of laws against discrimination or harassment or~~ First Amendment only if the ~~posting of materials that are unrelated to~~ official (1) has been granted the ~~purpose~~power to speak on behalf of the ~~site. The~~ district ~~should~~and (2) claims to be actually exercising that power. Because the determination as to whether a public official's action meets these two conditions is a fact-specific undertaking, it is recommended that districts with questions regarding this issue consult CSBA's District and County Office of Education Legal Services or district legal counsel ~~to ensure that its guidelines for removal of posts are consistent with law. Also see the accompanying Board policy~~.

The Superintendent or designee shall ensure that official district social media ~~platforms~~accounts are regularly monitored. Staff members responsible for monitoring content may remove posts or even suspend users from interacting with the account only based on viewpoint-neutral considerations, such as lack of relation to the ~~site's~~account's purpose or violation of ~~the district's policy, regulation, or content guidelines~~board policies or administrative regulations.

Each official district social media ~~platform~~account shall, as appropriate, prominently display~~:~~ a link to this regulation or a statement that includes Items #1-10, below:

1. The purpose(s) of the ~~site along with a statement that users are expected to~~account, such as providing information to a class, school community, athletic team, or student club; engaging with the public regarding district decisions and Governing Board meetings; and sharing information regarding employment opportunities with the district

~~2. Information on how to use the security settings of the social media platform.~~

2. Users shall use the site only for those intended purposes~~.~~

3. ~~A statement that the site~~The account is regularly monitored and ~~that~~ any inappropriate ~~post~~interaction will be promptly removed~~.~~ , blocked, or similarly addressed. Inappropriate ~~posts~~interactions include ~~those~~, but are not limited to, interactions that:

   a. Are obscene, libelous, or so incite students as to create a clear and present danger of the commission of unlawful acts on ~~school~~district premises, violation of district or school rules, or substantial disruption ~~of~~to the district or school's orderly operation

   b. Are not related to the stated purpose of the ~~site~~account, including, but not limited to, threats, comments of a commercial nature, political activity, and comments ~~that constitute discrimination or harassment~~prohibited by board policies and administrative regulations

4. ~~Protocols for users, including expectations that users will~~ Users are expected to communicate in a respectful, courteous, and professional manner and are personally responsible for their use of the account

5. ~~A statement that users are personally responsible for the content of their posts and that the district is not responsible for the content of external online platforms.~~ The district is not responsible for the content posted by other users or how other users interact with the account

6. ~~A disclaimer that the~~The views and comments expressed by other users on the ~~site are~~account belong to those ~~of the~~ users and do not necessarily reflect the views of the district~~.~~

7. ~~A disclaimer that any~~Any user's reference to a specific commercial product or service does not imply endorsement or recommendation of that product or service by the district~~.~~

8. The individual(s) to contact regarding violation of district guidelines on the use of official district social media ~~platforms.~~accounts

CSBA NOTE: The Cyberbullying Protection Act (Business and Professions Code 22589-22589.4) requires a social media platform, as defined, to establish a mechanism that allows any individual, including the district, to report cyberbullying or any content that violates the existing terms of service. Although not directly applicable to districts, it is good guidance for districts seeking to create a safe online space.

9. Violations may be reported to the appropriate social media platform, law enforcement, or other third parties, as appropriate

CSBA NOTE: Item #10 details the length of and preconditions for a user's suspension and should be modified to reflect district practice.

10. A user may be suspended from interacting with the account for one month upon three prior violations and for six months upon two prior one-month suspensions

Appropriate Use by District Employees

CSBA NOTE: For policy language regarding appropriate employee communications and relationships with students, see BP 4119.21/4219.21/4319.21 - Professional Standards and BP 4040 - Employee Use ~~of~~Of Technology.

District employees who participate in official district social media ~~platforms~~accounts shall adhere to all applicable ~~district~~board policies and ~~procedures~~administrative regulations, including, but not limited to, professional standards related to interactions with students.

When appropriate, employees ~~using~~posting, replying, or otherwise interacting with the public outside of their professional duties or responsibilities on official district social media ~~platforms~~accounts shall identify themselves by name and district title and include a disclaimer stating that the views and opinions expressed in their post are theirs alone and do not necessarily represent those of the district or school.

All staff shall receive information about appropriate use of the official district social media ~~platforms~~accounts.

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State	**Description**
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 35182.5	Contracts for advertising
Ed. Code 48900	Grounds for suspension or expulsion
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 49061	Definitions; directory information
Ed. Code 49073	Release of directory information
Ed. Code 60048	Commercial brand names, contracts or logos
Gov. Code 3307.5	Publishing identity of public safety officers
Gov. Code 54952.2	Brown Act; definition of meeting
Gov. Code 7920.000-7930.215	California Public Records Act

Federal	**Description**
17 USC 101-1101	Federal copyright law
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
29 USC 157	Employee rights to engage in concerted, protected activity
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 99.1-99.67	Family Educational Rights and Privacy

Management Resources	**Description**
Court Decision	Aaris v. Las Virgenes Unified School District (1998) 64 Cal.App.4th 1112
Court Decision	Board of Education, Island Trees Union Free School District, et. al. v. Pico (1982) 457 U.S. 853
Court Decision	Lindke v. Freed (2024) 601 U.S. 187

Court Decision	Page v. Lexington County School District (2008, 4th Cir.) 531 F.3d 275
Court Decision	Perry Education Association v. Perry Local Educators' Association (1983) 460 U.S. 37
Court Decision	Downs v. Los Angeles Unified School District (9th Cir. 2000) 228 F.3d 1003
Facebook Publication	Facebook for Educators Guide, ~~2011~~2013 (https://cdpsdocs.state.co.us/safeschools/Resources/Facebook%20Guide%20for%20Educators.pdf)
National Labor Relations Board Decision 18-CA-1908	Sears Holdings, December 4, 2009
Website	CSBA District and County Office of Education Legal Services
Website	~~Facebook for Educators~~Meta in Education
~~Website~~	~~Facebook in Education~~
Website	Facebook, privacy resources
Website	California School Public Relations Association
Website	CSBA

Cross References

Code	Description
0000	Vision
0410	Nondiscrimination In District Programs And Activities
0440	District Technology Plan
0440	District Technology Plan
0510	School Accountability Report Card
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
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1230	School-Connected Organizations
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1260	Educational Foundation
1312.3	Uniform Complaint Procedures

1312.3	Uniform Complaint Procedures
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Regulation 1312.4: Williams Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 11/01/2010 **| Last Revised Date:** ~~10~~09/01/~~2023~~2024 **| Last Reviewed Date:** ~~10~~09/01/~~2023~~2024

CSBA NOTE: Education Code 35186 **mandates** that districts establish policies and procedures to address complaints regarding insufficiency of textbooks and instructional materials, teacher vacancy or misassignment, and emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff. When such a complaint is filed with the district, the district is required to investigate and resolve the complaint in accordance with the Williams uniform complaint procedures established pursuant to 5 CCR 4680-4687.

It is recommended that districts use these procedures only for complaints specified in law and this administrative regulation. See BP/AR 1312.3 - Uniform Complaint Procedures for a discussion of the types of complaints subject to the uniform complaint procedures established pursuant to 5 CCR 4600-4670, and for license-exempt preschool programs pursuant to 5 CCR 4690-4694. For procedures related to complaints about employees, see BP/AR 1312.1 - Complaints Concerning District Employees. For complaints concerning the district's adoption and selection of specific instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials. For complaints regarding the district's nutrition program, see BP 3555 - Nutrition Program Compliance.

Types of Complaints

The district shall use the procedures described in this administrative regulation only to investigate and resolve the following:

CSBA NOTE: Education Code 242, as added by AB 1078 (Ch. 229, Statutes of 2023), requires the California Department of Education (CDE) to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

Pursuant to Education Code 60119, boards are required to hold a public hearing annually regarding the sufficiency of instructional materials. If, at the public hearing, the Governing Board makes a determination of "insufficient materials", Education Code 1240, as amended by AB 1078, requires the Board to take certain actions and specifies potential consequences for not remedying the deficiency as required by law; see BP 6161.1 - Selection and Evaluation of Instructional Materials. For more information regarding the Board's responsibilities regarding the sufficiency of instructional materials, see CSBA's Governance Brief, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," and Fact Sheet, "Instructional Materials Adoptions: Local governing board responsibilities."

1. Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that: (Education Code 35186; 5 CCR 4681)

a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class~~.~~

b. A student does not have access to textbooks or instructional materials to use at home or after school~~.~~ ~~This does not require two sets of textbooks or instructional materials for each student.~~

This does not require two sets of textbooks or instructional materials for each student.

c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage~~.~~

d. A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials~~.~~

2. Complaints regarding teacher vacancy or misassignment, including any complaint alleging that: (Education Code 35186; 5 CCR 4682)

a. A semester begins and a teacher vacancy exists~~.~~

CSBA NOTE: Education Code 35186, as amended by SB 114 (Ch. 48, Statutes of 2023), requires that the Williams uniform complaint procedure be used to address a complaint related to teacher misassignment that claims that a teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class.

b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class~~.~~

c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency~~.~~

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of the semester for an entire semester. (Education Code 35186; 5 CCR 4600)

Beginning of the year or semester means the time period from the first day students attend classes for a year-long course or semester-long course, though not later than 20 business days afterwards. (5 CCR 4600)

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold. (Education Code 35186; 5 CCR 4600)

3. Complaints regarding the condition of school facilities, including any complaint alleging that: (Education Code 35186; 5 CCR 4683)

a. A condition poses an emergency or urgent threat to the health or safety of students or staff.

Emergency or urgent threat means structures or systems that are in a condition that poses a threat to the health and safety of students or staff while at school, including, but not limited to, gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; or any other condition deemed appropriate. (Education Code 17592.72)

b. A school restroom has not been cleaned, maintained, or kept open in accordance with Education Code 35292.5.

Clean or maintained school restroom means a school restroom has been cleaned or maintained regularly, is fully operational, or has been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers. (Education Code 35292.5)

CSBA NOTE: Pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), districts may temporarily close a restroom for (1) a documented student safety concern, (2) an immediate threat to student safety, or (3) to repair the facility.

c. *Open restroom* means the school has kept all restrooms open during school hours when students are not in classes and has kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when the temporary closing of the restroom is necessary for a documented student safety concern, an immediate threat to student safety, or to repair the facility. (Education Code 35292.5)

CSBA NOTE: The following optional paragraph is for use by districts that maintain any of grades 63-12, and may be revised to reflect the grade levels served by the district.

Pursuant to Education Code 35292.6 a school that serves any of grades 6-12 is required, as amended by AB 230 (Ch. 421, Statutes of 2023), the requirement to stock the school's restrooms with menstrual products, for use in connection with the menstrual cycle, free of charge has been expanded to include schools that serve students in any of grades 3-12. See AR 3517 - Facilities Inspection.

Although Education Code 35292.6 does not require a complaint process, it is recommended that the Williams uniform complaint procedures be used to address any allegation of noncompliance with Education Code 35292.6 in order to ensure consistency in the procedures that districts use to address allegations of noncompliance with all restroom maintenance requirements. However, pursuant to 5 CCR 4610, CDE will not accept an appeal of any such district-permitted complaint may not be appealed to CDE.

In any school serving students any of grades 63-12, a complaint may be filed alleging noncompliance with the requirement of Education Code 35292.6 to, at all times, stock and make available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom. (Education Code 35292.6)

CSBA NOTE: Beginning July 1, 2026, Education Code 35292.5, as amended by SB 760, requires each school to provide and maintain at least one all-gender restroom for student use, as described below. The district is required to ensure that an employee is designated as a point of contact to implement these requirements for each school, and that a notice regarding the requirements be posted in a prominent and conspicuous location outside the all-gender restroom, including contact information for the designated point of contact. CDE is required to post on its website guidance for implementation of the requirements specified in Education Code 35292.5, including examples of signage and best practices.

As with Education Code 35292.6 described above, Education Code 35292.5, as amended by SB 760, does not require a complaint process. However, it is recommended that the Williams complaint procedures be used to address allegations of noncompliance with Education Code 35292.5 in order to ensure consistency in the procedures districts use to address allegations of noncompliance with all restroom maintenance requirements. Like complaints alleging noncompliance with Education Code 35292.6, CDE will not accept an appeal of a complaint alleging noncompliance with Education Code 35292.5.

Additionally, starting July 1, 2026, in any school that has more than one female and more than one male restroom designated exclusively for student use, a complaint may be filed alleging noncompliance with the requirements specified in Education Code 35292.5 to maintain at least one all-gender restroom for student use. (Education Code 35292.5)

Forms and Notices

The Superintendent or designee shall ensure a Williams complaint form is available at each school. However, complainants need not use the district's complaint form in order to file a complaint. (Education Code 35186; 5 CCR 4680)

CSBA NOTE: Education Code 35186 requires that the district's complaint form contain the elements stated in the following paragraph. In addition, Education Code 35186 requires that a notice be posted in each classroom in each school in the district, as specified below. See the accompanying exhibits for a sample complaint form and classroom notice.

The Superintendent or designee shall ensure that the district's complaint form specifies the location for filing a complaint and contains a space to indicate whether the complainant desires a response to the complaint. A complainant may add as much text to explain the complaint as desired. (Education Code 35186; 5 CCR 4680)

The Superintendent or designee shall post in each classroom in each school a notice containing the components specified in Education Code 35186. (Education Code 35186)

Filing of Complaint

CSBA NOTE: Education Code 35186 requires that complaints be investigated and resolved within the timelines specified below. During the Federal Program Monitoring (FPM) process, CDE staff will expect to see statements regarding the filing of the complaint, the investigation, timelines, and the complainant's right to appeal to the Board and to appeal facilities complaints to CDE, as detailed in the following section and the section "Investigation and Response" below.

A complaint alleging any condition(s) specified in the section "Types of Complaints" above shall be filed with the principal or designee at the school in which the complaint arises. A complaint about problems beyond the authority of the principal shall be forwarded to the Superintendent or designee in a timely manner, but not to exceed 10 working days. Complaints may be filed anonymously. (Education Code 35186; 5 CCR 4680)

CSBA NOTE: Pursuant to Education Code 35186, as amended by AB 1078, complaints related to instructional materials alleging that more than one student does not have sufficient textbooks or instructional materials as the result of an act by the Board, or the Board's failure to remedy the deficiency, may be filed with the Superintendent of Public Instruction (SPI) directly in addition to or in lieu of being filed with the district, and the SPI may directly intervene without waiting for an investigation, as described ~~in the section "Investigation and Response"~~ below.

Pursuant to Education Code 60150, as added by AB 1078, if the SPI finds that a district has not provided sufficient textbooks or instructional materials as required, CDE is required to take all remedial actions as specified in Education Code 1240, including purchasing textbooks and instructional materials. Additionally, the SPI is required to assess a financial penalty against the district's local control funding formula allocation.

A complaint alleging that more than one student does not have sufficient textbooks or instructional materials as the result of an act by the Governing Board, or the Board's failure to remedy the deficiency, may be filed with the Superintendent of Public Instruction (SPI) directly in addition to or in lieu of being filed with the district. Any such complaint shall identify the basis and provide evidence to support its filing directly with the SPI. (Education Code 35186)

If the Superintendent or designee becomes aware that a complaint alleging insufficient textbooks or instructional materials ~~that~~ has been filed directly with the SPI but not with the district, the Superintendent or designee may initiate an investigation in accordance with this administrative regulation, as described below, if there is sufficient evidence to do so.

Investigation and Response

The principal or a designee of the Superintendent shall make all reasonable efforts to investigate any problem within the principal's or designee's authority. (Education Code 35186; 5 CCR 4685)

The principal or Superintendent's designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. (Education Code 35186; 5 CCR 4685)

If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the principal or Superintendent's designee shall send written resolution of the complaint to the mailing address of the complainant as indicated on the complaint within 45 working days of the initial filing of the complaint. If the principal makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 35186; 5 CCR 4680, 4685)

CSBA NOTE: Education Code 48985 specifies that, when 15 percent or more of the students enrolled in a particular school speak a single primary language other than English, all notices, reports, statements, or records sent to the parents/guardians of such students be written in English and in the primary language. Education Code 35186 requires that, when Education Code

48985 is applicable, any response requested by the complainant must be written in English and in the primary language in which the complaint was filed.

When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Governing Board at a regularly scheduled meeting. (Education Code 35186; 5 CCR 4686)

For any complaint concerning a facilities condition that poses an emergency or urgent threat to the health or safety of students or staff as described in Item #3a in the section "Types of Complaints" above, a complainant who is not satisfied with the resolution proffered by the principal or Superintendent or designee may file an appeal to the SPI within 15 days of receiving the district's response. The complainant shall comply with the appeal requirements specified in 5 CCR 4632. (Education Code 35186; 5 CCR 4610, 4687)

However, no other type of complaint regarding the condition of school facilities as described in the section "Types of Complaints" above may be appealed to the SPI. (Education Code 35186; 5 CCR 4610, 4687)

All complaints and written responses shall be public records. (Education Code 35186; 5 CCR 4686)

Reports

CSBA NOTE: During the FPM process, CDE staff will expect to see the following statement.

On a quarterly basis, the Superintendent or designee shall report, to the Board at a regularly scheduled Board meeting and to the County Superintendent of Schools, summarized data on the nature and resolution of all complaints. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. (Education Code 35186; 5 CCR 4686)

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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	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR ~~4600~~4680-4687	~~Uniform~~Williams uniform complaint procedures ~~and Williams complaints~~

5 CCR 4690-4694	Health and safety complaints in license-exempt preschool programs
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 200-~~262.4~~270	Prohibition of discrimination
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60119	Hearing on sufficiency of instructional materials
Ed. Code 60150	Penalty for insufficiency of textbooks and instructional materials

Federal	**Description**
20 USC 6314	Title I schoolwide program

Management Resources	**Description**
CSBA Publication	Instructional Materials Adoptions: Local governing board responsibilities, Fact Sheet, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.)
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, Governance Brief, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-

	brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56)
CA Office of the Attorney General Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, Legal Alert, January 2024 (https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf)
Website	California County Superintendents Educational Services Association
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	Department of Justice
Website	U.S. Department of Education, Office for Civil Rights
Website	CSBA
Website	California Department of Education

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies

3270	Sale And Disposal Of Books, Equipment And Supplies
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
4112.2	Certification
4112.2	Certification
4112.22	Staff Teaching English Learners
4113	Assignment
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4144	Complaints
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4244	Complaints
4344	Complaints
4344	Complaints
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6142.92	Mathematics Instruction
6143	Courses Of Study
6143	Courses Of Study
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials
6163.1	Library Media Centers
9000	Role Of The Board

9012	Board Member Electronic Communications
9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

Exhibit 1312.4-E(1): Williams Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 11/01/2007 **| Last Revised Date:** ~~10~~09/01/~~2023~~2024 **| Last Reviewed Date:** ~~10~~09/01/~~2023~~2024

CSBA NOTE: Education Code 35186 requires that the following notice be posted in each K-12 classroom in each school in the district. During the Federal Program Monitoring process, California Department of Education (CDE) staff will check to ensure that a notice is placed in each classroom in each school and that the notice contains all the information described below.

NOTICE TO PARENTS/GUARDIANS, STUDENTS, AND TEACHERS:
K-12 COMPLAINT RIGHTS

Parents/Guardians, Students, and Teachers:

Pursuant to Education Code 35186, you are hereby notified that:

1. There should be sufficient textbooks and instructional materials~~.~~

   That means each student, including an English learner, must have a textbook or instructional materials, or both, to use in class and to take home.

CSBA NOTE: Pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), districts may temporarily close a restroom for (1) a documented student safety concern, (2) an immediate threat to student safety, or (3) to repair the facility.

2. School facilities must be clean, safe, and maintained in good repair

   This includes the identification and resolution of emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff.

CSBA NOTE: Education Code 35186, as amended by SB 114 (Ch. 48, Statutes of 2023), requires that the Williams uniform complaint procedure be used to address a complaint related to teacher misassignment that claims that a teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class.

3. There should be no teacher vacancies or misassignments~~.~~

   There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners, if present.

   Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

   Teacher vacancy means a position to which a single designated certificated employee has not

been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

CSBA NOTE: Education Code 35186 requires that the notice inform parents/guardians of the location to obtain a complaint form and provides that posting a notice downloadable from ~~the~~ CDE's website will satisfy this requirement. The law does not require that the complaint form be placed in any specific location. The following paragraph lists locations where complaint forms may be available and should be modified to reflect district practice, including adding the school and district website addresses.

If you choose to file a complaint alleging that any of the above conditions is not being met, your complaint will be addressed through the district's Williams uniform complaint procedures as required by law. A complaint form may be obtained at the school office or district office, or downloaded from the school or district website. You may also download a copy of the California Department of Education (CDE) complaint form from CDE's, website when available. However, a complaint need not be filed using either the district's complaint form or the complaint form from CDE.

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State	Description
5 CCR 4600-4670	Uniform complaint procedures
5 CCR ~~4600~~4680-4687	~~Uniform~~Williams uniform complaint procedures ~~and Williams complaints~~
5 CCR 4690-4694	Health and safety complaints in license-exempt preschool programs
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 200-~~262.4~~4270	Prohibition of discrimination
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness

Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60119	Hearing on sufficiency of instructional materials
Ed. Code 60150	Penalty for insufficiency of textbooks and instructional materials

Federal	**Description**
20 USC 6314	Title I schoolwide program

Management Resources	**Description**
CSBA Publication	Instructional Materials Adoptions: Local governing board responsibilities, Fact Sheet, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.)
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, Governance Brief, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56)
CA Office of the Attorney General Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, Legal Alert, January 2024 (https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf)
Website	California County Superintendents Educational Services Association
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	Department of Justice
Website	U.S. Department of Education, Office for Civil Rights

Website	CSBA
Website	California Department of Education

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.2	Complaints Concerning Instructional Materials
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1312.3	Uniform Complaint Procedures
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1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3514	Environmental Safety
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3514.2	Integrated Pest Management
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3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
4112.2	Certification
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4112.22	Staff Teaching English Learners

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6143	Courses Of Study
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials
6163.1	Library Media Centers
9000	Role Of The Board
9012	Board Member Electronic Communications
9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

Exhibit 1312.4-E(2): Williams Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 11/01/2010 **| Last Revised Date:** ~~10~~09/01/~~2023~~2024 **| Last Reviewed Date:** ~~10~~09/01/~~2023~~2024

CSBA NOTE: Education Code 35186 creates the Williams uniform complaint procedures for the filing of complaints concerning deficiencies in textbooks or instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The following form contains elements required by Education Code 35186 and 5 CCR 4681-4683. During the Federal Program Monitoring process, California Department of Education staff will check to ensure that the complaint form includes all of the elements specified below.

K-12 COMPLAINT FORM:
WILLIAMS UNIFORM COMPLAINT PROCEDURES

Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, including emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff, or teacher vacancy or misassignment. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? ___ Yes ___ No

Contact information: (if response is requested)
Name: _____
Address: _____
Phone number: Day: _____ Evening: _____
E-mail address, if any: _____

Date problem was observed: _____

Location of the problem that is the subject of this complaint:
School name/address: _____
Course title/grade level and teacher name: _____
Room number/name of room/location of facility: _____

Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please contact the school or district for the appropriate district complaint procedure.

Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)

~~1.~~ 1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)

- a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class~~.~~

- b. A student does not have access to textbooks or instructional materials to use at home or after school~~. This does not require two sets of textbooks or instructional materials for each student.~~

  This does not require two sets of textbooks or instructional materials for each student

- c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage~~.~~

- d. A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials~~.~~

~~2.~~ 2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)

a. A semester begins and a teacher vacancy exists~~.~~

- A teacher vacancy is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester. (5 CCR 4600)

CSBA NOTE: Education Code 35186, as amended by SB 114 (Ch. 48, Statutes of 2023), requires that the Williams uniform complaint procedure be used to address a complaint related to teacher misassignment that claims that a teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class.

- b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class~~.~~

  This does not relieve the district from complying with state or federal law regarding teachers of English Learners.

- c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency~~.~~

~~3.~~ 3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5, 35292.6; 5 CCR 4683)

- a. A condition exists that poses an emergency or urgent threat to the health or safety of students or staff while at school including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior

doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.

b. A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

CSBA NOTE: The following optional item is for districts that choose to use the Williams uniform complaint procedures to address complaints alleging noncompliance with requirementsthe requirement to stock restrooms at certain schools with menstrual products pursuant to Education Code 35292.6, which, as amended by AB 230 (Ch. 421, Statutes of 2023), has been expanded to include schools that serve students in any of grades 3-12; see the accompanying administrative regulation.

c. For a school serving students in any of grades 63-12, the school has not, at all times, stocked and made available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom.

CSBA NOTE: The following optional item is for districts that choose to use the Williams uniform complaint procedures to address complaints alleging noncompliance with the requirement, beginning July 1, 2026, to provide and maintain at least one all-gender restroom for student use pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023); see the accompanying administrative regulation.

d. Starting July 1, 2026, for a school that has more than one female and more than one male restroom designated exclusively for student use, the school has not maintained at least one all-gender restroom for student use in accordance with Education Code 35292.5

CSBA NOTE: Pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), districts may temporarily close a restroom for (1) a documented student safety concern, (2) an immediate threat to student safety, or (3) to repair the facility.

e. The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes.

This does not apply when temporary closing of the restroom is necessary for a documented student safety concern, an immediate threat to student safety, or to repair the facility.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessaryyou wish to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

_____
_____
_____

_____
_____
_____
_____

CSBA NOTE: Education Code 35186 requires that complaints be filed with the principal or designee and that the complaint form specify the location for filing the complaint. Districts should specify the name and/or location in the spaces below.

Please file this complaint at the following location:

_____
(principal or designee)

_____
(address)

CSBA NOTE: Pursuant to Education Code 35186, as amended by AB 1078 (Ch. 229, Statutes of 2023), complaints related to instructional materials alleging that more than one student does not have sufficient textbooks or instructional materials as the result of an act by the Governing Board, or the Board's failure to remedy the deficiency, may be filed with the Superintendent of Public Instruction (SPI) directly, and the SPI may directly intervene without waiting for an investigation by the district; see the accompanying administrative regulation ~~for more information.~~. The following paragraph may be used by districts to inform complainants about the option to file complaints directly with the SPI.

Please be aware that you may file a complaint directly with the Superintendent of Public Instruction if you are alleging that more than one student does not have sufficient textbooks or instructional materials as the result of an act by the Governing Board, or the Board's failure to remedy the deficiency.

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

_____ _____
(Signature) (Date)

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Policy Reference Disclaimer:
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State	Description
5 CCR 4600-4670	Uniform complaint procedures

5 CCR ~~4600~~4680-4687	~~Uniform~~Williams uniform complaint procedures ~~and Williams complaints~~
5 CCR 4690-4694	Health and safety complaints in license-exempt preschool programs
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 200-~~262.4~~270	Prohibition of discrimination
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60119	Hearing on sufficiency of instructional materials
Ed. Code 60150	Penalty for insufficiency of textbooks and instructional materials

Federal	**Description**
20 USC 6314	Title I schoolwide program

Management Resources	**Description**
CSBA Publication	Instructional Materials Adoptions: Local governing board responsibilities, Fact Sheet, February 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-_IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.)
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, Governance Brief, February 2024

	(https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56)
CA Office of the Attorney General Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, Legal Alert, January 2024 (https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf)
Website	California County Superintendents Educational Services Association
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	Department of Justice
Website	U.S. Department of Education, Office for Civil Rights
Website	CSBA
Website	California Department of Education

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1340	Access To District Records

1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
4112.2	Certification
4112.2	Certification
4112.22	Staff Teaching English Learners
4113	Assignment
4113	Assignment
4144	Complaints
4144	Complaints
4244	Complaints
4244	Complaints
4344	Complaints
4344	Complaints
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6142.92	Mathematics Instruction
6143	Courses Of Study
6143	Courses Of Study
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials

6163.1	Library Media Centers
9000	Role Of The Board
9012	Board Member Electronic Communications
9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

Regulation 3517: Facilities Inspection

Status: ADOPTED

Original Adopted Date: 11/01/2006 **| Last Revised Date:** ~~06~~09/01/~~2022~~2024 **| Last Reviewed Date:** ~~06~~09/01/~~2022~~2024

CSBA NOTE: As part of the Williams litigation settlement, Education Code 17070.75 requires that each school district participating in the state's School Facility Program have a facility inspection system in place for all schools to ensure that school facilities are kept in good repair. Education Code 17002 defines "good repair" to mean that the facility is maintained in a manner that ensures that it is clean, safe, and functional as determined pursuant to the Facility Inspection Tool (FIT) developed by the Office of Public School Construction ~~(OPSC)~~ or a local evaluation instrument that uses the same criteria.

The Superintendent or designee shall inspect school facilities to ensure that they are maintained in good repair. At a minimum, the Superintendent or designee shall assess those facility conditions specified on the facilities inspection tool developed by the Office of Public School Construction, including, but not limited to, the following: (Education Code 17002, 35292.5)

1. Gas Leaks: Gas systems and pipes appear and smell safe, functional, and free of leaks~~.~~

2. Mechanical Systems: Heating, ventilation, and air conditioning systems, as applicable, are functional and unobstructed; appear to supply an adequate amount of air to all classrooms, work spaces, and facilities; and maintain interior temperatures within normally acceptable ranges~~.~~

3. Windows and Doors: Windows and doors are intact, functional, and open, close, and lock as designed, unless there is a valid reason they should not function as designed~~.~~

4. Fences and Gates: Fences and gates are intact, functional, and free of holes and other conditions that could present a safety hazard to students, staff, or others~~.~~ ~~Locks and other security hardware function as designed.~~

   Locks and other security hardware function as designed.

5. Interior Surfaces ~~(walls~~: Walls, floors, and ceilings~~):~~ ~~Interior surfaces~~ are free of safety hazards from tears, holes, missing floor and ceiling tiles, torn carpet, water damage, or other cause~~.~~ ~~Ceiling tiles are intact.~~

   Ceiling tiles are intact. Surfaces display no evidence of mold or mildew.

6. Hazardous Materials: Hazardous and flammable materials are stored properly~~.~~

   No evidence of peeling, chipping, or cracking paint is apparent. No indicators of mold, mildew, or asbestos exposure are evident. There does not appear to be evidence of

hazardous materials that may pose a threat to the health and safety of students or staff.

7. Structures: Posts, beams, supports for portable classrooms and ramps, and other structures appear intact, secure, and functional as designed.

   Ceilings and floors are not sloping or sagging beyond their intended design. There is no visible evidence of severe cracks, dry rot, mold, or damage that undermines structural components.

8. Fire Safety and Emergency Equipment: Fire sprinklers, fire extinguishers, emergency alarm systems, and all emergency equipment and systems appear to be functioning properly.

   Fire alarm pull stations are clearly visible. Fire extinguishers are current and placed in all required areas, including every classroom and assembly area. Emergency exits are clearly marked and unobstructed.

9. Electrical Systems: Electrical systems, components, and equipment, including switches, junction boxes, panels, wiring, outlets, and light fixtures, are securely enclosed, properly covered and guarded from student access, and appear to be working properly.

10. Lighting: Interior and exterior lighting appears to be adequate and working properly.

___Lights do not flicker, dim, or malfunction, and there is no unusual hum or noise from light fixtures.

11. Pest/Vermin Infestation: No visible or odorous indicators of pest or vermin infestation are evident.

12. Drinking Fountains: Interior and exterior drinking fountains are functional, accessible, and free of leaks.

    Drinking water pressure is adequate. Fountain water is clear and without unusual taste or odor, and moss, mold, or excessive staining is not evident.

CSBA NOTE: Pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), districts may temporarily close a restroom due to (1) a documented student safety concern, (2) an immediate threat to student safety, or (3) the need to repair the facility.

13. Restrooms: Restrooms and restroom fixtures are fully operational, maintained and cleaned regularly, and stocked at all times with supplies (, including toilet paper, soap, and paper towels or functional hand dryers), in accordance with Education Code 35292.5.

    The school keeps all restrooms open during school hours when students are not in classes and keeps a sufficient number of restrooms open during school hours when students are in classes, except when necessary to temporarily close a restroom fordue to a documented student safety concern, an immediate threat to student safety, or the need to repair the facility.

CSBA NOTE: Pursuant to Education Code 35292.6, as ~~added~~amended by AB ~~367~~230 (Ch. ~~664~~421, Statutes of ~~2021),~~ ~~before~~ ~~the~~ ~~start~~ ~~of~~ ~~the~~ ~~2022-23~~ ~~school~~ ~~year,~~ ~~a~~ ~~school~~ ~~that~~ ~~serves~~ ~~any~~ ~~of~~ ~~grades~~ ~~6-12~~ ~~is~~ ~~required~~2023), the requirement to stock the school's restrooms with free menstrual products for use in connection with the menstrual cycle, and to post a notice as described below~~.~~, has been expanded to include schools that serve students in grades 3-12. See the accompanying exhibit for a sample notice. The following paragraph should be revised to reflect the grade levels served by the district.

~~addition~~ Additionally, any school serving students in any of grades ~~6~~3-12 shall, at all times, stock and make available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom. The district shall post in a prominent and conspicuous location in every restroom required to stock menstrual products a notice regarding this requirement that includes an email address and telephone number for a designated individual responsible for maintaining the requisite supply of menstrual products. (Education Code 35292.6)

CSBA NOTE: Beginning July 1, 2026, Education Code 35292.5, as amended by SB 760, requires each school to provide and maintain at least one all-gender restroom for student use, as described below. The district is required to ensure that an employee is designated as a point of contact to implement these requirements for each school, and that a notice regarding the requirements be posted in a prominent and conspicuous location outside the all-gender restroom, including contact information for the designated point of contact. The California Department of Education is required to post on its website guidance for implementation of the requirements specified in Education Code 35292.5, including examples of signage and best practices.

In addition, starting July 1, 2026, any school that has more than one female and more than one male restroom designated exclusively for student use shall provide and maintain at least one all-gender restroom for student use. The district shall use signage that identifies the bathroom facility as being open to all genders and is in accordance with 24 CCR 11B-703; ensure that it is available for use consistent with the requirements specified above and is unlocked, unobstructed, easily accessible by any student, and consistent with existing access to sex-segregated restrooms; stock the bathroom facility with menstrual products in accordance with Education Code 35292.6, as specified above; and, ensure that the bathroom facility is available during school hours and school functions when students are present. The district shall post in a prominent and conspicuous location outside at least one all-gender restroom a notice regarding these requirements that includes contact information for the staff member designated as the point of contact responsible for implementing such requirements.

14. Sewers: The sanitary sewer system controls odors as designed, displays no signs of stoppage, backup, or flooding in school facilities or on school grounds, and appears to be functioning properly~~.~~

15. Roofs: Roofs, gutters, roof drains, and downspouts appear to be functioning properly and are free of visible damage and evidence of disrepair when observed from the ground from inside and outside the building

16. Drainage: School grounds do not exhibit signs of drainage problems, such as visible evidence of flooded areas, eroded soil, water damage to asphalt playgrounds or parking areas, or

clogged storm drain inlets.

17. Playground/School Grounds: Playground equipment (, including exterior fixtures, seating, tables, and equipment), and school grounds, fields, walkways, and parking lot surfaces are functional and free of significant cracks, trip hazards, holes, deterioration that affects functionality or safety, and other health and safety hazards.

18. Overall Cleanliness: School grounds, buildings, common areas, and individual rooms appear to have been cleaned regularly and are free of accumulated refuse and unabated graffiti.

___Restrooms, drinking fountains, and food preparation or serving areas appear to have been cleaned each day that school is in session.

CSBA NOTE: Although the FIT does not specifically require districts to test for the presence of lead in drinking water, soil, or painted surfaces, such testing is recommended by the U.S. Environmental Protection Agency due to the health risks posed by lead exposure, especially for young children. Schools and child care facilities that maintain their own public water systems must test for lead pursuant to the Safe Drinking Water Act (42 USC 300f-300j-27).), and licensed day care centers located in buildings that were constructed before January 1, 2010 are required to test for lead pursuant to Health and Safety Code 1597.16. See AR 3514 - Environmental Safety for further information about lead testing and abatement in schools.

In addition Additionally, to ensure the health and safety of students, the Superintendent or designee shall provide for the testing of drinking water on campus and of the soil and painted surfaces of school facilities for the presence of lead and/or other harmful substances, in accordance with state and federal standards.

The Superintendent or designee shall ensure that any necessary repairs or removal of hazards identified during the inspection are made in a timely and expeditious manner.

An assessment of the safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair as defined in Education Code 17002, shall be reported on the school accountability report card. (Education Code 33126)

CSBA NOTE: Education Code 35186 provides that the Williams uniform complaint procedures should be used for any complaint alleging a school facility condition that poses an emergency or urgent threat, as defined in Education Code 17592.72, or any complaint that a school restroom is not clean, maintained, or kept open, as defined in Education Code 35292.5. See E/; see AR/E(1)/E(2) 1312.4 - Williams Uniform Complaint Procedures.

Any complaint alleging a school facility condition that poses an emergency or urgent threat to the health or safety of students or staff, or alleging that a school restroom is not clean, maintained, stocked, or kept open, shall be addressed in accordance with AR Administrative Regulation 1312.4 - Williams Uniform Complaint Procedures.

CSBA NOTE: Education Code 1240 requires the County Superintendent of Schools to visit low-performing schools to determine (1) the status of any facility condition that may create an emergency or urgent threat to the health or safety of students or staff and (2) the accuracy of data reported on the school accountability report card with respect to the safety, cleanliness, and adequacy of school facilities. Education Code 1240 requires that the County Superintendent

provide a quarterly report to the Governing Board on the results of any county office of education (COE) visit. Education Code 1240 provides that, if the County Superintendent determines that a facility condition poses an emergency or urgent threat, or is not in good repair, the County Superintendent may return to the school to verify repairs and/or prepare a report that identifies areas of noncompliance if the district has not provided evidence that the repairs will be made within 30 days or, for major repairs, in a timely manner. The County Superintendent may then present the report to the Board at a public meeting and post the report on the COE's ~~web site~~website.

The Superintendent or designee shall provide the Governing Board with regular reports regarding the district's facility inspections and updates of any visits to district schools by the County Superintendent of Schools to review school facilities.

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State	Description
2 CCR 1859.300-1859.330	Emergency Repair Program
24 CCR 11B-703	Signage for all gender restrooms
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17002	State School Building Lease-Purchase Law, including definition of good repair
Ed. Code 17070.10-17077.10	Leroy F. Greene School Facilities Act of 1998
Ed. Code 17565-17591	Property maintenance and control; duties of governing board
Ed. Code 17592.72	~~Urgent or emergency repairs;~~ School Facility Emergency Repair Account; urgent or emergency repairs
Ed. Code 33126	School accountability report card
Ed. Code 35186	Complaints ~~regarding~~related to instructional materials, teacher vacancy or misassignment, and facility conditions that pose emergency or urgent threat
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Health and Safety Code 1597.16	Licensed day care centers; testing for lead in water

Federal	Description
20 USC 6314	Schoolwide programs
42 USC 300f-300j-27	Safe Drinking Water Act

Management Resources	Description

State Allocation Board, Public School Construction Publication	Facility Inspection Tool: School Facility Conditions Evaluation (https://www.dgs.ca.gov/-/media/Divisions/OPSC/Forms/Facility-Inspection-Tool---SAB-Approved-04-27-2022.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	California Department of Education~~, Williams Case~~ (https://www.cde.ca.gov/)
Website	Coalition for Adequate School Housing
Website	California County Superintendents
Website	CSBA

Cross References

Code	Description
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0510	School Accountability Report Card
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1330.1	Joint Use Agreements
3000	Concepts And Roles
3311	Bids
3311	Bids
3511.1	Integrated Waste Management
3511.1	Integrated Waste Management
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program

5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6117	Year-Round Schedules
7110	Facilities Master Plan
7111	Evaluating Existing Buildings
9000	Role Of The Board

Exhibit 3517-E(1): Facilities Inspection

Status: ADOPTED

Original Adopted Date: 06/01/2022 **| Last Revised Date:** 09/01/2024 **|Last Reviewed Date:** ~~06~~09/01/~~2022~~2024

CSBA NOTE: Education Code 35292.6 requires that the following notice be posted in a prominent and conspicuous location in each restroom where menstrual products are required to be stocked.

NOTICE REGARDING MENSTRUAL PRODUCTS

Education Code 35292.6 requires that:

CSBA NOTE: Pursuant to Education Code 35292.6, as amended by AB 230 (Ch. 421, Statutes of 2023), the requirement to stock the school's restrooms with free menstrual products for use in connection with the menstrual cycle has been expanded to include schools that serve students in grades 3-12.

a. On or before the start of the ~~2022–23~~2024-25 school year, a public school, including a school operated by a school district, county office of education, or charter school, maintaining any combination of classes from grades ~~6~~3 to 12, inclusive, shall stock the school's restrooms at all times with an adequate supply of menstrual products, available and accessible, free of cost, in all women's restrooms and all-gender restrooms, and in at least one men's restroom~~.~~

b. A public school described in subdivision (a) shall not charge for any menstrual products provided to pupils~~.~~

c. A public school described in subdivision (a) shall post a notice regarding the requirements of this section in a prominent and conspicuous location in every restroom required to stock menstrual products, available and accessible, free of cost, pursuant to this section~~.~~

This notice shall include the text of this section and contact information, including an email address and telephone number, for a designated individual responsible for maintaining the requisite supply of menstrual products.

d. For purposes of this section, "menstrual products" means menstrual pads and tampons for use in connection with the menstrual cycle~~.~~

e. This section shall become operative on July 1, ~~2022.~~2024

The name and contact information for the individual responsible for maintaining the requisite supply of menstrual products is:

_____

(name and/or title/position)
_____
(telephone number)
_____
(email address)

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State	**Description**
2 CCR 1859.300-1859.330	Emergency Repair Program
24 CCR 11B-703	Signage for all gender restrooms
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17002	State School Building Lease-Purchase Law, including definition of good repair
Ed. Code 17070.10-17077.10	Leroy F. Greene School Facilities Act of 1998
Ed. Code 17565-17591	Property maintenance and control; duties of governing board
Ed. Code 17592.72	~~Urgent or emergency repairs;~~ School Facility Emergency Repair Account; urgent or emergency repairs
Ed. Code 33126	School accountability report card
Ed. Code 35186	Complaints ~~regarding~~related to instructional materials, teacher vacancy or misassignment, and facility conditions that pose emergency or urgent threat
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Health and Safety Code 1597.16	Licensed day care centers; testing for lead in water
Federal	**Description**
20 USC 6314	Schoolwide programs
42 USC 300f-300j-27	Safe Drinking Water Act
Management Resources	**Description**
State Allocation Board, Public School Construction Publication	Facility Inspection Tool: School Facility Conditions Evaluation (https://www.dgs.ca.gov/-/media/Divisions/OPSC/Forms/Facility-Inspection-Tool---SAB-Approved-04-27-2022.pdf)

Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	California Department of Education~~, Williams Case~~ (https://www.cde.ca.gov/)
Website	Coalition for Adequate School Housing
Website	California County Superintendents
Website	CSBA

Cross References

Code	Description
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0510	School Accountability Report Card
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1330.1	Joint Use Agreements
3000	Concepts And Roles
3311	Bids
3311	Bids
3511.1	Integrated Waste Management
3511.1	Integrated Waste Management
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6117	Year-Round Schedules

7110	Facilities Master Plan
7111	Evaluating Existing Buildings
9000	Role Of The Board

Policy 4040: Employee Use Of Technology

Status: ADOPTED

Original Adopted Date: 07/01/2001 **| Last Revised Date:** ~~07~~09/01/~~2015~~2024 **| Last Reviewed Date:** ~~07~~09/01/~~2015~~2024

CSBA NOTE: This policy addresses employee use of technology, including artificial intelligence (AI), and may be modified to reflect district practice. The U.S. Department of Education, Office of Educational Technology's, "Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations," provides information related to the opportunities for using AI to improve education, the challenges in doing so, and recommendations to guide further policy development. Districts are encouraged to continue to monitor the development of new technologies, including AI.

The Governing Board recognizes that technological resources enhance employee performance by offering effective tools to assist in providing a quality instructional program; facilitating communications with parents/guardians, students, and the community; supporting district and school operations; ~~and improving access to and exchange of information. The Board expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive professional development in the appropriate use of these resources.~~

~~Employees shall be responsible for the appropriate use of technology and shall use district technology primarily for purposes related to their employment.~~

~~District technology includes, but is not limited to, computers, the district's computer network including servers and wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices~~improving access to and exchange of information; enriching curriculum; and enhancing student learning.

District technology includes, but is not limited to, computer hardware, software, or software as a service provided or paid for by the district, whether accessed on or off site or through district-owned or personally owned equipment or devices, including tablets and laptops; computer servers, wireless access points (routers), and wireless computer networking technology (wi-fi); the Internet; email; applications (apps), including artificial intelligence (AI) apps; telephones, cellular or mobile telephones, smartphones, smart devices, and wearable technology; or any wireless communication device, including radios.

Employees shall review the prohibited and permitted uses of technology as specified in Board Policy 5131.9 – Academic Honesty, be responsible for the appropriate use of technology, and use district

technology primarily for purposes related to their employment consistent with board policies and administrative regulations.

CSBA NOTE: The following optional paragraphs address employee use of technology, particularly AI applications, are permissive as they relate to such use, and should be modified to reflect district practice.

An employee may use technology, including AI apps, to assist the employee in the performance of the employee's professional duties, including, but not limited to, the following specific tasks: developing syllabi, creating curriculum, reviewing student work, suggesting instructional strategies, and researching academic content or instructional techniques. Any employee using technology, including AI, shall review and be responsible for any final product or document; not share confidential student records with a third party, such as an AI app, except as permitted by law; use the technology in accordance with Board Policy 6162.6 – Use of Copyrighted Materials, and in a manner otherwise consistent with law, board policies, and administrative regulations. If an employee is unsure about the appropriate use of technology, the employee shall confer with the Superintendent or designee before using.

As determined by the Superintendent or designee, employees shall receive professional development in the appropriate use of these resources, including in the use of AI apps.

CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice. It is recommended that districts develop an "Acceptable Use Agreement" containing rules for the use of district technology, which should be signed by each employee. See the accompanying Exhibit for an example of an "Acceptable Use Agreement" for employees.

The Superintendent or designee shall establish an Acceptable Use Agreement which outlines employee obligations and responsibilities related to the use of district technology~~.~~, including the use of AI apps. Upon employment and whenever significant changes are made to the district's Acceptable Use Agreement, employees shall be required to acknowledge in writing that they have read and agreed to the Acceptable Use Agreement.

CSBA NOTE: The following paragraphs may be revised to reflect district practice.

To qualify for federal universal service discounts for Internet access, Internet services, or internal connections (E-rate discounts), districts are **mandated** by 47 USC 254 to adopt an Internet safety policy that includes, but is not limited to, provisions addressing access by minors to "inappropriate matter" on the Internet; see BP 6163.4 - Student Use ~~of~~Of Technology. Consistent with those requirements, the following paragraph provides that employees shall not use district technology to access inappropriate matter. "Inappropriate matter" is not defined in the law and the determination of what matter is considered inappropriate is, to an extent, a local decision to be made by the district. Penal Code 313 provides a definition of "harmful matter" as specified below. Districts that have adopted their own definition should revise the following paragraphs as appropriate.

Employees shall not use district technology to access, post, submit, publish, ~~or~~ display, or otherwise engage with harmful or inappropriate matter that is threatening, obscene, disruptive, sexually explicit, or unethical or that promotes any activity prohibited by law, ~~Board~~board policy, or

administrative regulations.

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

CSBA NOTE: 47 USC 254 **mandates** that the district's Internet safety policy for E-rate discounts include the operation and enforcement of a "technology protection measure" that protects against Internet access to visual depictions that are obscene, child pornography, or harmful to minors. Similarly, as a condition of using federal Student Support and Academic Achievement Grants (20 USC 7101-7122) for the purpose of purchasing computers with Internet access or paying for direct costs associated with Internet access, 20 USC 7131 **mandates** that districts adopt an Internet safety policy that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography. Although these requirements focus on measures designed to protect students using district technology ~~(see BP 6163.4 - Student Use of Technology),~~, they also require policy that affects Internet access by adults; see BP 6163.4 - Student Use Of Technology.

The following paragraph is for use by districts that desire to use E-rate or federal technology funding sources and may be adapted by other districts that choose to install technology protection measures

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and that the operation of such measures is enforced. The Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. (20 USC 7131; 47 USC 254)

CSBA NOTE: Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with the California Cybersecurity Integration Center, to perform an independent security assessment of the district or individual district school. It is recommended that districts consult with the California Office of Emergency Services (OES) and utilize resources such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats. For more information, see OES' website.

The Superintendent or designee shall regularly review current guidance regarding cybersecurity, data privacy, and digital media awareness and incorporate recommended practices into the district's processes and procedures related to the protection of the district's network infrastructure, the monitoring and response to cyberattacks, ensuring data privacy, and managing suspicious and/or threatening digital media content, in accordance with Board Policy 3580 – District Records.

CSBA NOTE: The following optional paragraphs may be revised to reflect district practice.

Although 20 USC 7131 and 47 USC 254 require districts receiving Student Support and Academic Achievement Grants or E-rate discounts to enforce the operation of technology protection

measures, the legislation clarifies that nothing in the Children's Internet Protection Act shall be construed to require the tracking of individual students' or adults' Internet use. Thus, it ~~appears to be left to the discretion~~is recommended that districts consult with CSBA's District and County Office of ~~districts as to whether they wish to track~~Education Legal Services or district legal counsel before tracking Internet use through personally identifiable web monitoring software or other means.

~~It is recommended that districts notify employees that they should have no expectation of privacy when using district equipment or technological resources.~~
In *City of Ontario v. Quon*, the U.S. Supreme Court held that a search of an employee's pager messages was reasonable because the search was motivated by a legitimate work-related purpose and was not excessive in scope. In addition, the city had adopted a policy stating that employees should have no expectation of privacy or confidentiality when using city equipment. The following paragraph, which may be modified to reflect district practice, includes a statement that employees should have no expectation of privacy when using district technology.

The Superintendent or designee shall annually notify employees in writing that they have no reasonable expectation of privacy in the use of any ~~equipment or other technological resources provided by or maintained by the district, including, but not limited to, computer files, email, text messages, instant messaging, and other electronic communications, even when provided their own password.~~district technology, as defined above, even when using their personal devices. To ensure proper use, the Superintendent or designee may monitor employee usage of district technology at any time without advance notice or consent and for any reason allowed by law.

CSBA NOTE: In *City of San Jose v. Superior Court*, the California Supreme Court held that a government employee's communications about public business are not excluded from a request under the California Public Records Act (CPRA) simply because they have been sent or received on a personal account or personal device. Thus, employees should be aware that if they use personal accounts or devices to communicate about district business, they may be required to temporarily provide the district with access to their personal accounts or devices. Alternatively, employees may search their personal communications ~~and provide~~ using reasonable effort, sign a sworn declaration ~~stating a sufficient factual basis for determining whether~~regarding the nature of their search, and provide any responsive communications ~~are district-related communications subject to the CPRA, personal nondisclosable materials, or materials otherwise exempt under the CPRA~~to the district as directed. The court observed that the CPRA requires districts to use "reasonable effort" to locate existing records in response to a public records request, but that such searches need not be extraordinary or intrusive. For further information, see CSBA's~~.~~ "Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications~~.~~."

In addition, employees shall be notified that records, including communications, maintained on any personal ~~device~~accounts or ~~messages sent or received on a personal device that is being~~devices used to conduct district business ~~may be~~are subject to disclosure~~,~~ at the district's request, and pursuant to a subpoena or other lawful request.

Employees shall report any security problem or misuse of district technology to the Superintendent or designee.

Inappropriate use of district technology may result in a cancellation of the employee's user privileges, disciplinary action, and/or legal action in accordance with law, ~~Board~~board policy, and administrative regulation.

CSBA NOTE: Labor Code 1139 prohibits an employer from preventing any employee from accessing the employee's mobile device or other communications device for seeking emergency assistance, assessing the safety of the situation, or communicating with a person to confirm the person's safety.

Employees may access their mobile or other communications device if there is a need to seek emergency assistance, assess the safety of a situation, or communicate with a person to confirm the person's safety. (Labor Code 1139)

Policy Reference UPDATE Service
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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	Description
Gov. Code 3543.1	Rights of employee organizations
Gov. Code 7920.000-7930.170	California Public Records Act
Gov. Code 11549.3	Cybersecurity
Labor Code 1139	Emergency assistance
Pen. Code 502	Computer crimes; remedies
Pen. Code 632	Eavesdropping on or recording confidential communications
Veh. Code 23123	Wireless telephones in vehicles
Veh. Code 23123.5	Mobile communication devices; text messaging while driving
Veh. Code 23125	Wireless telephones in school buses

Federal	Description
20 USC 7101-7122	Student Support and Academic Enrichment Grants
20 USC 7131	Internet Safety
47 CFR 54.520	Internet safety policy and technology protection measures; E-rate discounts

Management Resources	Description

Court Decision	City of San Jose v. Superior Court (2017) 2 Cal.5th 608
Court Decision	City of Ontario v. Quon et al. (2010) 000 U.S. 08-1332
California Department of Education Publication	Artificial Intelligence: Learning With AI Learning About AI (https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf)
U.S. Department of Education Publication	2024 National Education Technology Plan (https://tech.ed.gov/netp/)
Publication	Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations (https://www2.ed.gov/documents/ai-report/ai-report.pdf)
Publication	Guidelines for AI integration throughout education in the commonwealth of Virginia (https://www.education.virginia.gov/media/governorvirginiagov/secretary-of-education/pdf/AI-Education-Guidelines.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	Federal Communications Commission
Website	American Library Association
Website	California Department of Education
Website	California Governor's Office of Emergency Services (https://www.caloes.ca.gov/)
Website	CSBA
Website	U.S. Department of Education

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0440	District Technology Plan
0440	District Technology Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites
1113-E(1)	istrict And School Websites
1114	District-Sponsored Social Media

1114	District-Sponsored Social Media
1340	Access To District Records
1340	Access To District Records
2121	Superintendent's Contract
3512	Equipment
3512-E(1)	Equipment
3516.2	Bomb Threats
3580	District Records
3580	District Records
4032	Reasonable Accommodation
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4119.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4131	Staff Development
4132	Publication Or Creation Of Materials
4136	Nonschool Employment
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action

4219.1	Civil And Legal Rights
4219.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4219.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4231	Staff Development
4232	Publication Or Creation Of Materials
4236	Nonschool Employment
4313.5	Working Remotely
4319.1	Civil And Legal Rights
4319.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4319.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4331	Staff Development
4332	Publication Or Creation Of Materials
4336	Nonschool Employment
5125	Student Records
5125	Student Records

5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
5131.9	Academic Honesty
6116	Classroom Interruptions
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology

Exhibit 4040-E(1): Employee Use Of Technology

Status: ADOPTED

Original Adopted Date: 07/01/2015 **| Last Revised Date:** 09/01/2024 **| Last Reviewed Date:** ~~07~~09/01/~~2015~~2024

ACCEPTABLE USE AGREEMENT
AND RELEASE OF DISTRICT FROM LIABILITY (EMPLOYEES)

CSBA NOTE: The following Exhibit presents a sample Acceptable Use Agreement outlining obligations and responsibilities of employees using the district's technological resources. It is recommended that the district consult CSBA's District and County Office of Education Legal Services or district legal counsel in the development of such an agreement.

Districts using an Acceptable Use Agreement should require all employees who use district technology to sign the agreement as an acknowledgment that they have read and understood the contents of this agreement and Board Policy 4040 – Employee Use of Technology. As appropriate, the district may also require contractors and affiliated third parties to sign the Acceptable Use Agreement.

For a sample Acceptable Use Agreement for students, see E(1) 6163.4 - Student Use of Technology.

The _____ School District authorizes district employees to use district technology ~~owned or otherwise provided by the district~~ , as ~~necessary to fulfill the requirements~~defined in Board Policy 4040 – Employee Use of ~~their position~~Technology. The use of district technology is a privilege permitted at the district's discretion and is subject to the conditions and restrictions set forth in applicable ~~Board~~board policies, administrative regulations, and this Acceptable Use Agreement. The district reserves the right to suspend access at any time, without notice, for any reason.

The district expects all employees to use technology responsibly in order to avoid potential problems and liability. The district may place reasonable restrictions on the sites, material, and/or information that employees may access through the system.

However, the district shall not prevent or restrict access to an employee's mobile or other communications device(s) if there is a need to seek emergency assistance, assess the safety of a situation, or communicate with a person to confirm the person's safety.

The district makes no guarantee that the functions or services provided by or through the district will be without defect. In addition, the district is not responsible for financial obligations arising from unauthorized use, or misuse, of the system.

Each employee who is authorized to use district technology shall sign this ~~Acceptable Use~~ Agreement ~~as an indication~~, which indicates that ~~he/she~~the employee has read and understands ~~the agreement.~~

~~**Definitions**~~

~~*District technology* includes, but is not limited to, computers, the district's computer network including servers~~this Agreement and ~~wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices.~~ Board Policy 4040 – Employee Use of Technology.

Employee Obligations and Responsibilities

Employees are expected to use district technology safely, responsibly, and primarily for work-related purposes~~.~~ and in accordance with the accompanying board policy and applicable copyright laws. Any incidental personal use of district technology shall not interfere with district business and operations, the work and productivity of any district employee, or the safety and security of district technology. The district is not responsible for any loss or damage incurred by an employee as a result of ~~his/her~~the employee's personal use of district technology.

The employee in whose name district technology is issued is responsible for its proper use at all times. Employees shall not share their assigned online services account information, passwords, or other information used for identification and authorization purposes, and shall use the system only under the account to which they have been assigned.

Employees shall not gain unauthorized access to the files or equipment of others, access electronic resources by using another person's name or electronic identification, or send anonymous electronic communications. Furthermore, employees shall not attempt to access any data, documents, emails, or programs in the district's system for which they do not have authorization.

Employees are prohibited from using district technology for improper purposes, including, but not limited to, use of district technology to:

1. Access, post, display, create, or otherwise use material that is discriminatory, defamatory, obscene, sexually explicit, harassing, intimidating, threatening, or disruptive

2. Disclose or in any way cause to be disclosed confidential or sensitive district, employee, or student information without prior authorization from a supervisor, including sharing confidential information or personally identifiable information with an open artificial intelligence system

3. Engage in personal commercial or other for-profit activities without permission of the Superintendent or designee

4. Engage in unlawful use of district technology for political lobbying

5. Infringe on copyright, license, trademark, patent, or other intellectual property rights

6. Intentionally disrupt or harm district technology or other district operations (such as destroying district equipment, placing a virus on district computers, adding or removing a computer program without permission, changing settings on shared computers)

7. Install unauthorized software

8. Engage in or promote unethical practices or violate any law or ~~Board~~board policy, administrative regulation, or district practice

Privacy

Since the use of district technology is intended for use in conducting district business, no employee should have any expectation of privacy in any use of district technology.

The district reserves the right to monitor and record all use of district technology, including, but not limited to, access to the Internet or social media, Internet searches, browsing history, use of artificial intelligence, communications sent or received from district technology, or other uses within the jurisdiction of the district. Such monitoring/recording may occur at any time without prior notice for any legal purposes including, but not limited to, record retention and distribution and/or investigation of improper, illegal, or prohibited activity. Employees should be aware that, in most instances, their use of district technology (such as web searches or emails) cannot be erased or deleted.

All passwords created for or used on any district technology are the sole property of the district. The creation or use of a password by an employee on district technology does not create a reasonable expectation of privacy.

Personally Owned Devices

If an employee uses a personally owned device to access district technology or conduct district business, ~~he/she~~the employee shall abide by all applicable ~~Board~~board policies, administrative regulations, and this ~~Acceptable Use~~ Agreement. Any such use of a personally owned device may subject the contents of the device and any communications sent or received on the device to disclosure pursuant to a lawful subpoena or public records request.

Records

Any electronically stored information generated or received by an employee which constitutes a district or student record shall be classified, retained, and destroyed in accordance with ~~BP/AR~~Board Policy/Administrative Regulation 3580 - District Records, ~~BP/AR~~Board

Policy/Administrative Regulation 5125 - Student Records, or other applicable policies and regulations addressing the retention of district or student records.

Reporting

If an employee becomes aware of any security problem (~~such as~~including, but not limited to, a cyberattack, phishing, or any compromise of the confidentiality of any login or account information~~)~~), or misuse of district technology, ~~he/she~~the employee shall immediately report such information to the Superintendent or designee.

Consequences for Violation

Violations of the law, ~~Board~~board policy, or this ~~Acceptable Use~~ Agreement may result in revocation of an employee's access to district technology and/or discipline, up to and including termination. In addition, violations of the law, ~~Board~~board policy, or this agreement may be reported to law enforcement agencies as appropriate.

Employee Acknowledgment

I have received, read, understand, and agree to abide by this ~~Acceptable Use~~ Agreement, ~~BP~~Board Policy 4040 - Employee Use of Technology, and other applicable laws and district policies and regulations governing the use of district technology. I understand that there is no expectation of privacy when using district technology or when my personal electronic devices use district technology. I further understand that any violation may result in revocation of user privileges, disciplinary action, and/or appropriate legal action.

I hereby release the district ~~and~~, its personnel, and the Governing Board from any and all claims and damages arising from my use of district technology or from the failure of any technology protection measures employed by the district.

Name: _____ Position: _____
(Please print)

School/Work Site: _____

Signature: _____ Date: _____

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Policy Reference Disclaimer:
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State	Description
Gov. Code 3543.1	Rights of employee organizations
Gov. Code 7920.000-7930.170	California Public Records Act
Gov. Code 11549.3	Cybersecurity
Labor Code 1139	Emergency assistance
Pen. Code 502	Computer crimes; remedies
Pen. Code 632	Eavesdropping on or recording confidential communications
Veh. Code 23123	Wireless telephones in vehicles
Veh. Code 23123.5	Mobile communication devices; text messaging while driving
Veh. Code 23125	Wireless telephones in school buses

Federal	Description
20 USC 7101-7122	Student Support and Academic Enrichment Grants
20 USC 7131	Internet Safety
47 CFR 54.520	Internet safety policy and technology protection measures; E-rate discounts

Management Resources	Description
Court Decision	City of San Jose v. Superior Court (2017) 2 Cal.5th 608
Court Decision	City of Ontario v. Quon et al. (2010) 000 U.S. 08-1332
California Department of Education Publication	Artificial Intelligence: Learning With AI Learning About AI (https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf)
U.S. Department of Education Publication	2024 National Education Technology Plan (https://tech.ed.gov/netp/)
Publication	Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations (https://www2.ed.gov/documents/ai-report/ai-report.pdf)
Publication	Guidelines for AI integration throughout education in the commonwealth of Virginia (https://www.education.virginia.gov/media/governorvirginiagov/secretary-of-education/pdf/AI-Education-Guidelines.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	Federal Communications Commission
Website	American Library Association

Website	California Department of Education
Website	California Governor's Office of Emergency Services (https://www.caloes.ca.gov/)
Website	CSBA
Website	U.S. Department of Education

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0440	District Technology Plan
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1113	District And School Websites
1113-E(1)	istrict And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1340	Access To District Records
1340	Access To District Records
2121	Superintendent's Contract
3512	Equipment
3512-E(1)	Equipment
3516.2	Bomb Threats
3580	District Records
3580	District Records
4032	Reasonable Accommodation
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights

4119.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4119.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4131	Staff Development
4132	Publication Or Creation Of Materials
4136	Nonschool Employment
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.1	Civil And Legal Rights
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4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4231	Staff Development
4232	Publication Or Creation Of Materials
4236	Nonschool Employment
4313.5	Working Remotely

4319.1	Civil And Legal Rights
4319.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
4319.11	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
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4319.21-E(1)	Professional Standards
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4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4331	Staff Development
4332	Publication Or Creation Of Materials
4336	Nonschool Employment
5125	Student Records
5125	Student Records
5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
5131.9	Academic Honesty
6116	Classroom Interruptions
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology

Policy 5144.1: Suspension And Expulsion/Due Process

Status: ADOPTED

Original Adopted Date: 12/01/2014 **| Last Revised Date:** ~~03~~09/01/~~2020~~2024 **| Last Reviewed Date:** ~~03~~09/01/~~2020~~2024

CSBA NOTE: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. Education Code 48918 **mandates** the setting of rules and regulations for student expulsion as specified in this Board policy and the accompanying administrative regulation.

While recognizing that suspension or expulsion of students is sometimes necessary, legislative, administrative, regulatory, civic, and educational leaders are united in the belief that instructional time should be used for student learning purposes and that school discipline should be imposed in a way that, as much as possible, does not exclude students from school or limit their ability or opportunity to learn. ~~According to the~~The U.S. Department of ~~Justice's Civil Rights Division (DOJ)~~Education's (USDOE) March 2023, "Guiding Principles for Creating Safe, Inclusive, Supportive, and ~~the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of~~Fair School ~~Discipline (which has been under review by DOJ and OCR since July 30, 2021), studies suggest a correlation between exclusionary~~Climates," states that unfair student discipline ~~policies and practices (such as suspension and expulsion)~~can result in a negative school climate, and an array of serious educational, economic, ~~and~~ social, and emotional problems, including school avoidance and diminished educational engagement, decreased academic achievement, increased behavior problems, ~~and~~an increased likelihood of repeating a grade or dropping out, ~~substance abuse,~~ and involvement with the juvenile justice system. Consequently, ~~they recommend that~~ USDOE recommends districts ~~adopt alternative disciplinary measures that provide~~ensure the fair administration of student discipline in ways that treat students with ~~appropriate~~dignity and respect while using a continuum of supports to increase student success and promote positive and supportive school environments that support students and keep them in the classroom learning as much as possible. Additionally, USDOE recommends schools to adopt a coordinated system of whole school evidence-based intervention practices that are more effective than exclusionary discipline in addressing student behavior and improving school climate and safety, such as positive behavioral interventions and supports ~~as a means for preventing and addressing student misbehaviors.~~; trauma-informed practices; social and emotional wellbeing; and restorative practices.

Pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless the student has been subjected to other means of correction which have failed to bring about proper conduct. Such other means of correction include, but are not limited to, conferences between school personnel, the student, and the student's parent/guardian; use of study, guidance, or other intervention teams to develop a plan to address the behavior in partnership with the student; referral for behavioral supports; and participation in restorative justice programs. Additionally, pursuant to Education Code 48900.5, as amended by AB 1165 (Ch. 22, Statutes of 2023), districts are encouraged to have a student who has been suspended, or for whom other means of correction have been implemented, 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, as specified in the accompanying administrative regulation. For further information about specific disciplinary strategies, including alternatives to class or school removals, see BP/AR 5144 - Discipline.

Education Code 48900.5 authorizes a district to document in a student's records the alternative means of correction used to address the student's behavior. Furthermore, when a student is being suspended by the Superintendent, principal, or designee, Education Code 48911 requires that the student be informed, during the informal conference that precedes the suspension, of the other means of correction that were attempted before the suspension.

Pursuant to Education Code 48913.5, when a student in any of grades 1-12 has been suspended for two or more school days, the student's parent/guardian, or other person holding the right to make educational decisions for the student, may request homework that the student would otherwise have been assigned, and the student's teacher is required to provide such homework; see BP 6154 - Homework/Makeup Work.

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

CSBA NOTE: Pursuant to Education Code 48900(s), a student may be subject to discipline only when the violation is related to a school activity or school attendance as specified below. A student may also be disciplined for a violation committed away from school if it is related to a school activity or to school attendance. For example, Education Code 48900 defines bullying by means of an electronic act as including an act that originates off campus; see the accompanying administrative regulation and BP/AR 5131.2 - Bullying. Another example is the hostile school environment which a victim may suffer from sexual harassment that occurs off campus; see BP/AR 5145.7 - Sexual Harassment.

Except when otherwise permitted by law, a student may be suspended or expelled only when the behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds

2. While going to or coming from school

3. During the lunch period, whether on or off the school campus

4. During, going to, or coming from a school-sponsored activity

CSBA NOTE: The following paragraph addresses the problem of unlawful discrimination in the administration of student discipline. In their joint ~~January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (which has been under review by DOJ and OCR since July 30, 2021), DOJ and OCR noted that, based on the civil rights data collection conducted by OCR, students of certain racial or ethnic groups tended to be disciplined more, and sometimes more harshly, than their similarly situated peers in violation of federal nondiscrimination laws. The letter warned that any district determined to have engaged in unlawful discrimination could be subject to OCR investigation and significant remedial action.~~March 2023 publication, "Resource on Confronting Racial Discrimination in Student Discipline," the USDOE Office for Civil Rights and Department of Justice, Civil Rights Division noted that, based on decades of enforcement activity, discrimination based on race, color, and national origin in student discipline continues to be a significant concern and that disparities by race have persisted in the application of student discipline in schools.

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

Appropriate Use of Suspension Authority

CSBA NOTE: Education Code 48900.5 requires districts to use other means of correction instead of suspension, except when a student commits certain enumerated offenses. The following section reflects legislative intent regarding appropriate use of suspension as a means of disciplining students and may be modified to reflect district practice.

Except when a student's act violates Education Code 48900(a)-(e), as listed in Items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice.

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

CSBA NOTE: Education Code 48900(k) ~~prohibits a district~~), as amended by SB 274 (Ch. 597, Statutes of 2023), extends the prohibition from suspending ~~students in grades K-8~~ a student for disruption or willful defiance ~~:~~

~~A district may, but is not required to, suspend~~ , formerly applicable to students in grades K-8, to all students. Suspension of a student in grades ~~9~~6-12 for disruption or willful defiance~~. Even with this authority, districts should be careful in using these grounds, as available data have indicated a disproportionate use with certain student subgroups. Option 1 below is~~ is prohibited until July 1, 2029. However, teachers may still suspend a student from class for ~~use by any district that chooses to suspend~~willful defiance pursuant to Education Code section 48910. As part of the other means of correction specified in Education Code 48900.5, employees may also refer students for timely in ~~grades 9-12~~-school interventions or supports for disruption ~~and/or willful defiance as authorized pursuant to Education Code 48900(k). Any district that chooses to eliminate disruption and~~or willful defiance ~~as reasons for suspending any of its students from school should select Option 2 below. Such districts should also delete the section titled "Additional Grounds for Suspension and Expulsion: Grades 9-12" in the accompanying administrative regulation.~~

~~Each option below reflects an exception granted to teachers pursuant to Education Code 48910 to suspend students, including a K-3 student, from class; see section.~~

Pursuant to Education Code 48900, if a student is referred on this basis, school administrators, are required to inform the referring employee within five business days, verbally or in writing, of the actions taken and, if none, the rationale for not providing any timely in-school interventions or supports. See "Suspension from Class by a Teacher" in the accompanying administrative regulation.

~~OPTION 1: (Students in grades 9-12 may be suspended for disruption and/or willful defiance)~~
~~No student in grades K-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)~~

~~OPTION 1 ENDS HERE~~

~~OPTION 2: (No student may be suspended for disruption and/or willful defiance)~~No student may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

~~OPTION 2 ENDS HERE~~

CSBA NOTE: ~~The following optional paragraph reflects the Legislature's intent, expressed in~~ Pursuant to Education Code 48900~~, concerning disciplinary actions against~~ (w), as amended by SB 274, a student may not be suspended or expelled based solely on the fact that they are truant, tardy, or otherwise absent ~~students. Since these are not enumerated offenses, a district does not have the authority to suspend or expel students for committing any of these acts.~~ from school activities.

Students shall not be suspended or expelled ~~for~~based solely on a student's truancy, tardiness, or absenteeism from assigned school activities. (Education Code 48900)

On-Campus Suspension

CSBA NOTE: As an alternative to off-campus suspension, Education Code 48911.1 authorizes a supervised suspension classroom program for students who pose no imminent danger to anyone at school and who have not been recommended for expulsion, as specified below.

The following optional section is for use by districts implementing a supervised suspension classroom program. Such districts may continue to claim funding apportionments for students so assigned, provided they meet specific criteria which are set forth under "On-Campus Suspension" in the accompanying administrative regulation. A district does not receive funding for off-campus suspensions.

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper

conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

2. Selling or otherwise furnishing a firearm

3. Brandishing a knife at another person

4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058

5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 287, 288, or 289, or former 288a, or committing a sexual battery as defined in Penal Code 243.4

6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct

2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting. (Education Code 48918(j))

CSBA NOTE: Pursuant to Education Code 48917, the Board may ~~decide to~~ suspend the enforcement of an ~~order for~~ expulsion order as long as a student satisfies specific criteria. ~~See~~See "Decision to Suspend Expulsion Order" in the accompanying administrative regulation for criteria. In addition, the Attorney General opined, in 80 Ops.Cal.Atty.Gen. 85 (1997~~)~~), that the enforcement of an expulsion order may be suspended even in those cases where the student has committed an offense for which expulsion is required by law. CSBA's District and County Office of Education Legal Services or district legal counsel should be consulted as appropriate.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

CSBA NOTE: The following paragraph is for use by districts that contract with the California Department of Education (CDE) to operate a California State Preschool Program. Education Code 8489.1~~, as added by AB 2806 (Ch. 915, Statutes of 2022),~~ prohibits the expulsion or disenrollment of a child in a preschool program unless the district has taken specified steps, the child's continued enrollment would present a serious safety threat to the child or other enrolled children, and the district refers the child's parents/guardians to other appropriate placements. For further details regarding the steps the district must take prior to expelling a child, see ~~BP~~AR 5148.3 - Preschool/Early Childhood Education.

No child enrolled in a preschool program shall be expelled or unenrolled except under limited circumstances in accordance with Education Code 8489.1 and as specified in ~~AR~~Administrative Regulation 5148.3 - Preschool/Early Childhood Education.

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording ~~them their~~the students due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

Maintenance and Monitoring of Outcome Data

CSBA NOTE: Education Code 48900.8 and 48916.1 require the district to maintain data related to suspensions and expulsions as provided below. Pursuant to Education Code 48916.1, the Superintendent of Public Instruction may require submission of such data as part of the Federal Program Monitoring process. In addition, 20 USC 7961 requires districts to submit to CDE a description of the circumstances surrounding any expulsions based on bringing or possessing a firearm on campus, including the name of the school, the number of students expelled, and the type of firearms involved.

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

CSBA NOTE: Pursuant to Education Code 52060, districts are required to address school climate in the local control and accountability plan, as measured by student suspension and expulsion rates and other local measures for each school and each numerically significant student subgroup. ~~As defined in~~ Education Code 52052, as amended by SB 114 (Ch. 48, Statutes of 2023), defines numerically significant subgroups to include ethnic subgroups, socioeconomically disadvantaged students, English learners, long-term English learners, students with disabilities, foster youth, and homeless students, when there are at least 30 students in the subgroup or at least 15 foster youth or homeless students.

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, long-term English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

Policy Reference UPDATE Service
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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	Description
Civ. Code 47	Privileged communication
Civ. Code 48.8	Defamation liability
Code of Civil Procedure 1985-1997	Production of evidence; means of production
Ed. Code 17292.5	Program for expelled students; facilities
Ed. Code 1981-1983	Enrollment of students in community school
Ed. Code 212.5	Sexual harassment
Ed. Code 233	Hate violence
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 35145	Open board meetings
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules for government and discipline of schools
Ed. Code 35291.5	Rules and procedures on school discipline
Ed. Code 48645.5	Former juvenile court school students; enrollment
Ed. Code 48660-48666	Community day schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 48950	Speech and other communication
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49073-49079	Privacy of student records
Ed. Code 52052	Numerically significant student subgroups

Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 64000-64001	Consolidated application
Ed. Code 8489-8489.1	Prohibition against expulsion of preschool student
Gov. Code 11455.20	Informal hearing procedures
Gov. Code 54950-54963	The Ralph M. Brown Act
H&S Code 11014.5	Drug paraphernalia
H&S Code 11053-11059	Controlled substances; standards and schedules
Lab. Code 230.7	Employee time off to appear in school on behalf of a child
Pen. Code 240	Assault defined
Pen. Code 241.2	Assault fines
Pen. Code 242	Battery defined
Pen. Code 243.2	Battery on school property
Pen. Code 243.4	Sexual battery
Pen. Code 245	Assault with deadly weapon
Pen. Code 245.6	Hazing
Pen. Code 261	Rape defined
Pen. Code 266c	Unlawful sexual intercourse
Pen. Code 286	Sodomy defined
Pen. Code 287	Oral Copulation
Pen. Code 288	Lewd or lascivious acts with child under age 14
Pen. Code 289	Penetration of genital or anal openings
Pen. Code 31	Principal of a crime; defined
Pen. Code 417.27	Laser pointers
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Pen. Code 422.7	Aggravating factors for punishment
Pen. Code 422.75	Enhanced penalties for hate crimes
Pen. Code 626.10	Dirks, daggers, knives, razors, or stun guns
Pen. Code 626.2	Entry upon campus after written notice of suspension or dismissal without permission
Pen. Code 626.9	Gun-Free School Zone Act of 1995
Pen. Code 868.5	Supporting person; attendance during testimony of witness

W&I Code 224.1	Indian child; definition
W&I Code 729.6	Counseling

Federal	**Description**
18 USC 921	Definitions; firearms and ammunition
20 USC 1415(K)	Students with disabilities; placement in alternative educational setting
20 USC 7961	Gun-Free Schools Act
42 USC 11431-11435	Education of homeless children and youths

Management Resources	**Description**
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 348 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 85 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 91 (1997)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 146 (2001)
Court Decision	Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321
Court Decision	Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182
Court Decision	Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807
Court Decision	John A. v. San Bernardino School District (1982) 33 Cal. 3d 301
Court Decision	T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
Court Decision	Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
U.S. DOE Publication	Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates, March 2023 (https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf)
U.S. DOE, Office for Civil Rights and U.S. Department of Justice, Civil Rights Division Publication	~~Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014~~Resource on Confronting Racial Discrimination in Student Discipline, May 2023 (https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf)
U.S. DOE Publication	School Climate and Student Discipline Resources (https://www2.ed.gov/policy/gen/guid/school-discipline/index.html)

Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Safe and Healthy Students
Website	California Attorney General's Office
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
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
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage

3516.2	Bomb Threats
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5116.2	Involuntary Student Transfers
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5119	Students Expelled From Other Districts
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.5	Vandalism And Graffiti

5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5142	Safety
5142	Safety
5144	Discipline
5144	Discipline
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.71	~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures~~Title IX Sexual Harassment Complaint Procedures

5145.71-E(1)	~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures~~Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6145.8	Assemblies And Special Events
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6154	Homework/Makeup Work
6158	Independent Study
6158	Independent Study
6161.2	Damaged Or Lost Instructional Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6184	Continuation Education
6184	Continuation Education

6185	Community Day School
6185	Community Day School
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials

Regulation 5144.1: Suspension And Expulsion/Due Process

Status: ADOPTED

Original Adopted Date: 12/01/2014 **| Last Revised Date:** ~~03~~09/01/~~2023~~2024 **| Last Reviewed Date:** ~~03~~09/01/~~2023~~2024

CSBA NOTE: CSBA recommends that this administrative regulation be approved by the Governing Board, regardless of regular district practice regarding the approval of administrative regulations.

Education Code 35291 requires the Board to adopt rules and regulations, which are not inconsistent with law or rules adopted by the State Board of Education, for the government and discipline of the schools under its jurisdiction. In addition, Education Code 48918 and 48918.5 **mandate** that districts adopt rules concerning the due process rights of students in expulsion situations, and Education Code 48916 **mandates** procedures for filing and processing requests for readmission. Specific language complying with these mandates is included throughout this administrative regulation.

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level

2. Referral to a certificated employee designated by the principal to advise students

3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910, so long as removal from a particular class does not occur more than once every five school days~~.~~

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

Grounds for Suspension and Expulsion: Grades K-12

CSBA NOTE: The acts for which students may be suspended or expelled are specified in law, the following section, and ~~the sections below titled~~ "Additional Grounds for Suspension and Expulsion:

Grades 4-12," ~~and "Additional Grounds for Suspension and Expulsion: Grades 9-12."~~below. The Board does not have authority to add to those enumerated acts. However, the Board has authority to prohibit suspension or expulsion for certain acts for which suspension or expulsion is permissible rather than mandatory. The Board may consider limiting the use of suspension and expulsion for such offenses as part of the district plan to address school climate within the local control and accountability plan required pursuant to Education Code 52060. ~~In addition~~Additionally, pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless other means of correction have failed to bring about proper conduct.

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in ~~the sections~~ "Additional Grounds for Suspension and Expulsion: Grades 4-12~~"~~ ~~and "Additional Grounds for Suspension and Expulsion: Grades 9-12"~~," below:

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))

CSBA NOTE: The Attorney General, in 80 Ops.Cal.Atty.Gen. 91 (1997), determined that a student may be expelled for "possession" of a firearm if the student knowingly and voluntarily had direct control over the firearm. The only exceptions are when the student has permission from school officials to possess the firearm (pursuant to Education Code 48900 and 48915) or when the possession is brief and solely for the purpose of disposing of the firearm, such as handing it to school officials. Note that "firearm" does not include "imitation firearm" which is listed separately in Item #12 below. See BP/AR 5131.7 - Weapons and Dangerous Instruments.

Pursuant to Penal Code 417.27, students are prohibited from possessing a laser pointer on school premises, except for a valid instructional or other school-related purpose. See BP 5131 - Conduct.

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the same as a controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))

7. Stole or attempted to steal school property or private property (Education Code 48900(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing prescription products (Education Code 48900(h))

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))

10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))

11. Knowingly received stolen school property or private property (Education Code 48900(l))

12. Possessed an imitation firearm (Education Code 48900(m))

    Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 287, 288, 289, or former 288a, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))

14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))

15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))

16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

    Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

17. Engaged in an act of bullying (Education Code 48900(r))

CSBA NOTE: Education Code 48900(r) defines "bullying" as "any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of electronic act," which is directed toward a student and which would have serious detrimental consequences upon a reasonable student. Pursuant to Education Code 48900, a student may be disciplined for bullying by means of an electronic act even when the act originated off campus. See also AR 5131.2 - Bullying.

Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student(s) in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

CSBA NOTE: "Bullying" also would include any act of sexual harassment, hate violence, or harassment, threat, or intimidation committed by a student at any grade level, as set forth in Education Code 48900.2, 48900.3, or 48900.4, when the act results in harm to a reasonable student as specified in the above paragraph. However, when bullying is found under these circumstances, students below grade 4 may be disciplined for the "bullying" but not for the underlying act of sexual harassment, hate violence, or harassment, threat, or intimidation as specified below in ~~the section~~ "Additional Grounds for Suspension and Expulsion: Grades 4-12."

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in ~~the section~~ "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or 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: (Education Code 48900(r))

a. A message, text, sound, video, or image

b. A post on a social network Internet ~~web site~~website, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above~~.~~

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability. (Education Code 48900(r))

Burn page means an internet ~~web site~~website created for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

Credible impersonation means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that the student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated. (Education Code 48900(r))

False profile means a profile of a fictitious student or profile using the likeness or attributes of an actual student other than the student who created the false profile. (Education Code 48900(r))

An electronic act is not considered pervasive conduct solely on the basis that it has been transmitted to the internet or is currently posted on the internet. (Education Code 48900(r))

CSBA NOTE: The following paragraph may be revised to reflect district practice. Pursuant to Education Code 48900.5, as amended by AB 1165 (Ch. 22, Statutes of 2023), the district is encouraged 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, in addition to the other measures specified in the following paragraph.

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, as appropriate, 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)

CSBA NOTE: Education Code 48900(t) allows for the suspension, but not expulsion, of a student who "aids or abets," as defined in Penal Code 31, the infliction or attempted infliction of physical injury to another person. The term "aiding or abetting," is a complex legal term and requires that, at the time the crime was committed, the aider or abettor was aware of the crime and specifically intended to commit the crime. Because of the complexities of criminal law, CSBA's District and County Office of Education Legal Services or district legal counsel should be consulted as appropriate.

Pursuant to Education Code 48900(t), any student who aids or abets a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury is subject to suspension or expulsion as provided in Item #1 above.

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))

19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

    A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of $1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying out the crime. (Education Code 48900.7)

CSBA NOTE: Pursuant to Education Code 48900, as amended by SB 274 (Ch. 597, Statutes of 2024), until July 1, 2029, a district may not suspend a student in grades 6-12 for disruption or willful defiance. Together with previous amendments, this means that no K-12 student may be suspended for disruption or willful defiance.

However, pursuant to Education Code 48900, as amended by SB 274, a certificated or classified employee may refer a student for appropriate and timely in-school interventions or supports as specified in Education Code 48900.5 for disruption or willful defiance. By the end of the fifth business day, a school administrator is required to inform the referring employee, verbally or in writing, of the actions taken and if none, the rationale for not providing any timely in-school interventions or supports.

A student may not be suspended or expelled for disruption or willful defiance. (Education Code 48900)

Additional Grounds for Suspension and Expulsion: Grades 4-12

CSBA NOTE: The following section applies only to students in grades 4-12 and may be revised to reflect grade levels offered by the district.

As discussed in Item #17 of "Grounds for Suspension and Expulsion: Grades K-12" above, although Education Code 48900(r) defines bullying to include acts involving Items #1-3 below, Education Code 48900.2-48900.4 provide that only students in grades 4-12 may be suspended or expelled for the individual acts that constitute sexual harassment, hate violence, and harassment. Because the interplay between "bullying" and Items #1-3 can raise complex legal issues, districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel, as appropriate.

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that the student:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

   Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

   Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment. (Education Code 48900.4)

Additional Grounds for Suspension and Expulsion: Grades 9-12from Class by a Teacher

CSBA NOTE: Pursuant to Education Code 48900(k), students in grades K-8 must not be suspended for disruption of school activities or willful defiance of school authority, and students in grades K-12 must not be expelled on these grounds. Since districts are authorized but not required to suspend students in grades 9-12 based on these grounds, the following section is for use only by districts that selected Option 1 in the section "Appropriate Use of Suspension Authority" in the accompanying Board policy. Districts that selected Option 2 in the accompanying Board policy, thereby prohibiting the use of these reasons for suspending students at any grade level, should delete the following section.

None of the prohibitions or restrictions in Education Code 48900(k) affect a teacher's authority to remove a student from class for one day pursuant to Education Code 48910. See the section "Suspension from Class by a Teacher" below.CSBA NOTE: The following section is optional and may be revised to reflect district practice. As stated above, Education Code 48900(k), as amended by SB 274, extends the prohibition from suspending a student in grades K-12 for disruption or willful defiance, formerly applicable to students in grades K-8, to all students. Suspension of a student in grades 6-12 for disruption or willful defiance is prohibited until July 1, 2029. However, teachers may still suspend a student from class for disruption or willful defiance pursuant to Education Code 48910. As part of the other means of correction specified in Education Code 48900.5, employees may also refer students for timely in-school interventions or supports for disruption or willful defiance. Pursuant to Education Code 48900, if a student is referred on this basis, school administrators, are required to inform the referring employee within five business days, verbally or in writing, of the actions taken and, if none, the rationale for not providing any timely in-school interventions or supports.

Any student in grades 9-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

Suspension from Class by a Teacher

~~CSBA NOTE: The following section is optional and may be revised to reflect district practice. While Education Code 48900(k) prohibits a district from suspending students in grades K-8 for disruption or willful defiance, it still allows for a teacher to suspend a K-8 student on these grounds.~~

A teacher may suspend a student from class for the remainder of the day and the following day for any of the acts specified in Education Code 48900 and listed as Items #1-19 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level~~, including grades K-8.~~. (Education Code 48910)

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended. (Education Code 48910)

As soon as possible after the teacher ~~decides to suspend~~has suspended the student, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if ~~either~~requested by the parent/guardian or teacher ~~so requests~~. (Education Code 48910)

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910)

A teacher may also refer a student, for any of the acts specified above in Education Code 48900, to the principal or designee for consideration of a suspension from school. (Education Code 48910)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity away from school to have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required. (Education Code

48915(c))

CSBA NOTE: Education Code 48900.5 limits situations warranting suspension for a first offense to when the violation involves Education Code 48900(a)-(e) or the student's presence causes a danger to persons.

The Superintendent, principal, or designee may impose a suspension for a first offense if it is determined that the student violated any of Items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

CSBA NOTE: Pursuant to Education Code 48900 and 48915, except for certain egregious acts or offenses for which suspension is permissible or mandatory, as specified above pursuant to Education Code 48915(a) or (c), the Superintendent or principal is authorized to provide an alternative, age-appropriate disciplinary measure that is tailored to correct a student's specific misbehavior. In addition, the U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (which has been under review by DOJ and OCR since July 30, 2021), recommend that effective alternatives to suspension and expulsion be implemented for correcting student misbehavior. For a list of appropriate alternatives, see AR 5144 - Discipline.

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension upon a student, including supervised suspension, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code 48900.5)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school or class, or continuation school or class for the purpose of adjustment, the student may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

CSBA NOTE: District disciplinary procedures are generally subject to basic constitutional due process requirements, such as the provision of notice and/or hearing, especially with respect to

suspension, involuntary transfer, expulsion, or other serious disciplinary actions. However, when dealing with certain categories of students, additional procedures apply. For example, when considering suspension of a student who is a foster youth or Indian child, as defined in Welfare and Institutions Code 224.1, Education Code 48853.5, 48911, 48911.1, and 48915.5~~, as amended by AB 740 (Ch. 400, Statutes of 2022),~~ require that the foster youth's educational rights holder, attorney, and county social worker receive specified notifications in relation to the suspension, and for an Indian child, the child's tribal social worker, and if applicable, county social worker. See Items #1, 3, 5, and 6 below.

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5, and the evidence against the student, and shall be given the opportunity to present the student's version and evidence in the student's defense. (Education Code 48911)

   This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, the student, the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, shall be notified of the student's right to a conference and the right to return to school for the purpose of the conference. The conference shall be held within two school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school for the conference. (Education Code 48911)

   CSBA NOTE: Item #2 below should be revised to reflect the district's processing and reporting procedures.

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker, and, if applicable, the county social worker, in person, by email, or by telephone. Whenever a student is suspended, the parent/guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, the county social worker, shall also be notified in writing of the suspension. (Education Code 48911)

   This notice shall state the specific offense committed by the student. (Education Code 48900.8)

~~CSBA NOTE: The following optional paragraph may be revised to reflect district practice.~~

4. In addition, the notice ~~may~~shall state the date and time when the student may return to school.

5. 4. Parent/Guardian Conference: Whenever a student is suspended, school officials may conduct a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such individuals to respond to the request without delay. However, the student shall not be penalized for the failure of the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, to attend such a conference. The student may not be denied reinstatement solely because such individuals failed to attend the conference. (Education Code 48911)

5. 6. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)

a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard.

This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process.

CSBA NOTE: When the student being considered for expulsion is a foster youth or Indian child, Education Code 48911 and 48918.1, ~~as amended by AB 740,~~ require the district to invite the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, to the meeting specified above. ~~See the section below titled~~See "Additional Notice of Expulsion Hearing for Foster Youth, Homeless Students, and Indian Children, below."

c. If the student involved is a foster youth or Indian child, the Superintendent or designee shall notify the district's educational liaison of the need to invite the foster youth's educational rights holder, attorney and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

CSBA NOTE: Pursuant to Education Code 48918.1, the district's liaison for homeless students must be notified when the student being considered for expulsion is a ~~homeless~~ student~~.~~ experiencing homelessness. See ~~the section below titled~~ "Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students."

d. If the student involved is a ~~homeless~~ child or youth experiencing homelessness, the Superintendent or designee shall notify the district liaison for homeless students~~.~~ (Education Code 48918.1)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Since Education Code 48900 and 48900.5 require a district, under certain circumstances, to use alternative disciplinary measures prior to imposing suspension, including supervised suspension, the district may, as necessary, provide services that would address the student's specific misbehavior along with the suspension program. For example, the district may require the student to enroll in a program that teaches prosocial behavior or anger management even while the student is suspended.

e. In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the behavior and keep the student in school~~.~~

Suspension by the Board

CSBA NOTE: The following optional section reflects the Board's authority to suspend students from school pursuant to Education Code 48912. In practice, it is impractical for boards to directly exercise this authority since circumstances warranting suspension usually require quick and sometimes immediate action which may not be possible for a board due to legal requirements for taking board actions, such as having a meeting.

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," and "Additional Grounds for Suspension and Expulsion: Grades 4-12," ~~and "Additional Grounds for Suspension and Expulsion: Grades 9-12"~~ above and within the limits specified under "Suspension by Superintendent, Principal, or Designee~~"~~," above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

The Board shall provide the student and parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

On-Campus Suspension

CSBA NOTE: The following optional section is for use by any district establishing an on-campus suspension program pursuant to Education Code 48911.1. However, pursuant to Education Code 48900.5, such a district is required to use other means of correcting a student's behavior before imposing a supervised suspension, unless such a supervised suspension is otherwise permitted by law for a student's first offense. Use of a supervised suspension classroom program does not in any way limit the district's ability to transfer a student to an opportunity school or class or a continuation education school or class in accordance with law.

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law~~.~~

2. The student shall have access to appropriate counseling services~~.~~

3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension~~.~~

4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom~~.~~ ~~The~~ and the teacher(s) shall provide all assignments and tests that the student will miss while suspended~~.~~

   If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

~~CSBA NOTE: Education Code 48911.1, as amended by AB 740, requires notification to a foster youth's educational rights holder, attorney, and county social worker, and an Indian child's tribal social worker and, if applicable, county social worker, of a student's assignment to an on-campus suspension classroom.~~

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student if an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, the Superintendent or principal shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense

2. Possession of any knife or other dangerous object of no reasonable use to the student

3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11059, except for:

    a. The first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis

    b. The student's possession of over-the-counter medication for use by the student for medical purposes

    c. Medication prescribed for the student by a physician

4. Robbery or extortion

5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Student's Right to Expulsion Hearing

CSBA NOTE: Education Code 48918 **mandates** that the Board establish rules and regulations governing procedures for the expulsion of students. The timelines of Education Code 48918 must be strictly followed; failure to do so may result in loss of the district's power to act (*Garcia v. Los Angeles Board of Education*). In calculating timelines, the district should also be aware of the difference between the calculation of "school days" and "calendar days" under Education Code 48918.

Any student recommended for expulsion shall be entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

CSBA NOTE: The following section is optional and may be revised to reflect district practice. "Stipulated expulsion" is for districts that have adopted an expedited procedure which allows a student to waive the right to a pre-expulsion hearing in exchange for an agreement as to the terms of the expulsion. Such waivers are not specifically addressed in law and districts should ensure that the due process rights of students are included in the stipulated agreement and are clearly explained ~~to them~~ before the agreement is signed. Districts should consult with CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

After a determination that a student has committed an offense for which the student may be expelled, the Superintendent, principal, or designee shall offer the student, the student's parent/guardian, or, when applicable, other person holding the right to make educational decisions for the student, the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after written notice of the expulsion hearing pursuant to Education Code 48918 has been given.

The stipulation agreement shall be in writing and shall be signed by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of the right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student, shall be effective upon approval by the Board.

Rights of Complaining Witness

CSBA NOTE: Education Code 48918.5 **mandates** the following rights related to the treatment of witnesses alleging acts of sexual assault or sexual battery. Other procedures related to complaining witnesses also may be added as desired by the district. Additional mandated procedures related to the rights and treatment of complaining witnesses are included where appropriate throughout this regulation.

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses

allegations of sexual assault or sexual battery, the Superintendent or designee shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of the right to: (Education Code 48918.5)

1. Receive five days' notice of the scheduled testimony at the hearing

2. Have up to two adult support persons present at the hearing at the time the witness testifies

3. Have a closed hearing during the time the witness testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

Written Notice of the Expulsion Hearing

CSBA NOTE: Education Code 48918 **mandates** the Board to adopt procedures that include the following items.

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing

2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based

3. A copy of district disciplinary rules which relate to the alleged violation

4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

   This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

   Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

   Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's

parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing

7. The opportunity to confront and question all witnesses who testify at the hearing

8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth, Homeless Students, and Indian Children

CSBA NOTE: Prior to conducting an expulsion hearing to determine whether a foster youth or Indian child should be expelled, Education Code 48918.1~~, as amended by AB 740,~~ requires the district to notify the foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker and, if applicable, county social worker, provided that the violation does not require a mandatory recommendation for expulsion. Pursuant to Education Code 48918.1, such additional notice must be given to the district liaison for homeless students when the student involved is a ~~homeless~~ child or youth experiencing homelessness and the violation does not require a mandatory recommendation for expulsion. While such a notice is not required if the offense requires a mandatory recommendation for expulsion, it is nonetheless recommended and the following section reflects this recommendation.

If the student facing expulsion is a foster student or Indian child, the Superintendent or designee shall also send notice of the hearing to the foster ~~youth's~~ youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, at least 10 calendar days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a ~~homeless~~ student experiencing homelessness, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 calendar days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

CSBA NOTE: Education Code 48918 **mandates** that the Board adopt procedures that include the following items.

Instead of the Board conducting an expulsion hearing, it may appoint a hearing officer or an impartial administrative panel to conduct the hearing; see ~~section~~ "Alternative Expulsion Hearing: Hearing Officer or Administrative Panel~~"~~," below. Even if the district conducts all expulsion hearings in this manner, the requirements of Education Code 48918 pertaining to the conduct of the hearing must be met.

1. Closed Session: Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public

meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

CSBA NOTE: For the purpose of Board deliberations during the closed session described below, the presence of any person other than the Board members, including the Superintendent, necessitates allowing the presence of the parent/guardian, student, and student's counsel.

~~2.~~ Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to testify in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

~~3.~~ 2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

CSBA NOTE: Education Code 48918 authorizes the Board to issue subpoenas for the personal appearance of percipient witnesses at an expulsion hearing. In *Woodbury v. Dempsey*, the court held that a district's authority to determine whether to issue subpoenas is discretionary, but a district could not have a blanket policy denying the issuance of subpoenas in all cases.

In accordance with Code of Civil Procedure 1987, the subpoena must be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. Unless they are parties to the hearing or are district or government employees, witnesses who appear pursuant to a subpoena receive fees equal to those prescribed for witnesses in civil actions in a superior court, and all witnesses other than the parties to the hearing receive mileage; these fees and mileage must be paid by the party requesting the subpoena.

~~4.~~ 3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in Item #6 below. (Education Code 48918(i))

~~5.~~ 4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12," and "Additional Grounds for Suspension and Expulsion: Grades 4-12," ~~and "Additional Grounds for Suspension and Expulsion: Grades 9-12"~~ above. (Education Code 48918(h))

CSBA NOTE: Findings of fact made by the Board or a hearing panel must not be based on hearsay alone. "Hearsay" is evidence of an oral or written statement made by a person who is not present at the hearing which is offered to establish a fact as being true. Some exceptions to the hearsay rule exist under the Evidence Code and Education Code; the district should consult CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

~~6.~~ Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

CSBA NOTE: Education Code 48918.6 provides that testimony by a student witness at an expulsion hearing is privileged and thus protected from liability for defamation pursuant to Civil Code 47(b).

~~7~~ ~~.~~5. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

a. Any complaining witness shall be given five days' notice before being called to testify~~.~~

b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during the testimony~~.~~

c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential~~.~~

d. The person presiding over the hearing may remove a support person who is disrupting the hearing.

e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.

f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard.

Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

i. The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

ii. At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which the complaining witness may leave the hearing room.

iii. The person conducting the hearing may:

a. Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

b. Limit the time for taking the testimony of a complaining witness to normal school hours, if there is no good cause to take the testimony during other hours

c. Permit one of the support persons to accompany the complaining witness to the witness stand

~~8.~~ 6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from school, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

CSBA NOTE: For districts that use a hearing officer or administrative panel, Education Code 48918 **mandates** that the Board adopt procedures that include the following section.

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

CSBA NOTE: Pursuant to Education Code 48918, if the hearing officer or administrative panel does not recommend expulsion, a student must be permitted to return to the classroom instructional program from which the expulsion referral was made, unless the student's parent/guardian requests a different placement. Education Code 48918 also states that a student who is found to have committed any of the violations listed in "Authority to Expel" in the accompanying Board policy but for whom expulsion is not recommended may be referred to the student's prior school, or another district comprehensive or continuation school. However, the hearing officer or administrative panel, like the Board, must recommend expulsion or a suspended expulsion under Education Code 48915, if it finds that a student committed any such violation that mandates expulsion. District should consult CSBA's District and County Office of Education Legal Services or district legal counsel to resolve this apparent discrepancy.

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by the student's parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from

which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

CSBA NOTE: Education Code 48918 **mandates** that the Board adopt procedures that include the following paragraph.

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

CSBA NOTE: 20 USC 7961 requires the district, in the consolidated application for federal funding, to provide an assurance that it will comply with the state requirement to expel, for a period not less than one year, any student who brings a firearm to school or possesses a firearm at school.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in ~~the section~~ "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission

2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

CSBA NOTE: The following paragraph is optional. Education Code 48916.5 authorizes, but does not mandate, the Board to make the following requirement of certain expelled students.

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 94-12" (Education Code 48900.8)

2. The fact that a description of readmission procedures will be made available to the student and parent/guardian (Education Code 48916)

3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)

4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)

5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

CSBA NOTE: Pursuant to Education Code 48917, the Board's criteria for suspending the enforcement of expulsions must be applied uniformly to all students. Items #1-3 below are optional and should be revised to reflect district criteria.

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior

2. The seriousness of the misconduct

3. The student's attitude toward the misconduct and willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation.

   This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)

3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "Additional Grounds for Suspension and Expulsion: Grades 4-12," or "Additional Grounds for Suspension and Expulsion: Grades 94-12" above, or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)

4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)

5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school.

   Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)

6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian.

   The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))

7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

Appeal

If a student is expelled from school, the student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

CSBA NOTE: Education Code 48902 requires the principal or designee to notify law enforcement authorities when a student possesses a firearm or explosive or sells or furnishes a firearm at school.

However, when the student involved in such a case is a student with a disability, Education Code 49076 requires any law enforcement authority to which student information is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right; see AR 5144.2 - Suspension ~~and~~And Expulsion/Due Process (Students ~~with~~With Disabilities).

When submitting the consolidated application for federal funding, the district must provide assurance that it has adopted a policy requiring referral to the criminal justice system or juvenile delinquency system of any student who brings a firearm or weapon to a school. The following section fulfills this requirement.

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

CSBA NOTE: Education Code 48915 requires the Board to refer all expelled students to a program of study that is prepared to accommodate students with discipline problems and that is not located at the school the student currently attends or at any regular elementary, middle, junior, or senior high school. However, students expelled for the acts described in Education Code 48900(f) through (m) or Education Code 48900.2, 48900.3, or 48900.4 may be referred to a program of study that is at another elementary, middle, junior, or senior high school if the County Superintendent of Schools certifies that an alternative program is not available at a site away from such a school.

Education Code 48915.01 states that if the Board has established a community day school pursuant to Education Code 48661 on the same site as an elementary, middle, junior, or senior high school, expelled students may be referred to the community day school at that site. Although Education Code 48663 prohibits the use of independent study in community day schools, Education Code 48916.1 does not in any way restrict the district from offering independent study as a voluntary alternative placement option for expelled students.

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems

2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these

3. Not housed at the school site attended by the student at the time of suspension

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in Items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and Items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

CSBA NOTE: Education Code 48916 **mandates** that the Board adopt rules and regulations establishing a procedure for filing and processing requests for readmission and a process for Board review of all expelled students for readmission. ~~The following section is consistent with the intent of AB 740 to afford protections specific to foster youth and Indian children.~~ Items #1-2 below should be revised to reflect district practice.

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the student's parent/guardian, or other person holding the right to make educational decisions for the student, and the student~~.~~

   At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and the student's parent/guardian or other person holding the right to make educational decisions for the student shall be asked to indicate in writing their willingness to comply with these regulations.

2. The Superintendent or designee shall transmit to the Board a recommendation regarding readmission~~.~~

   The Board shall consider this recommendation in closed session. If a written request for open session is received from the student's parent/guardian or other person holding the right to make educational decisions for the student, or adult student, it shall be honored to the extent that privacy rights of other students are not violated.

3. If the readmission is granted, the Superintendent or designee shall notify the student and the student's parent/guardian, or other person holding the right to make educational decisions for the student, by registered mail, of the Board's decision regarding readmission~~.~~

4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to

campus safety or to other district students or employees. (Education Code 48916)

5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.

6. The Board shall provide written notice to the expelled student and the student's parent/guardian, or other person holding the right to make educational decisions for the student, describing the reasons for denying readmittance into the regular program.

   This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district.

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

CSBA NOTE: Education Code 48915.1 requires that, when an expelled student asks to enroll in another district, the receiving district must hold a hearing to determine whether the student poses a danger to its students or staff. The receiving district then may either deny or permit the enrollment. Upon request from another district, the expelling district must provide information about the expulsion within five days.

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

Policy Reference UPDATE Service
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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	Description
Civ. Code 47	Privileged communication

Civ. Code 48.8	Defamation liability
Code of Civil Procedure 1985-1997	Production of evidence; means of production
Ed. Code 17292.5	Program for expelled students; facilities
Ed. Code 1981-1983	Enrollment of students in community school
Ed. Code 212.5	Sexual harassment
Ed. Code 233	Hate violence
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 35145	Open board meetings
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules for government and discipline of schools
Ed. Code 35291.5	Rules and procedures on school discipline
Ed. Code 48645.5	Former juvenile court school students; enrollment
Ed. Code 48660-48666	Community day schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 48950	Speech and other communication
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49073-49079	Privacy of student records
Ed. Code 52052	Numerically significant student subgroups
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 64000-64001	Consolidated application
Ed. Code 8489-8489.1	Prohibition against expulsion of preschool student
Gov. Code 11455.20	Informal hearing procedures
Gov. Code 54950-54963	The Ralph M. Brown Act
H&S Code 11014.5	Drug paraphernalia
H&S Code 11053-11059	Controlled substances; standards and schedules
Lab. Code 230.7	Employee time off to appear in school on behalf of a child
Pen. Code 240	Assault defined
Pen. Code 241.2	Assault fines
Pen. Code 242	Battery defined
Pen. Code 243.2	Battery on school property

Pen. Code 243.4	Sexual battery
Pen. Code 245	Assault with deadly weapon
Pen. Code 245.6	Hazing
Pen. Code 261	Rape defined
Pen. Code 266c	Unlawful sexual intercourse
Pen. Code 286	Sodomy defined
Pen. Code 287	Oral Copulation
Pen. Code 288	Lewd or lascivious acts with child under age 14
Pen. Code 289	Penetration of genital or anal openings
Pen. Code 31	Principal of a crime; defined
Pen. Code 417.27	Laser pointers
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Pen. Code 422.7	Aggravating factors for punishment
Pen. Code 422.75	Enhanced penalties for hate crimes
Pen. Code 626.10	Dirks, daggers, knives, razors, or stun guns
Pen. Code 626.2	Entry upon campus after written notice of suspension or dismissal without permission
Pen. Code 626.9	Gun-Free School Zone Act of 1995
Pen. Code 868.5	Supporting person; attendance during testimony of witness
W&I Code 224.1	Indian child; definition
W&I Code 729.6	Counseling

Federal	**Description**
18 USC 921	Definitions; firearms and ammunition
20 USC 1415(K)	Students with disabilities; placement in alternative educational setting
20 USC 7961	Gun-Free Schools Act
42 USC 11431-11435	Education of homeless children and youths

Management Resources	**Description**
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 348 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 85 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 91 (1997)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 146 (2001)

Court Decision	Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321
Court Decision	Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182
Court Decision	Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807
Court Decision	John A. v. San Bernardino School District (1982) 33 Cal. 3d 301
Court Decision	T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
Court Decision	Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
U.S. DOE Publication	Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates, March 2023 (https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf)
U.S. DOE, Office for Civil Rights and U.S. Department of Justice, Civil Rights Division Publication	~~Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014~~Resource on Confronting Racial Discrimination in Student Discipline, May 2023 (https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf)
U.S. DOE Publication	School Climate and Student Discipline Resources (https://www2.ed.gov/policy/gen/guid/school-discipline/index.html)
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Safe and Healthy Students
Website	California Attorney General's Office
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan

0460	Local Control And Accountability Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
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
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3516.2	Bomb Threats
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113	Absences And Excuses

5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5116.2	Involuntary Student Transfers
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5119	Students Expelled From Other Districts
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5142	Safety
5142	Safety

5144	Discipline
5144	Discipline
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.71	~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures~~Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	~~Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures~~Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access

6145.8	Assemblies And Special Events
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6154	Homework/Makeup Work
6158	Independent Study
6158	Independent Study
6161.2	Damaged Or Lost Instructional Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials

Regulation 5144.2: Suspension And Expulsion/Due Process (Students With Disabilities)

Status: ADOPTED

Original Adopted Date: 11/01/2006 **| Last Revised Date:** ~~03~~09/01/~~2023~~2024 **| Last Reviewed Date:** ~~03~~09/01/~~2023~~2024

CSBA NOTE: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. While many of the required rules and regulations are in BP/AR 5144.1 - Suspension ~~and~~And Expulsion/Due Process, the following administrative regulation addresses special procedures required when disciplining students who have been identified for special education and related services. This administrative regulation reflects the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482), implementing federal regulations (34 CFR 300.1-300.818), and conforming state legislation. Note that in cases where state law provides greater protections to students, state law supersedes federal law.

The U.S. Department of Education's, Office of Special Education and Rehabilitative Services (OSERS), "Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders," recommends that districts identify ways to significantly reduce the use of exclusionary discipline, and its disproportionate effect on students with disabilities. See BP 6120 - Response ~~to~~To Instruction ~~and~~And Intervention and BP/AR 6164.5 - Student Success Teams.

Neither state nor federal law requires that these procedures apply to students identified under Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794). However, the U.S. Department of Education's, Office for Civil Rights~~,~~ (OCR), "Fact Sheet: Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973," provides that, for a student with a disability under Section 504, schools are required to conduct a manifestation determination before implementing a disciplinary removal that will significantly change the placement of the student due to discipline for (1) removal from class or school for more than 10 consecutive school days, or (2) a series of removals from class or school that together total more than 10 school days in a school year and constitute a pattern of removal. Districts that wish to apply all IDEA procedures to Section 504 students should modify the following regulation accordingly.

OSER's 2022, "Dear Colleague Letter on Implementation of IDEA Discipline Provisions," cautions that while IDEA does not preclude a district from disciplining a child with a disability, disparities in the use of discipline may arise when implementing IDEA's discipline provisions. OCR and the U.S. Department of Justice, Civil Rights Division's May 2023, "Resource on Confronting Racial Discrimination in Student Discipline," provides additional resources and findings which address unlawful discrimination in the administration of student discipline.

Additionally, the U.S. Department of Education's 2023 publication, "Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates," provides that schools should objectively define disciplinary infractions in order to reduce subjectivity and ensure that consequences are

administered consistently and fairly without regard to race, sex, disability, or other student characteristics.

Due to the complexity of the issue, districts should proceed carefully when suspending or expelling students with disabilities~~,~~ and consult CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC 1400-1482, is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

Suspension or expulsion of a student with disabilities shall be in accordance with Board Policy 5144.1 - Suspension ~~and~~And Expulsion/Due Process and this administrative regulation.

When a student with disabilities exhibits behavior which impedes the student's own learning or that of others, the student's individualized education program (IEP) team shall consider positive behavioral interventions and supports, and other strategies, to address the behavior. (Education Code 56521.2; 20 USC 1414)

Suspension

CSBA NOTE: Pursuant to 20 USC 1415(k)(1), 34 CFR 300.530, and ~~a~~the 1988 U.S. Supreme Court decision ~~(~~*Honig v. Doe*~~),~~, districts receiving funds under the IDEA may suspend a student with a disability for ~~no more than~~up to 10 consecutive school days, as long as the removal does not constitute a change in placement pursuant to 34 CFR 300.536. ~~Education Code 48903 specifies that a student may not~~However, pursuant to Education Code 48911, unless the student has been recommended for expulsion or suspended directly by the Board, a student may be suspended for no more than five consecutive school days for a given incident. The more restrictive law, which in this case is state law, applies. Pursuant to Education Code 48903, a student may not typically be suspended for more than 20 cumulative school days in a school year.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46715, explains that whether a bus suspension or "in-school suspension" would count as a day of suspension affecting the cumulative total depends on the unique circumstances of each case, such as whether bus transportation is part of the student's individualized education program (IEP). An "in-school suspension" or "supervised suspension classroom" as authorized by Education Code 48911.1 would not count towards the ~~10 consecutive or 20 cumulative school day~~ limit as long as the student is afforded the opportunity to continue to appropriately participate in the general curriculum, receive the services specified in the student's IEP, and participate with nondisabled students to the extent the student would have in the current placement. The district should be careful that such actions do not constitute a change of placement and carefully monitor such suspensions.

It is recommended that districts with questions regarding suspension of a student with disabilities consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent, principal, or designee may suspend a student ~~with a disability~~ from school for up to ~~10~~five consecutive school days, unless the suspension has been extended following a recommendation for ~~a single incident of misconduct, and~~expulsion. (Education Code 48911)

A student may usually be suspended from school for up to 20 cumulative school days, or 30 cumulative school days as permitted by Education Code 48903, in a school year as long as the pattern of suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from the student's current educational placement for disciplinary reasons constitutes a change of placement.

CSBA NOTE: Pursuant to 34 CFR 300.536, a change of placement is deemed to occur when a student with disabilities is removed for more than 10 consecutive school days. However, Education Code 48911 limits the suspension of a student to no more than five consecutive school days, unless that suspension is imposed directly by the Board pursuant to Education Code 48912 or the student's suspension has been extended pending expulsion. Because the more restrictive law applies, which in this case is state law, a student may usually be suspended for no more than five consecutive school days.

A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR 300.536)

1. ~~The~~A decision has been made that would result in the removal ~~is~~of the student for more than 10 consecutive school days

2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:

   a. The series of removals total more than 10 school days in a school year

   b. The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals

   c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another

CSBA NOTE: Pursuant to 20 USC 1412(a)(1)(A) and 34 CFR 300.530, a "free appropriate public education" (FAPE) must be available to all students, including any student with a disability who has been suspended for more than 10 school days in the same school year. The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46716, clarifies that the district is not required to provide a student who has been suspended for more than 10 school days in a school year for disciplinary reasons exactly the same services in exactly the same setting as the student was receiving prior to the imposition of discipline. However, the special education and related services the student does receive must enable the student to continue to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP. The Analysis of Comments, 71 Fed. Reg. 156, pg. 46717, clarifies that services need not be provided when a student is removed for 10 school days or less, as long as the district does not provide services to nondisabled students removed for the same amount of time.

If a student's removal is determined to be a change of placement as specified in Items #1-2 above, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in the student's IEP, and to address the student's behavior violation so that it does not recur. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to the student or the student's parent/guardian when, as a result of a suspension, the student is excluded from school bus transportation. (Education Code 48915.5)

CSBA NOTE: The following paragraph is optional.

The principal or designee shall monitor the number of days, including portions of days, in which a student with an IEP has been suspended during the school year.

Interim Alternative Educational Placement Due to Dangerous Behavior

CSBA NOTE: 20 USC 1415(k) and 34 CFR 300.530 permit an interim alternative placement for 45 school days when a student with a disability, while on school grounds, while going to or coming from school, or at a school function, either (1) carries or possesses a weapon, (2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, or (3) inflicts serious bodily injury upon another person. "Serious bodily injury" is defined in 18 USC 1365 as bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. This alternative placement decision may be made unilaterally by the district.

The term "weapon," as used below, refers to a "dangerous weapon" as defined in 18 USC 930 and includes any device which is capable of causing death or serious bodily injury. The term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.530)

1. Carries or possesses a weapon, as defined in 18 USC 930

2. Knowingly possesses or uses illegal drugs

3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V

4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by the student's IEP team. (20 USC 1415(k)(1)(G); 34 CFR 300.531)

CSBA NOTE: For requirements of the procedural safeguards notice, see AR 6159.1 - Procedural Safeguards ~~and~~And Complaints ~~for~~For Special Education.

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

A student who has been removed from the student's current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow the student to participate in the general education curriculum and to progress toward meeting the goals set out in the IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation, so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

Manifestation Determination

~~CSBA NOTE:~~ CSBA NOTE: Pursuant to 34 CFR 300.530 and 300.536, a manifest determination meeting must be held within 10 school days of the decision to change a student's placement. A change of placement occurs when a student is, or would be, removed for more than 10 consecutive school days or the student has been subjected to a series of removals that constitute a pattern. However, Education Code 48911 limits the suspension of a student to no more than five consecutive school days, unless the student has been recommended for expulsion, or the student has been suspended by the Board pursuant to Education Code 48912.

A student with a disability who is also a foster youth or Indian child is afforded additional due process safeguards. Pursuant to Education Code 48853.5 and 48915.5, ~~as amended by AB 740 (Ch. 400, Statutes of 2022),~~ a foster youth's educational rights holder, attorney, and county social worker, and an Indian child's tribal social worker and, if applicable, county social worker, have the same rights as a parent/guardian to receive a suspension notice, expulsion notice, manifestation determination notice and invitation to the manifestation determination meeting, involuntary transfer notice, and other documents and related information, as reflected in Items #1 and 2 below. See AR 5144.1 - Suspension ~~and~~And Expulsion/Due Process and BP/AR 6184 - Continuation Education.

The following procedural safeguards shall apply when a decision has been made to suspend a student with a disability ~~is suspended~~ for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504~~.~~

   If the student is a foster youth, the notice shall be given to the student's educational rights holder, attorney, and county social worker, and, if the student is an Indian child, the student's tribal social worker and, if applicable, county social worker. (Education Code 48853.5; 20 USC 1415(k)(1)(H); 34 CFR 300.530)

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

   If the student is a foster youth or Indian child, the foster youth's educational rights holder, attorney, or county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, shall be invited to participate in the manifestation determination review. (Education Code 48915.5)

   At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530)

   a. Caused by or had a direct and substantial relationship to the student's disability

   b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

      If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. Determination that Behavior is a Manifestation of the Student's Disability: When the student's conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student.

   If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

   The student shall be returned to the placement from which the student was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: When it has been determined that the student's conduct was not a manifestation of the disability, the student may be disciplined in accordance with the procedures for students without disabilities.

   However, the student's IEP team shall determine services necessary to enable the student to participate in the general education curriculum in another setting and to allow the student to progress toward meeting the goals set out in the IEP. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

Due Process Appeals

CSBA NOTE: As specified below, 34 CFR 300.532 provides that either the district or the parent/guardian may appeal a placement decision by filing a due process complaint pursuant to 34 CFR 300.507 and 300.508. For details regarding the due process complaint, see BP/AR 6159.1 - Procedural Safeguards ~~and~~And Complaints ~~for~~For Special Education. In addition, the district may file a request that the hearing officer order a change of placement to an interim alternative setting for up to 45 days when the hearing officer determines that maintaining the current placement is substantially likely to result in injury to the student or others.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46723, clarifies that the burden of proof in due process hearings is on the party that is responsible for the issue going forward to the due process hearing officer, consistent with the U.S. Supreme Court's decision in *Schaffer v. Weast*. Thus, if the district has requested that a hearing officer remove a student to an interim alternative educational setting, the burden of persuasion at the hearing is on the district.

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances), 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), the parent/guardian may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b). (20 USC 1415(k)(3); 34 CFR 300.532)

CSBA NOTE: Pursuant to 34 CFR 300.532, this due process hearing is the same as the impartial due process hearing held for other special education matters, except that the law specifies expedited timelines. For other due process hearing requirements, see BP/AR 6159.1 - Procedural Safeguards ~~and~~And Complaints ~~for~~For Special Education.

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

Readmission

CSBA NOTE: There is no state or federal law that requires special procedures for readmission of expelled students with disabilities; however, districts have an ongoing obligation to make FAPE available to students with disabilities.

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting

shall be convened to review and, as necessary, modify the student's IEP.

Decision Not to Enforce Expulsion Order

CSBA NOTE: For district criteria applicable to all students when the Board is considering whether to suspend the enforcement of an expulsion order, see BP 5144.1 - Suspension ~~and~~And Expulsion/Due Process. The district should consult CSBA's District and County Office of Education Legal Services or district legal counsel when considering the suspension of an expulsion order involving a special education student.

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code 48917)

Notification to Law Enforcement Authorities

CSBA NOTE: Pursuant to 20 USC 1415(k)(6) and 34 CFR 300.535, the district is authorized to report crimes by students with disabilities to law enforcement in accordance with state law. Education Code 48902 provides procedures for these required notifications and Education Code 49076, requires any law enforcement authority to which information regarding a student with disabilities is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right. See also AR 5144.1 - Suspension ~~and~~And Expulsion/Due Process and BP 5131.7 - Weapons ~~and~~And Dangerous Instruments.

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in ~~AR~~Administrative Regulation 5144.1 - Suspension ~~and~~And Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that the student's information or records will not be disclosed to any other person without the prior written consent of the student's parent/guardian. (Education Code 49076)

Report to County Superintendent of Schools

CSBA NOTE: Education Code 48203 requires the Superintendent to report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. Education Code 48203 specifies that it is the duty of the County Superintendent to examine the reports and, if any case exists in which the interest of the student or welfare of the state may need further examination, bring the reports to the attention of the Board and the County Board of Education.

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code 48203)

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and

who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC 1415(k)(5); 34 CFR 300.534)

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services

2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC 1414(a)(1)(B) or 34 CFR 300.300-300.311

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed the student to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR 300.300-300.311, the district determined that the student was not an individual with a disability. (20 USC 1415(k)(5); 34 CFR 300.534)

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC 1415(k)(5); 34 CFR 300.534)

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC 1415(k)(5); 34 CFR 300.534)

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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	Description
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules of governing board
Ed. Code 48203	Reports of severance of attendance of disabled students

Ed. Code 48853.5	Foster youth and Indian child's representatives' right to receive notices
Ed. Code 48900-48925	Suspension and expulsion
Ed. Code 49076	Access to student records
Ed. Code 56000	Special education; legislative findings and declarations
Ed. Code 56320	Educational needs; requirements
Ed. Code 56321	Development or revision of individualized education program
Ed. Code 56329	Independent educational assessment
Ed. Code 56340-56347	Individualized education program teams
Ed. Code 56505	State hearing
Ed. Code 56521.2	Behavioral interventions
Pen. Code 245	Assault with deadly weapon
Pen. Code 626.10	Dirks, daggers, knives, razors, or stun guns
Pen. Code 626.2	Entry upon campus after written notice of suspension or dismissal without permission
Pen. Code 626.9	Gun-Free School Zone Act of 1995

Federal	**Description**
18 USC 1365	Serious bodily injury
18 USC 930	Weapons
20 USC 1412	State eligibility
20 USC 1414	Evaluations, eligibility determinations, individualized education programs, and educational placements
20 USC 1415	Procedural safeguards
21 USC 812	Schedule of controlled substances
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 104.35	Evaluation and placement
34 CFR 104.36	Procedural safeguards
34 CFR 300.1-300.818	Assistance to states for the education of students with disabilities
34 CFR 300.530-300.537	Discipline procedures

Management Resources	**Description**
Court Decision	Honig v. Doe (1988) 484 U.S. 305
Court Decision	M.P. v. Governing Board of Grossmont Union High School District (1994) 858 F.Supp. 1044

Court Decision	Parents of Student W. v. Puyallup School District (1994 9th Cir.) 31 F.3d 1489
Court Decision	Schaffer v. Weast (2005) 546 U.S. 49
Federal Register	Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845
~~Ofc of Special Education & Rehabilitative Svcs Pub~~	~~Letter Commenting on Hearing Officer Authority to Determine whether Conduct is a Violation of Student Code of Conduct, July 2012~~
Ofc of Special Education & Rehabilitative Svcs Pub	Dear Colleague Letter on ~~Supporting the Needs of~~Ensuring Equity and Providing Behavioral Support to Students with Disabilities, ~~July 2022~~August 2016 (https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf)
Ofc of Special Education & Rehabilitative Svcs Pub	Dear Colleague Letter on ~~Supporting the Needs~~Implementation of ~~Students with Disabilities~~IDEA Discipline Provisions, July 2022 (https://sites.ed.gov/idea/files/dcl-implementation-of-idea-discipline-provisions.pdf)
Ofc of Special Education & Rehabilitative Svcs Pub	Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions, July 2022 (https://sites.ed.gov/idea/files/guide-positive-proactive-approaches-to-supporting-children-with-disabilities.pdf)
Ofc of Special Education & Rehabilitative Svcs Pub	Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders, July 2022 (https://sites.ed.gov/idea/files/guide-positive-proactive-approaches-to-supporting-children-with-disabilities.pdf)
Office of Administrative Hearings	Parent v. Fairfield-Suisun Unified School District (2012) Case No. 2012030917
U.S. DOE, Office for Civil Rights Publication	Fact Sheet: Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973 (https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-factsheet.pdf)
U.S. DOE, Office for Civil Rights and U.S. Department of Justice, Civil Rights Division Publication	Resource on Confronting Racial Discrimination in Student Discipline, May 2023 (https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf)
U.S. DOE	Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates, March 2023 (https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf)

Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Special Education and Rehabilitative Services
Website	California Department of Education, Special Education
Website	U.S. Department of Education, Office for Civil Rights

Cross References

Code	Description
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
3513.4	Drug And Alcohol Free Schools
3541.2	Transportation For Students With Disabilities
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5113.11	Attendance Supervision
5116.2	Involuntary Student Transfers
5125	Student Records
5125	Student Records
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances

5131.4	Student Disturbances
5131.62	Tobacco
5131.62	Tobacco
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.9	Hate-Motivated Behavior
6120	Response To Instruction And Intervention
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education

6159.1	Procedural Safeguards And Complaints For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.4	Behavioral Interventions For Special Education Students
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
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
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Policy 5147: Dropout Prevention

Status: ADOPTED

Original Adopted Date: 07/01/2005 **| Last Revised Date:** ~~08~~09/01/~~2014~~2024 **| Last Reviewed Date:** ~~08~~09/01/~~2014~~2024

~~CSBA NOTE: The following optional policy may be modified to reflect district practice.~~

~~AB 97 (Ch. 47, Statutes of 2013) eliminated the Pupil Retention Block Grant (Education Code 41505-41508), which had provided funding for opportunity classes and programs; supplemental instruction; and dropout prevention and recovery programs, including educational clinics, alternative work centers, and the school-based student motivation and maintenance program. At their discretion, districts may use funding from the local control funding formula to provide services that support dropout prevention efforts.~~CSBA NOTE: The following optional policy may be modified to reflect district practice.

The Governing Board expects all students to remain in school until graduation in order to acquire critical knowledge and skills and be prepared for postsecondary education and/or employment. The Superintendent or designee shall identify factors that impede student success in school and shall implement integrated, systemic support and strategies that address dropout prevention and promote timely intervention and recovery.

CSBA NOTE: The California Department of Education (CDE) has identified strategies that have a positive effect in encouraging students to regularly attend school, which can be found on CDE's webpage, "School Attendance Improvement Strategies." Some of these practices include identifying and responding to grade level and student subgroup patterns of chronic absence and truancy; improving communication with parents/guardians, including using bilingual aides and sending out attendance emails in the language used by parents/guardians; positive reinforcement for improved attendance such as prizes for individuals or classes with the most improved attendance; and personalizing relationships between students and school support staff and/or teachers, including establishing homeroom classes for secondary students for all years of high school.

The Superintendent or designee, in collaboration with parents/guardians, school staff, and community agencies and organizations as appropriate, shall develop districtwide and schoolwide strategies that support regular school attendance for all students. Dropout prevention strategies shall include efforts to provide a safe and positive learning environment that engages and motivates students, encourages students' connectedness to the schools, offers meaningful educational opportunities, and promotes student health and well-being.

CSBA NOTE: Pursuant to Education Code 46211, as added by SB 153 (Ch. 38, Statutes of 2024), a district may, beginning July 1, 2025, implement attendance recovery programs for students in grades TK-12 to make up lost instructional time and offset absences, including chronic absenteeism for up to 10 days of attendance in a school year or the number of absences a student accrued in that school year, whichever is less. A student's participation in an attendance recovery program is optional and may not be punitive. Attendance recovery programs may be operated before or after school, on weekends, or during intersessional periods. A district that operates attendance recovery

programs must offer access to the programs throughout the school year, including at least once during each term, such as a trimester or quarter.

Students participating in an attendance recovery program may generate average daily attendance (ADA) for the school year in which the program is operated, and that otherwise meets the requirements of Education Code 46211. Districts are required to report ADA accrued through participation in an attendance recovery program to CDE separately from ADA generated during the school day in classroom-based programs. It is recommended that districts with questions about attendance recovery programs consult CSBA's District and County Office of Education Legal Services or district counsel.

In order to make up lost instructional time and offset absences, the district may implement attendance recovery programs. Any attendance recovery program shall be provided as a voluntary, limited-term option for a classroom-based, regular education program for students in grades TK-12 in accordance with Education Code 46211.

In addition, the Superintendent or designee shall develop strategies to provide targeted support to individual students who are at risk of dropping out of school. Students may be identified based on indicators such as chronic absenteeism, truancy, or tardiness; below-grade-level academic achievement as evidenced by student assessment results and/or teacher evaluations; and personal, social, health, or economic circumstances that may affect student performance and behavior in school.

Strategies to support students at risk of dropping out of school may include, but are not limited to:

1. Meetings and/or home visits with the student and parent/guardian to identify and address barriers to the student's success and inform them of the state's compulsory education law

2. Individualized instruction that responds to the needs and unique learning styles of students

CSBA NOTE: Pursuant to Education Code 46211, as added by SB 153, a district may implement attendance recovery programs for students to make up lost instructional time and offset absences, including chronic absenteeism.

3. Supplemental instruction during or outside the school day that is designed to help students overcome academic deficiencies, including attendance recovery programs

4. Enrollment in alternative or specialized educational programs

5. Assistance locating employment or work-based learning opportunities which link classroom learning with real-world experiences

6. Academic guidance and personal counseling services

7. Referral to a student success team, school attendance review board, or other team that addresses persistent attendance problems

CSBA NOTE: A student assistance program (SAP) is an integrated effort to intervene with students for ~~substance abuse, mental health, emotional, or social issues~~non-academic barriers to learning by connecting education, programs, and school and community services to create a network of supports for students~~.~~ through referral and facilitation of appropriate services. Non-academic barriers to learning include substance abuse; mental health issues including depression or suicidal thoughts or behavior, self-injury, stress and anxiety, or grief; emotional or social issues; school adjustment problems; trauma generated at school or home; attendance and dropout problems; physical and sexual abuse, or violence; gender issues; teen pregnancy and parenting; family issues, including dissolution, homelessness or displacement, family member mental health and substance use disorders, and relationship difficulties; parent or other family member incarceration; military deployment; or delinquency and involvement with the juvenile justice system. CDE's publication, "SAP Bulletin 11: Nine Components of SAPs," provides for recommended minimum requirements needed to reduce barriers to learning and ensure student success, including a board policy defining the school's role in creating a safe, disciplined, and drug-free learning community; staff development; program awareness; an internal referral process; a problem solving team and case management; SAP evaluation; educational student support groups; cooperation and collaboration with community agencies and resources; and integration with other school-based programs.

For resources related to the implementation of SAPs, see ~~the web sites of the California Department of Education and California SAP Resource Center~~CDE's, "Student Assistance Programs" and "School Attendance Improvement Strategies" webpages.

8. Referral to school and/or community support services, such as a student assistance program~~,~~; substance abuse program; health services~~,~~ or school nurse; school social worker or social services~~, a substance abuse program,~~; school counselor, school psychologist or other student support personnel for case management and counseling; and other resources

9. Continued monitoring of student attendance, including tracking student attendance and identifying students with attendance problems as early as possible, so the school may provide appropriate support services and interventions

10. Employment of qualified outreach consultants to perform duties related to dropout identification, prevention, intervention, and recovery as assigned

CSBA NOTE: Items #11-12 reflect recommendations from the Institute of Education Sciences' publication, "Preventing Dropout in Secondary Schools," to create small communities to facilitate monitoring and support, and to engage students by offering programs that connect schoolwork with college and career success and that improve students' capacity to manage challenges in and out of school.

11. Creating small, personalized learning communities to facilitate monitoring and support

12. Offering courses or programs that connect schoolwork with college and career success, including career technical education

CSBA NOTE: Education Code 52060~~, as added by AB 97 (Ch. 47, Statutes of 2013),~~ requires districts to develop a local control and accountability plan (LCAP) which includes goals and actions aligned with specified state priorities, including student engagement; see BP/AR 0460 - Local Control ~~and~~And Accountability Plan. Pursuant to Education Code 52060, student engagement should be measured by school attendance rates, chronic absenteeism rates, middle school dropout rates, high school dropout rates, ~~and~~ high school graduation rates, as applicable, and any additional metrics developed and selected by the district. Actions identified to address other state priorities ~~(e.g.,~~ such as school climate~~,~~ and student achievement~~)~~, may also contribute to dropout prevention.

The strategies may be incorporated into the district's local control and accountability plan and linked to district goals for student engagement, school climate, and student achievement.

The Superintendent or designee shall ensure that employees are trained to support at-risk students and are prepared to implement intervention strategies or to make appropriate referrals to support services.

When a student leaves school prior to the end of a school year, or when a student successfully completed the prior school year but did not begin attending the next grade or school that ~~he/she~~the student was expected to attend or had pre-registered to attend, the Superintendent or designee shall make efforts to determine whether the student has dropped out or has transferred to another educational setting. The Superintendent or designee may contact the student's parents/guardians to verify school enrollment and, if necessary, shall implement intervention and recovery efforts.

CSBA NOTE: Pursuant to 20 USC 6311, a district that receives Title I Funds is required to include high school graduation rates, including a four-year adjusted cohort graduate rate, on its annual report card. CDE monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM process includes a review of a district's written policies and procedures to maintain required documentation for students who transfer or withdraw from a district school, including the exit reasons and documentation to support the exit reasons. The following paragraph reflects the Adjusted Cohort Graduation Rate 2024-25 FPM instrument.

The Superintendent or designee shall maintain required documentation for students who transfer from or otherwise withdraw from a school in the district. (20 USC 6311)

CSBA NOTE: The following optional paragraph reflects indicators specified in Education Code 52060, as measures of student engagement for purposes of the LCAP, and may be revised to reflect district practice and the grade levels offered by the district.

Using data submitted by districts through the California Longitudinal Pupil Achievement Data System~~, the California Department of Education~~ (CalPADS), CDE calculates four-year graduation and dropout rates for districts, schools, and counties.

Pursuant to Education Code 60900.2, as added by AB 1340 (Ch. 576, Statutes of 2023), and contingent upon an appropriation, CDE is required to post a report on its website that allows the public to view statewide-level four- and five-year cohort graduation rates for students with disabilities, disaggregated by disability.

The Superintendent or designee shall annually report to the Board on measures of student engagement, including school attendance rates, chronic absenteeism rates, middle school and high school dropout rates, and high school graduation rates. The Board shall monitor district progress in increasing student retention in school and may require revisions in district plans and strategies as needed.

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State	**Description**
Ed. Code 35160	Authority of governing boards
Ed. Code 46211	Attendance recovery programs
Ed. Code 48200	Compulsory education
Ed. Code 48260-48273	Truancy
Ed. Code 48400-48403	Compulsory continuation education
Ed. Code 48430-48438	Continuation education
Ed. Code 48660-48666	Community day schools
Ed. Code 49600-49604	Educational counseling
Ed. Code 51260-51269	Gang and substance abuse prevention curriculum
Ed. Code 51745	Independent study
Ed. Code ~~52060~~52059.5-52077	Local control and accountability plan
Ed. Code 52300-~~52334~~52462	~~Regional occupational centers and programs~~Career technical education
Ed. Code 54690-54697	Partnership academies
Ed. Code 60900-60901	California Longitudinal Pupil Achievement Data System
Ed. Code 64001	School plan for student achievement; consolidated application programs
W&I Code 18986.40-18986.46	Interagency children's services programs

Federal	**Description**
20 USC 6301-6322	Title I programs

Management Resources	**Description**
California Department of Education Publication	Adjusted Cohort Graduation Rate Program Instrument (https://www.cde.ca.gov/ta/cr/)

California Department of Education Publication	Student Assistance Programs (https://www.cde.ca.gov/ls/he/at/sap.asp)
California Department of Education Publication	SAP Bulletin 11: Nine Components of SAPs (https://www.cde.ca.gov/ls/he/at/sapninecomponents.asp)
California Department of Education Publication	School Attendance Improvement Strategies (https://www.cde.ca.gov/ls/ai/cw/attendstrategy.asp)
US Department of Education Publication	Every Student Succeeds Act High School Graduation Rate Non-Regulatory Guidance, January 2017 (https://www2.ed.gov/policy/elsec/leg/essa/essagradrateguidance.pdf)
CSBA Publication	Seize the Data: Using Chronic Absence Data to Drive Student Engagement, March 2024 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/Attendance-Brief-2024.ashx?la=en&rev=a3dd0ccb6e214e3fbe0a4e5d49e797f5)
CSBA Publication	California High School Graduation and Dropout Rates, Fact Sheet, May 2013 (https://www.csba.org/GovernanceAndPolicyResources/~/media/CSBA/Files/GovernanceResources/GovernanceBriefs/20130 5FactSheetHSGradRates.ashx)
Institute of Education Sciences Publication	Preventing Dropout in Secondary Schools, September 2017 (https://ies.ed.gov/ncee/WWC/Docs/PracticeGuide/wwc_dropout_092617.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	California Dropout Research Project
~~Website~~	~~California Student Assistance Program Resource Center~~
Website	National Dropout Prevention Center
Website	U.S. Department of Education
Website	CSBA
Website	California Department of Education, Dropout Prevention (https://www.cde.ca.gov/ls/ai/dp/)
Website	Institute of Education Sciences (https://ies.ed.gov/)

Cross References

Code	Description
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan

4131	Staff Development
5030	Student Wellness
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
5113.2	Work Permits
5113.2	Work Permits
5123	Promotion/Acceleration/Retention
5123	Promotion/Acceleration/Retention
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5136	Gangs
5136	Gangs
5137	Positive School Climate
5141.6	School Health Services
5141.6	School Health Services
5146	Married/Pregnant/Parenting Students
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6120	Response To Instruction And Intervention
6146.1	High School Graduation Requirements
6146.2	Certificate Of Proficiency/High School Equivalency
6146.2	Certificate Of Proficiency/High School Equivalency
6146.2-E(1)	Certificate Of Proficiency/High School Equivalency
6158	Independent Study
6158	Independent Study
6164.2	Guidance/Counseling Services

6164.5	Student Success Teams
6164.5	Student Success Teams
6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6177	Summer Learning Programs
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6179	Supplemental Instruction
6184	Continuation Education
6184	Continuation Education

Policy 6112: School Day

Status: ADOPTED

Original Adopted Date: 09/01/1988 **| Last Revised Date:** ~~12~~09/01/~~2021~~2024 **| Last Reviewed Date:** ~~12~~09/01/~~2021~~2024

CSBA NOTE: The following optional policy may be revised to reflect district practice. California law specifies the minimum length of the school day for elementary and secondary schools~~; see~~ , which are reflected in the accompanying administrative regulation. In its , "Frequently Asked Questions," about attendance accounting and instructional time for independent study, the California Department of Education ~~(CDE)~~ has clarified that the same minimum school day requirements apply to ~~traditional~~ independent study as for students attending in-person instruction; for more information regarding instructional minutes as they relate to independent study, see BP/AR 6158 – Independent Study.

The Governing Board shall fix the length of the school day in accordance with law. (Education Code 46100)

At each school, the length of the school day shall be the same for all students, except as otherwise permitted by law. For any student with a disability, the length of the school day shall be as specified in the student's individualized education program or Section 504 plan.

CSBA NOTE: The following ~~optional paragraph is~~two paragraphs are for use by districts that maintain ~~elementary schools and may be modified to reflect district practice.~~any of grades K-6. Pursuant to Education Code ~~33350, CDE encourages~~49056, as added by SB 291 (Ch. 863, Statutes of 2023) and amended by SB 153 (Ch. 38, Statutes of 2024), districts that maintain any of grades K-6 are required to provide ~~daily~~ recess ~~periods~~as specified below, except that for ~~elementary~~any student with a disability, recess is required to be in accordance with the student's individualized education program or Section 504 plan. SB 153 clarifies that the recess requirements specified below do not apply to (1) students~~, featuring time for unstructured but supervised play. The Superintendent of Public Instruction's Task Force on Obesity, Type 2 Diabetes, and Cardiovascular Disease recommends that~~ in grades 7-12, even if the school also serves students in grades K-6 ~~be provided with recess or other~~, or (2) students in grade 6 where grade 6 is part of a middle school program or part of a program that serves some or all of students in grades 6-12 if the students receive physical ~~activity breaks at least once per 120 minutes of instruction. The National Association for Sport and Physical~~education as specified in Education ~~recommends daily recess breaks of at least 20 minutes each day.~~Code 51222. For information regarding the prohibition against denying a student recess, see BP 5144 – Discipline.

~~The~~Unless there is a field trip or other educational program, the daily schedule for ~~elementary schools~~grades K-6 shall include at least one ~~period~~or more periods of recess of at least ~~20~~30 minutes~~, during which~~ on regular instructional days and 15 minutes on early release days. During this time, students shall be provided supervised opportunities, outdoors when weather and air quality permit unless space is not sufficient in which case recess may be held indoors, to engage in unstructured physical activity~~.~~, play, organized games, and/or social engagement with peers, and may be provided a snack. (Education Code 49056)

Educational Program means the entire school-sponsored offering for students, including in-class and out-of-class activities. (Education Code 49056)

CSBA NOTE: The remainder of this policy only applies to districts that maintain secondary schools and may be modified to reflect district practice.

In establishing the daily instructional schedule for each secondary school, the Superintendent or designee shall give consideration to course requirements and curricular demands, availability of school facilities and equipment, and applicable legal requirements.

The Board encourages flexibility in scheduling so as to provide longer time blocks or class periods when appropriate and desirable to support student learning, provide more intensive study of core academic subjects or extended exploration of complex topics, and reduce transition time between classes.

Prior to implementing a block or alternative schedule that will allow secondary students to attend school for fewer school days than the total number of school days for which the school is in session, the Board shall consult in good faith, in an effort to reach agreement with the certificated and classified employees of the school, parents/guardians of the students who would be affected by the change, and the community at large. Such consultation shall include at least one public hearing for which the Board shall give adequate notice to the employees and to the parents/guardians of affected students. (Education Code 46162)

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State	Description
Ed. Code 37202	Equal time in all schools
Ed. Code 37670	Year-round schools
Ed. Code 46010	Total days of attendance
Ed. Code 46100	Length of school day
Ed. Code 46110-46120	Attendance in kindergarten and elementary schools
Ed. Code 46120	Expanded learning opportunities
Ed. Code 46140-46148	Attendance in junior high and high schools
Ed. Code 46148	School day for middle and high school
Ed. Code 46160-46162	Alternative schedule for junior high and high school; public hearing with notice
Ed. Code 46170	Continuation schools; minimum day

Ed. Code 46180	Opportunity schools; minimum day
Ed. Code 46191	Attendance for adults in correctional facilities
Ed. Code 46200-~~46206~~46208	~~Minimum instructional time~~Incentives for longer instructional days and year
Ed. Code 48200	~~Minimum school day~~Compulsory full-time education
Ed. Code 48663	Community day school; minimum school day
Ed. Code 48800-48802	Concurrent enrollment in community college
Ed. Code 49056	Recess
Ed. Code 51222	Physical education; instructional minutes
Ed. Code 51720-51724	Evening high school for minors
Ed. Code 51760-51769.5	Work experience education
Ed. Code 52325	Regional occupational center; minimum day
Ed. Code 8970-8974	Early primary program, including extended-day kindergarten
Management Resources	**Description**
California Department of Education Publication	Conducting Individualized Determinations of Need (https://www.cde.ca.gov/sp/se/ac/sept2021leaguidance.asp#:~:text=Determining%20service%20and%20support%20needs%20for%20students%20with%20disabilities%20should,progress%20in%20meeting%20IEP%20goals.)
~~California Department of Education Publication~~	~~Clarifications for Student Learning in Quarantine, 2021~~
California Department of Education Publication	~~2021-22~~ AA & IT Independent Study FAQs (https://www.cde.ca.gov/fg/aa/pa/instructionaltimefaq.asp#itis)
~~NASPE Position Statement~~	~~Recess for Elementary School Students, 2006~~
State Board of Education Policy Statement	99-03 Physical Education (PE) Requirements for Block Schedules, July 2006
~~U.S. Department of Education Publication~~	~~Extending Learning Time for Disadvantaged Students, August 1995~~
~~WestEd~~WestEd Publication	Full-Day Kindergarten: Expanding Learning Opportunities, Policy Brief, April 2005
Website	CSBA District and County Office of Education Legal Services
Website	WestEd
Website	National Association for Sport and Physical Education
Website	State Board of Education

Website	U.S. Department of Education
Website	California Department of Education

Cross References

Code	Description
3516.5	Emergency Schedules
5030	Student Wellness
5113	Absences And Excuses
5113	Absences And Excuses
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6000	Concepts And Roles
6111	School Calendar
6117	Year-Round Schedules
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145.8	Assemblies And Special Events
6154	Homework/Makeup Work
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs
6172.1	Concurrent Enrollment In College Classes
6172.1	Concurrent Enrollment In College Classes
6178	Career Technical Education

6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6179	Supplemental Instruction
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
6200	Adult Education
6200	Adult Education
9320	Meetings And Notices

Regulation 6112: School Day

Status: ADOPTED

Original Adopted Date: 11/01/2006 **| Last Revised Date:** ~~12~~09/01/~~2021~~2024 **| Last Reviewed Date:** ~~12~~09/01/~~2021~~2024

CSBA NOTE: The following optional administrative regulation specifies minimum and maximum school days for each grade level as provided by law. The district may revise this regulation to reflect district practice.

Pursuant to Education Code 46114, the minimum school day in grades K-8 may be computed by determining the average number of minutes over 10 consecutive school days (i.e., the number of minutes of attendance in any 10 consecutive school days, divided by 10). Education Code 46142 authorizes the minimum school day in junior high and high schools to be computed by averaging the number of minutes over two consecutive school days. The district will be in compliance if the average is at least the minimum day required by law, even if the number of minutes in any one school day is less than the minimum required school day specified below. However, Education Code 46114 and 46142 provide that no single school day may be less than 60 minutes for kindergarten, 170 minutes for grades 1-3, or 180 minutes for grades 4-12.

Education Code 46201 and 46207 require districts that have reached their local control funding formula (LCFF) funding target, as well as districts that received longer day or longer year funding prior to the implementation of the LCFF, to offer at least the following instructional minutes per school year: 36,000 minutes for kindergarten, 50,400 for grades 1-3, 54,000 for grades 4-8, and 64,800 for grades 9-12. Pursuant to Education Code 46201 and 46207, if this requirement is not met for any grade level, a portion of the district's LCFF allocation will be withheld.

Kindergarten/Transitional Kindergarten

CSBA NOTE: The following section is for use by districts that maintain kindergarten and transitional kindergarten (TK) classes. Education Code 37202 permits districts to maintain kindergarten or TK classes for different lengths of time during the school day, either at the same or different school sites. Districts offering kindergarten or TK classes for different lengths of time are still required to meet the minimum and maximum length of school day described below.

Kindergarten and transitional kindergarten (TK) classes in district schools may be maintained for different lengths of time, either at the same or different school sites. (Education Code 37202)

CSBA NOTE: Education Code 46117 establishes a minimum school day of three hours (180 minutes) for kindergarten students. However, pursuant to Education Code 46119, if a district has fewer than 40 kindergarten students, the Governing Board may apply to the Superintendent of Public Instruction to maintain two kindergarten classes of 150 minutes each, including recesses, taught on the same day by the same teacher.

The average school day for kindergarten and TK students shall be at least three hours, including recesses but excluding noon intermissions. If fewer than 40 students are enrolled in kindergarten classes, the district may request approval of the Superintendent of Public Instruction to maintain two kindergarten classes of 150 minutes each. (Education Code 46114, 46115, 46117, 46119)

CSBA NOTE: Education Code 46111 limits the maximum length of the school day for kindergarten to four hours, not counting recesses, except where the school is operating an early primary program pursuant to Education Code 8970-8974 or an expanded learning opportunity program established pursuant to Education Code 46120~~, as added by AB 130 (Ch. 44, Statutes of 2021)~~.

In any school day, kindergarten and/or TK students shall not be kept in school for longer than four hours, excluding recesses, except where the school is operating an early primary program pursuant to Education Code 8970-8974 or an expanded learning opportunity program pursuant to Education Code 46120. (Education Code 46111, 46115, 46120)

CSBA NOTE: The following optional paragraph is for use by districts that have established an early primary program pursuant to Education Code 8970-8974 in order to provide an integrated, experiential, and developmentally appropriate educational program with specified components for students in prekindergarten through grade 3. Education Code 8973 provides that the kindergarten school day in such programs may exceed four hours under the conditions described below, although districts do not receive additional apportionment funds for the excess time.

In any district school operating an early primary program pursuant to Education Code 8970-8974, the kindergarten school day may exceed four hours, excluding recess, if both of the following conditions are met: (Education Code 8973)

1. The Governing Board has declared that the extended-day kindergarten program does not exceed the length of the primary school day~~.~~

2. The extended-day kindergarten program includes ample opportunity for both active and quiet activities within an integrated, experiential, and developmentally appropriate educational program~~.~~

CSBA NOTE: The following paragraph is optional. Although Education Code 46111 provides that recess shall be excluded from determining the maximum school day, it is the interpretation of the California Department of Education (CDE) that recess time may be counted as instructional minutes, at the district's discretion, if teacher supervision occurs.

Under an extended day kindergarten program, recess may be counted as instructional minutes for purposes of determining the maximum school day if it occurs under teacher supervision.

CSBA NOTE: The following optional paragraph is for use by districts that maintain multitrack year-round schools pursuant to Education Code 37670.

In any multitrack year-round school operating pursuant to Education Code 37670, the kindergarten school day may be up to 265 minutes, excluding recesses. (Education Code 46111)

CSBA NOTE: Pursuant to Education Code 48003, districts are required to provide an annual report to CDE regarding the type of kindergarten program offered by the district, including part day, full day, or both, by completing the School Information Form 2017 located on CDE's ~~web site~~website. The form also includes the type(s) of TK program offered.

The Superintendent or designee shall annually report to the California Department of Education as to whether the district's kindergarten and TK programs are offered full day, part day, or both. (Education Code 48003)

Grades 1-8

CSBA NOTE: The following section is for use by districts that maintain any of grades 1-8 and should be modified to reflect the grade levels offered by the district.

Except as otherwise provided by law, the school day for elementary and middle school students shall be:

1. At least 230 minutes for students in grades 1-3, unless the Board has prescribed a shorter school day because of lack of school facilities requiring double sessions, in which case the minimum school day shall be 200 minutes (Education Code 46112)

2. At least 240 minutes for students in grades 4-8 (Education Code 46113, 46142)

In determining the number of minutes for purposes of compliance with the minimum school day for students in grades 1-8, both noon intermissions and recesses shall be excluded. (Education Code 46115)

CSBA NOTE: The following optional paragraph is for any district maintaining a middle school, except a rural school district. Pursuant to Education Code 46148, the school day for a middle school is required to begin no earlier than 8:00 am.

The school day for a middle school shall begin no earlier than 8:00 a.m. (Education Code 46148)

Grades 9-12

CSBA NOTE: The following section is for use by districts that maintain any of grades 9-12 and may be modified to reflect the grade levels offered by the district.

The school day for a high school shall begin no earlier than 8:30 a.m. (Education Code 46148)

CSBA NOTE: In its, "Frequently Asked Questions" ~~about~~," about attendance accounting and instructional time for independent study, CDE has clarified that the same minimum school day requirements apply to ~~traditional~~ independent study as for students attending in-person instruction; for more information regarding instructional minutes as they relate to independent study, see BP/AR 6158 – Independent Study.

The school day for students in grades 9-12, including students in the ~~traditional~~ independent study program, shall be at least 240 minutes. (Education Code 46141, 46142)

CSBA NOTE: The following list should be revised to reflect programs offered by the district.

However, the school day may be less than 240 minutes when authorized by law. Programs that have a minimum school day of 180 minutes include, but are not necessarily limited to:

1. Continuation high school or classes (Education Code 46141, 46170)

2. Opportunity school or classes (Education Code 46141, 46180)

3. Regional occupational center (Education Code 46141, 52325)

4. Work experience education program approved pursuant to Education Code 51760-51769.5 (Education Code 46141, 46144)

   A student in grade 12 who is enrolled in work experience education and is in the last semester or quarter before graduation may, upon written request by the student's parent/guardian or the student, if 18 years of age or over, be permitted to attend school for less than 180 minutes per school day if all requirements for graduation would be completed,

except physical education courses, in less than 180 minutes each day. (Education Code 46147)

5. Concurrent enrollment in a community college pursuant to Education Code 48800-48802 or, for students in grades 11-12, part-time enrollment in classes of the California State University or University of California, provided academic credit will be awarded upon satisfactory completion of enrolled courses (Education Code 46146)

6. An early college high school or middle college high school, provided the students are enrolled in community college or college classes in accordance with ~~item~~Item #5 above (Education Code 46141, 46146.5)

7. Special day or Saturday vocational training program conducted under a federally approved plan for career technical education (Education Code 46141, 46144)

~~8. Adult education classes (Education Code 46190)~~

CSBA NOTE: The following optional paragraph is for use by districts that operate an evening high school pursuant to Education Code 51720-51724.

For an evening high school operated pursuant to Education Code 51720-51724, the number of days, specific days of the week, and number of hours during which the program shall be in session may be determined by the Board. (Education Code 46141, 51721)

Students in grade 12 shall be enrolled in at least five courses each semester or the equivalent number of courses each quarter. This requirement shall not apply to students enrolled in regional occupational centers or programs, courses at accredited postsecondary institutions, independent study, special education programs in which the student's individualized education program establishes a different number of courses, continuation education classes, work experience education programs, or any other course of study authorized by the Board that is equivalent to the approved high school course of study. (Education Code 46145)

Alternative Block Schedule for Secondary Schools

CSBA NOTE: The following optional section is for use by districts that choose to create a block schedule pursuant to Education Code 46160-46162; for information regarding actions required prior to implementing a block or alternative schedule, see the accompanying Board policy. In establishing a block schedule, the district should be aware of state law (Education Code 51222) that requires secondary students to attend physical education courses for at least 400 minutes each 10 school days; for more information regarding instructional minutes as it relates to physical education, see AR 6142.7 - Physical Education and Activity. Although the daily alternating block schedule, often referred to as the A/B block schedule, does fulfill the requirement for physical education minutes, other block schedules do not and thus require a waiver from the State Board of Education (SBE~~). See~~); see SBE Waiver Policy #99-03 for waiver criteria.

In order to establish a block or other alternative schedule or to accommodate career technical education and regional occupational center/program courses, the district may authorize students to attend fewer than the total number of days in which school is in session provided that students attend classes for at least 1,200 minutes during any five school day period or 2,400 minutes during any 10 school day period. (Education Code 46160)

CSBA NOTE: The following optional paragraph is for use by districts that maintain an early college high school or middle college high school. Pursuant to Education Code 46160 such districts may schedule classes in these schools so that students who satisfy the provisions of Education Code 46146.5 in regard to part-time enrollment at community college, the California State University, or the University of California attend classes for at least 900 minutes during any five-school day period or 1,800 minutes during any 10-school day period.

An early college high school or middle college high school may be scheduled so that students attend classes for at least 900 minutes during any five-school day period or 1,800 minutes during any 10-school day period. (Education Code 46160)

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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	Description
Ed. Code 37202	Equal time in all schools
Ed. Code 37670	Year-round schools
Ed. Code 46010	Total days of attendance
Ed. Code 46100	Length of school day
Ed. Code 46110-46120	Attendance in kindergarten and elementary schools
Ed. Code 46120	Expanded learning opportunities
Ed. Code 46140-46148	Attendance in junior high and high schools
Ed. Code 46148	School day for middle and high school
Ed. Code 46160-46162	Alternative schedule for junior high and high school; public hearing with notice
Ed. Code 46170	Continuation schools; minimum day
Ed. Code 46180	Opportunity schools; minimum day
Ed. Code 46191	Attendance for adults in correctional facilities
Ed. Code 46200-~~46206~~46208	~~Minimum instructional time~~Incentives for longer instructional days and year
Ed. Code 48200	~~Minimum school day~~Compulsory full-time education
Ed. Code 48663	Community day school; minimum school day
Ed. Code 48800-48802	Concurrent enrollment in community college
Ed. Code 49056	Recess

Ed. Code 51222	Physical education; instructional minutes
Ed. Code 51720-51724	Evening high school for minors
Ed. Code 51760-51769.5	Work experience education
Ed. Code 52325	Regional occupational center; minimum day
Ed. Code 8970-8974	Early primary program, including extended-day kindergarten
Management Resources	**Description**
California Department of Education Publication	Conducting Individualized Determinations of Need (https://www.cde.ca.gov/sp/se/ac/sept2021leaguidance.asp#:~:text=Determining%20service%20and%20support%20needs%20for%20students%20with%20disabilities%20should,progress%20in%20meeting%20IEP%20goals.)
~~California Department of Education Publication~~	~~Clarifications for Student Learning in Quarantine, 2021~~
California Department of Education Publication	~~2021-22~~ AA & IT Independent Study FAQs (https://www.cde.ca.gov/fg/aa/pa/instructionaltimefaq.asp#itis)
~~NASPE Position Statement~~	~~Recess for Elementary School Students, 2006~~
State Board of Education Policy Statement	99-03 Physical Education (PE) Requirements for Block Schedules, July 2006
~~U.S. Department of Education Publication~~	~~Extending Learning Time for Disadvantaged Students, August 1995~~
~~WestEd~~WestEd Publication	Full-Day Kindergarten: Expanding Learning Opportunities, Policy Brief, April 2005
Website	CSBA District and County Office of Education Legal Services
Website	WestEd
Website	National Association for Sport and Physical Education
Website	State Board of Education
Website	U.S. Department of Education
Website	California Department of Education

Cross References

Code	**Description**
3516.5	Emergency Schedules
5030	Student Wellness
5113	Absences And Excuses
5113	Absences And Excuses

5141.22	Infectious Diseases
5141.22	Infectious Diseases
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6000	Concepts And Roles
6111	School Calendar
6117	Year-Round Schedules
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145.8	Assemblies And Special Events
6154	Homework/Makeup Work
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs
6172.1	Concurrent Enrollment In College Classes
6172.1	Concurrent Enrollment In College Classes
6178	Career Technical Education
6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6179	Supplemental Instruction
6184	Continuation Education
6184	Continuation Education
6185	Community Day School

6185	Community Day School
6200	Adult Education
6200	Adult Education
9320	Meetings And Notices

Policy 6142.92: Mathematics Instruction

Status: ADOPTED

Original Adopted Date: 10/01/1995 **| Last Revised Date:** ~~12~~09/01/~~2015~~2024 **| Last Reviewed Date:** ~~12~~09/01/~~2015~~2024

CSBA NOTE: The following optional policy may be revised to reflect district practice and the grade levels offered by the district. Education Code 51210 and 51220 require that mathematics, including mathematical concepts and understandings, operational skills, and problem solving, be included in the course of study offered in grades 1-12; see AR 6143 - Courses ~~of~~Of Study. In addition, Education Code 51224.5~~, as amended by AB 220 (Ch. 165, Statutes of 2015),~~ specifies that the adopted course of study for grades 7-12 must include algebra, and that, as part of the two courses in mathematics required for high school graduation pursuant to Education Code 51225.3, students must complete coursework that meets or exceeds the rigor of the content standards for Algebra I or Mathematics I adopted by the State Board of Education (SBE); see BP 6146.1 - High School Graduation Requirements.

Pursuant to Education Code 51002, SBE adopts curriculum frameworks for specified subjects, including mathematics, to offer guidance for the implementation of content standards for those subjects. The, "2023 Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve," is designed to help educators align classroom teaching with California's math content standards, and provides guidelines and selected research-based approaches for implementing instruction to ensure optimal benefits for all students.

The Governing Board desires to offer a rigorous mathematics program that progressively develops the knowledge and skills students will need to succeed in college and career. The district's mathematics program shall be designed to teach mathematical concepts in the context of real-world situations and to help students gain a strong conceptual understanding, a high degree of procedural skill and fluency, and ability to apply mathematics to solve problems.

CSBA NOTE: The, "2023 Mathematics Framework for California Public Schools," aims to remove structural barriers to students' mathematics success and ensure access and opportunity for all students to receive high level mathematics instruction.

The district's mathematics program shall also incorporate recognized principles, concepts, and research-based strategies to meet the needs of all students and provide equal access to learning through lessons that are relevant to students. Instructional resources adopted for use in district schools shall provide guidance to support a diverse student population, including students who are English learners, at-promise, advanced learners, and students with learning disabilities.

CSBA NOTE: The Common Core State Standards (CCSS) for mathematics~~, modified in January 2013,~~ are based on ~~the~~ three principles ~~of~~: (1) focus, placing strong emphasis on the concepts in the standards so that students have sufficient time to think about, practice, and integrate new ideas~~;~~, (2) coherence, linking topics across grade levels and establishing connections with other topics~~;~~, and (3) rigor, requiring that conceptual understanding, procedural skills and fluency, and

applications be pursued with equal intensity.

~~All California schools are expected to implement the CCSS in the 2014-15 school year. In November 2013, the SBE adopted the Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve which was updated to reflect these standards. In addition, the state assessment system is transitioning to the California Assessment of Student Performance and Progress which is aligned with the CCSS; see BP/AR 6162.51 - State Academic Achievement Tests. The CCSS and state curriculum framework are available on the California Department of Education's web site. For further information about the CCSS and recommendations for implementation, see CSBA's Governing to the Core series of governance briefs.~~

~~Education Code 51284, as amended by AB 166 (Ch. 135, Statutes of 2013), requires that, concurrent with the next revision of textbooks or the curriculum framework in mathematics, the SBE ensure the integration of financial literacy, including, but not limited to, budgeting and managing credit, student loans, consumer debt, and identity theft security. An appendix to the 2013 curriculum framework provides examples and resources to assist in incorporating problems or exercises that teach financial literacy concepts and skills.~~

For each grade level, the Board shall adopt academic standards for mathematics that meet or exceed the Common Core State Standards. The Superintendent or designee shall develop or select curricula that are aligned with these standards and the state curriculum framework.

CSBA NOTE: The CCSS for mathematics include two types of standards: (1) mathematical practice standards ~~(~~, which are identical for each grade level~~)~~, and (2) mathematical content standards ~~(~~, which are different at each grade level~~).~~. The eight practice standards are grouped into four categories as reflected in ~~items~~Items #1-4 below.

The district's mathematics program shall address the following standards for mathematical practices which are the basis for mathematics instruction and learning:

1. Overarching habits of mind of a productive mathematical thinker: Making sense of problems and persevering in solving them; attending to precision

2. Reasoning and explaining: Reasoning abstractly and quantitatively; constructing viable arguments and critiquing the reasoning of others

3. Modeling and using tools: Modeling with mathematics; using appropriate tools strategically

4. Seeing structure and generalizing: Looking for and making use of structure; looking for and expressing regularity in repeated reasoning

~~CSBA NOTE: The following three paragraphs reflect the mathematic content standards of the CCSS and may be revised to reflect district practice. The district should select the paragraph(s) applicable to the grade levels offered by the district.~~

In addition, the district's mathematics program shall be aligned with grade-level standards for mathematics content.

CSBA NOTE: The following paragraph is for districts that offer grades K-8, reflect the mathematics content standards of the CCSS, and may be revised to reflect district practice.

For grades K-8, mathematics content shall address, at appropriate grade levels, counting and cardinality, operations and algebraic thinking, number and operations in base ten, fractions, measurement and data, geometry, ratios and proportional relationships, functions, expression and equations, the number system, and statistics and probability. Students shall learn the concepts and skills that prepare them for the rigor of higher mathematics.

CSBA NOTE: The following paragraph is for use by districts that maintain secondary grades. ~~As revised in January 2013, the CCSS~~The, "Mathematics Framework for ~~higher~~California Public Schools," recognizes that schools are free to organize mathematics ~~replace the unique Grade 8 Algebra course with an Algebra I course that covers the same content regardless of the grade level of the student taking the course. Thus,~~pathways in different ways but encourages districts to consider offering two potential pathways to enable students who ~~are not ready to take algebra in grade 8 may take an alternate path. As revised, the higher mathematics standards are organized into both conceptual categories and model courses, which may be delivered using a traditional pathway (i.e., Algebra I, Geometry, Algebra II) or an integrated pathway (i.e., Mathematics I, II, and III) in which each course contains standards from all six conceptual categories. The CCSS also~~would like to reach Calculus by the end of high school to do so. The California Department of Education's guidance recommends flexibility so that choices made by students during their first two years do not limit their later choices. Additionally, the CCSS provide for two advanced courses: (1) Advanced Placement Statistics and Probability and (2) Calculus. ~~For further information, see the state curriculum framework or the Common Core State Standards Initiative's guidance, Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards, available on its web site.~~

The district may revise the following paragraph to reflect the pathway(s) used in the district and/or the grade levels at which higher mathematics ~~shall be~~are offered.

For higher mathematics, the district shall offer ~~a pathway~~alternative pathways of courses through which students shall be taught concepts that address number and quantity, algebra, functions, modeling, geometry, and statistics and probability. Any pathway offered by the district shall be designed in a manner that provides maximum opportunities for students to access advanced mathematics courses during high school.

CSBA NOTE: Education Code 51224.7~~, as added by SB 359 (Ch. 58, Statutes of 2015),~~ requires any district maintaining grade 9 to have a policy in place ~~prior to January 1, 2016~~ regarding placement of students in mathematics courses. See BP 6152.1 - Placement ~~in~~In Mathematics Courses for language fulfilling this mandate.

The Superintendent or designee shall ensure that students are appropriately placed in mathematics courses and are not required to repeat a course that they have successfully completed in an earlier grade level. Placement decisions shall be based on consistent protocols and multiple academic measures.

~~CSBA NOTE: AB 97 (Ch. 47, Statutes of 2013) eliminated the Professional Development Block Grant (Education Code 41530-41532) and the Mathematics and Reading Professional Development Program (Education Code 99230-99242) and redirected that funding into the local control funding formula. At their discretion, districts may provide professional development opportunities to meet the purposes of those programs or other local needs.~~

The Superintendent or designee shall ensure that certificated staff have opportunities to participate in professional development activities designed to increase their knowledge and skills in effective mathematics teaching practices.

CSBA NOTE: As a condition of receiving funds for instructional materials from any state source, Education Code 60119 requires the Governing Board to annually hold a public hearing to determine whether each student in the district has sufficient standards-aligned textbooks or instructional materials in mathematics and other specified subjects to use in class and to take home. For a definition of "sufficiency" for this purpose and a sample Board resolution, see BP/E 6161.1 - Selection ~~and~~And Evaluation ~~of~~Of Instructional Materials.

The Superintendent or designee shall ensure that students have access to sufficient instructional materials, including manipulatives and technology, to support a balanced, standards-aligned mathematics program.

The Superintendent or designee shall provide the Board with data from state and district mathematics assessments and program evaluations to enable the Board to monitor program effectiveness.

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State	**Description**
Ed. Code 51002	Common state curriculum
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51220	Course of study for grades 7-12
Ed. Code 51224.5	Algebra in course of study for grades 7-12
Ed. Code 51224.7	California Mathematics Placement Act of 2015
Ed. Code 51225.3	High school graduation requirements
Ed. Code 51284	Financial literacy
Ed. Code 60605	State-adopted content and performance standards in core curricular areas
Ed. Code 60605.8	Common Core standards

Management Resources	**Description**
California Department of Education Publication	2023 Mathematics Framework for California Public Schools~~: Kindergarten Through Grade Twelve, 2013~~, June 2023 https://www.cde.ca.gov/ci/ma/cf/#:~:text=At%20its%20

	meeting%20on%20July,Grade%20Twelve%20(Mathematics%20Framework)
California Department of Education Publication	California Common Core State Standards: Mathematics, rev. January 2013 https://www.cde.ca.gov/be/st/ss/documents/ccssmathstandardaug2013.pdf
Common Core State Standards Initiative Publication	Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards https://www.cde.ca.gov/re/cc/mathresources.asp
CSBA Publication	Governing to the Core~~,~~: Pathway Options for High School Mathematics Governance Briefs, May 2014 https://www.csba.org/GovernanceAndPolicyResources/StudentAchievement/~/media/CSBA/Files/GovernanceResources/GovernanceBriefs/201405GoverningtotheCore6_MathPathways.ashx
Website	CSBA District and County Office of Education Legal Services
Website	Common Core State Standards Initiative
Website	CSBA
Website	California Department of Education

Cross References

Code	Description
0440	District Technology Plan
0440	District Technology Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0500	Accountability
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
4131	Staff Development
4331	Staff Development

5148.2	Before/After School Programs
5148.2	Before/After School Programs
6011	Academic Standards
6120	Response To Instruction And Intervention
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6141.4	International Baccalaureate Program
6142.93	Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6146.1	High School Graduation Requirements
6152.1	Placement In Mathematics Courses
6152.1	Placement In Mathematics Courses
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6162.5	Student Assessment
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6163.1	Library Media Centers
6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6176	Weekend/Saturday Classes
6179	Supplemental Instruction
6190	Evaluation Of The Instructional Program

Policy 6152.1: Placement In Mathematics Courses

Status: ADOPTED

Original Adopted Date: 08/01/2015 **| Last Revised Date:** ~~10~~09/01/~~2018~~2024 **| Last Reviewed Date:** ~~10~~09/01/~~2018~~2024

CSBA NOTE: Pursuant to Education Code 51224.7, the Governing Board of a district ~~which~~that serves ~~9th-grade~~ students entering grade 9 is **mandated** to develop and, at a regularly scheduled public Board meeting, adopt a fair, objective, and transparent mathematics placement policy with specified components. Although not required, districts serving students who are transitioning between elementary and middle or junior high schools are encouraged to adopt and implement policy to address the transition from elementary to secondary mathematics courses.

Pursuant to Education Code 51225.3, high school graduation requirements include the completion of at least two mathematics courses in grades 9-12. Pursuant to Education Code 51224.5, one of those two courses must meet or exceed state content standards for Algebra I or Mathematics I. While the completion of Algebra I or Mathematics I coursework prior to 9th grade would satisfy this requirement, it does not exempt a student from the requirement to complete two mathematics courses in grades 9-12. See BP 6142.92 - Mathematics Instruction and BP 6146.1 - High School Graduation Requirements.

According to a report by the Lawyers' Committee for Civil Rights of San Francisco Bay Area, "Held Back: Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes~~,~~," many districts place students who have successfully completed Algebra I in 8th grade into Algebra I class again in 9th grade. In adding Education Code 51224.7, the legislature declared that placement in appropriate mathematics courses is critically important for a ~~student in his/her~~student's middle and high school years, and that misplacement in the sequence of mathematics courses creates barriers for educational success, especially for students of color. This is compounded by the fact that the University of California (UC) and California State University (CSU) systems require at least three years of mathematics for freshman admission.

The Governing Board believes that a sound educational program must include the study of subjects that prepare students for admission to higher education and/or fulfilling careers. District students shall be provided an opportunity to complete a sequence of mathematics courses recommended for admission into the University of California (UC) and California State University (CSU) systems.

CSBA NOTE: The "Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve," recognizes that schools are free to organize mathematics pathways in different ways but encourages districts to consider offering two potential pathways to enable students who would like to reach Calculus by the end of high school to do so. The California Department of Education's guidance recommends flexibility so that choices made by students during their first two years do not limit their later choices.

The district shall offer alternative pathways of courses designed in a manner that provides maximum opportunities for students to access advanced mathematics courses during high school.

CSBA NOTE: The following paragraph may be revised to reflect district practice. For nonunified districts, Education Code 51224.7 **mandates** that the policy address the consistency of mathematics placement policies between elementary and high school districts.

The Superintendent or designee shall work with district teachers, counselors, and administrators and the representatives of feeder schools to develop a well-articulated sequence of mathematics courses and consistent protocols for placing students in mathematics courses offered at district high schools.

CSBA NOTE: Education Code 51224.7 **mandates** that the district's policy ~~include~~includes the following statement. Also see the accompanying administrative regulation for further information regarding placement protocols.

Such placement protocols shall systematically take into consideration multiple objective academic measures that may include, but are not limited to, statewide mathematics assessments, including state interim and summative assessments; placement tests that are aligned to state-adopted content standards in mathematics; classroom assignment and grades; and report cards. (Education Code 51224.7)

CSBA NOTE: ~~The Lawyers' Committee for Civil Rights of San Francisco Bay Area's report, Held Back: Addressing Misplacement of 9th Grade Students~~CSBA's 2019 Governance Brief, "Disproportionality in ~~Bay Area School~~ Math ~~Classes,~~ ~~found~~Placement," explains that the practice of having 9th~~-~~ grade students repeat Algebra I disproportionately affects students of color and from low-income families, and could therefore be found to be discriminatory. For more information about the prohibition against discrimination in district programs and activities, see BP 0410 - Nondiscrimination ~~in~~In District Programs ~~and~~And Activities.

District staff shall implement the placement protocols uniformly and without regard to students' socioeconomic background or any characteristic specified in ~~BP~~Board Policy 0410 - Nondiscrimination ~~in~~In District Programs ~~and~~And Activities, including, but not limited to, race, sex, gender, nationality, and ethnicity.

CSBA NOTE: Education Code 51224.7 **mandates** that the district's policy ~~include~~includes at least one placement checkpoint within the first month of the school year to ensure accurate placement and permit reevaluation of individual student progress.

The placement protocols shall provide for at least one reevaluation within the first month of the school year to ensure that students are appropriately placed in mathematics courses and shall specify the criteria the district will use to make this determination. Any student found to be misplaced shall be promptly placed in the appropriate mathematics course.

CSBA NOTE: Education Code 51224.7 **mandates** that the district's policy ~~offer~~offers a clear and timely recourse for any student and ~~his/her~~the student's parent/guardian who question the student's placement. See the accompanying administrative regulation for additional language implementing this requirement.

If a student or parent/guardian questions the student's placement, ~~he/she~~the student or the student's parent/guardian may appeal the decision to the Superintendent or designee. The decision of the Superintendent or designee shall be final.

The Superintendent or designee shall ensure that all teachers, counselors, and other district staff responsible for determining students' placement in mathematics courses receive training on the placement protocols.

CSBA NOTE: To ensure that students who are qualified to progress in mathematics courses based on their performance on district-selected objective academic measures are not unlawfully or inappropriately held back, Education Code 51224.7 **mandates** that the policy ~~include~~includes a requirement for an annual examination of aggregate student placement data, which must be reported to the Board. In addition, pursuant to Education Code 52060, districts must annually review their progress toward the student achievement goals in their local control and accountability plan using measures that include, as applicable, the percentage of students who have successfully completed courses that satisfy the requirements for entrance to the ~~University of California and the California State University.~~UC and CSU systems.

The Board and the Superintendent or designee shall annually review student data related to placement in mathematics courses offered at district high schools to ensure that students who are qualified to progress in mathematics courses based on their performance on objective academic measures are not being held back in a disproportionate manner on the basis of any subjective or discriminatory basis, and shall develop strategies for removing any identified barriers to students' access to mathematics courses. The Superintendent or designee shall also report on the percentage of district students who have successfully completed mathematics courses that satisfy the requirements for entrance to the ~~University of California and the California State University.~~UC and CSU systems.

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Policy Reference Disclaimer:
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State	Description
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48070.5	Promotion and retention of students
Ed. Code 51220	Course of study for grades 7-12
Ed. Code 51224.5	Algebra in course of study for grades 7-12
Ed. Code 51224.7	California Mathematics Placement Act of 2015
Ed. Code 51225.3	High school graduation requirements
Ed. Code 51284	Financial literacy
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 60605	State-adopted content and performance standards in core curricular areas
Ed. Code 60605.8	Common Core standards
Ed. Code 60640-60648.5	California Assessment of Student Performance and Progress

Management Resources	Description

California Department of Education Publication	California Common Core State Standards: Mathematics, January 2013 (https://www.cde.ca.gov/be/st/ss/documents/ccssmathstandardaug2013.pdf)
California Department of Education Publication	Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve, ~~2013~~June 2023 (https://www.cde.ca.gov/ci/ma/cf/)
California School Board Association Publication	Disproportionality in Math Placement 9https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/CSBA-G-Brief-Math-Misplacement-07-2019.ashx?la=en&rev=e91fd64843fe489692734928219b6461)
Common Core State Standards Initiative Publication	Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards (https://www.cde.ca.gov/re//cc/mathresources.asp)
CSBA Publication	Math Misplacement, Governance Brief, September 2015 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/CSBA-G-Brief-Math-Misplacement-07-2019.ashx?la=en&rev=e91fd64843fe489692734928219b6461)
Lawyers' Committee for Civil Rights (LCCR) Publication	Held Back - Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes, 2013 (https://lccrsf.org/wp-content/uploads/Held_Back_9th_Grade_Math_Misplacement.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR)
Website	Northwest Evaluation Association, Measures of Academic Progress
Website	University of California, Mathematics Diagnostic Testing Project
Website	Common Core State Standards Initiative
Website	CSBA
Website	California Department of Education

Cross References

Code	Description

0410	Nondiscrimination In District Programs And Activities
0415	Equity
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0500	Accountability
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
4131	Staff Development
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
6011	Academic Standards
6141.5	Advanced Placement
6142.92	Mathematics Instruction
6143	Courses Of Study
6143	Courses Of Study
6146.1	High School Graduation Requirements
6152	Class Assignment
6162.5	Student Assessment
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.5	Student Success Teams
6164.5	Student Success Teams
6174	Education For English Learners
6174	Education For English Learners
6179	Supplemental Instruction

Regulation 6152.1: Placement In Mathematics Courses

Status: ADOPTED

Original Adopted Date: 10/01/2018 **| Last Revised Date:** 09/01/2024 **| Last Reviewed Date:** ~~10~~09/01/~~2018~~2024

Placement Protocols

CSBA NOTE: Education Code 51224.7 **mandates** that any district that serves ~~9th-grade~~ students in grade 9 adopt protocols for student placement in mathematics courses based on multiple objective academic measures, such as statewide assessments, including interim and summative assessments; placement tests that are aligned to state-adopted content standards in mathematics; classroom assignment and grades; and report cards. Districts that serve students transitioning from elementary to middle or junior high school may also adopt a placement protocol based on similar measures. The following section should be revised to reflect the grade levels at which the placement protocols will be applied, specific tests and other measures used for placement purposes, and the performance level on each assessment or minimum grade that will be used to determine a student's readiness for specific mathematics courses.

In determining student placement in mathematics courses for students entering grade 9, the Superintendent or designee shall assess whether each student has the prerequisite skills for success in the course and consider student and parent/guardian requests. Such determinations shall be based on multiple measures, including, but not limited to, the following:

CSBA NOTE: Pursuant to Education Code 60640, mathematics assessments in the California Assessment of Student Performance and Progress are administered at grades 3-8 and 11.

1. Interim and summative grade 8 mathematics assessments from the California Assessment of Student Performance and Progress

2. For students with disabilities, an alternate test or other measures when designated in a student's individualized education program (IEP)

3. Other assessments such as Measures of Academic Progress, the readiness tests of the University of California's Mathematics Diagnosis Testing Project, and/or district benchmark assessments

4. The student's grades in ~~his/her~~ previous mathematics course

5. The final mathematics grade on the end-of-year report card

Individual student performance data shall be analyzed each spring, prior to scheduling and placing students into secondary mathematics courses. Students and parents/guardians shall be notified in writing by the end of the school year as to the mathematics course in which the student has been placed.

No student shall be required to repeat a mathematics course which ~~he/she~~the student has successfully completed in accordance with district's placement protocols.

CSBA NOTE: Recommendations by teachers or counselors are generally considered subjective and therefore do not meet the requirement of Education Code 51224.7 that placement in mathematics courses be based on objective measures. The following optional paragraph authorizes staff recommendations to be considered when placing a student in a higher level mathematics course than ~~he/she~~the student would be assigned based on the district's protocol, but such recommendations should not be the sole basis for placing a student in a lower level class.

When a student does not qualify to be enrolled in a particular mathematics course based on a consideration of the objective measures specified in the placement protocol, ~~he/she~~the student may nevertheless be admitted to the course based on the recommendation of a teacher or counselor who has personal knowledge of the student's academic ability.

Students who exhibit deficits in knowledge and skills needed to advance to a higher level mathematics course may receive supplemental instruction to improve achievement of mathematic content standards.

Reevaluation

Within the first month of the school year, mathematics course placements shall be individually reevaluated to ensure placement in the most rigorous mathematics course for which the student has the potential for success.

Criteria for reevaluating each student's placement shall include, but are not limited to, course preassessment results, attendance, and student performance in the first month of the school year as determined by teacher observation and grades on assignments and tests. Student and parent/guardian request for course placement may also be considered.

Notification of Placement Protocol

The district's policy and protocols related to student placement in mathematics courses shall be posted on the district's ~~web site~~website. (Education Code 51224.7)

The Superintendent or designee shall also make the district's placement policy, protocols, and course sequence readily accessible to students, parents/guardians, and staff at school sites and/or in student handbooks.

Appeals

CSBA NOTE: Education Code 51224.7 **mandates** that the district's policy or protocol ~~offer~~offers a clear and timely recourse for any student and parent/guardian who question the student's placement. See the accompanying ~~Board~~board policy. The following paragraph contains timelines that may be revised to reflect district practice.

Within 10 school days of an initial placement decision or a placement decision upon reevaluation, a student and ~~his/her~~the student's parent/guardian who disagree with the placement may appeal the decision to the Superintendent or designee. The Superintendent or designee shall ~~decide whether or not to overrule the placement determination~~rule on the appeal within 10 school days of receiving the appeal. The decision of the Superintendent or designee shall be final.

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Ed. Code 60605	State-adopted content and performance standards in core curricular areas
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Management Resources	Description
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California Department of Education Publication	Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve, ~~2013~~June 2023 (https://www.cde.ca.gov/ci/ma/cf/)
California School Board Association Publication	Disproportionality in Math Placement 9https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GgovernanceBriefs/CSBA-G-Brief-Math-Misplacement-07-2019.ashx?la=en&rev=e91fd64843fe489692734928219b6461)
Common Core State Standards Initiative Publication	Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards (https://www.cde.ca.gov/re//cc/mathresources.asp)

CSBA Publication	Math Misplacement, Governance Brief, September 2015 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/CSBA-G-Brief-Math-Misplacement-07-2019.ashx?la=en&rev=e91fd64843fe489692734928219b6461)
Lawyers' Committee for Civil Rights (LCCR) Publication	Held Back - Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes, 2013 (https://lccrsf.org/wp-content/uploads/Held_Back_9th_Grade_Math_Misplacement.pdf)
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Website	University of California, Mathematics Diagnostic Testing Project
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Website	CSBA
Website	California Department of Education

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5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement

6011	Academic Standards
6141.5	Advanced Placement
6142.92	Mathematics Instruction
6143	Courses Of Study
6143	Courses Of Study
6146.1	High School Graduation Requirements
6152	Class Assignment
6162.5	Student Assessment
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.5	Student Success Teams
6164.5	Student Success Teams
6174	Education For English Learners
6174	Education For English Learners
6179	Supplemental Instruction

Policy 6163.4: Student Use Of Technology

Status: ADOPTED

Original Adopted Date: 07/01/2007 **| Last Revised Date:** ~~07~~09/01/~~2015~~2024 **| Last Reviewed Date:** ~~07~~09/01/~~2015~~2024

CSBA NOTE: This policy addresses student use of technology, including artificial intelligence (AI), and may be modified to reflect district practice. The U.S. Department of Education's (USDOE), "2024 National Education Technology Plan," provides actionable recommendations to advance the effective use of technology to support teaching and learning and aims to close the digital divide by ensuring that all students can equitably access the latest digital tools and technology. Additionally, the USDOE Office of Educational Technology's, "Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations," provides information related to the opportunities for using AI to improve education, the challenges in doing so, and recommendations to guide further policy development. Districts are encouraged to continue to monitor the development of new technologies, including AI.

~~The Governing~~ The Governing Board believes that effective use of technology is integral to the education and development of students. In order to promote digital citizenship, the Board recognizes that students must have access to the latest digital tools and receive instruction that allows students to positively engage with technology in ways that respect human rights and avoids Internet dangers. Technological resources provided to students, including technology based on artificial intelligence (AI), shall be aligned to district goals, objectives, and academic standards. The use of technology shall augment the use of Board adopted instructional materials.

The Board intends that technological resources provided by the district be used in a safe and responsible manner in support of the instructional program and for the advancement of student learning. ~~All students using these resources shall receive instruction in their proper and appropriate use~~Students shall be allowed to use such technology, including AI technology, in accordance with district policies, including, but not limited to, policies on academic honesty, data privacy, nondiscrimination, and copyright protections. All students using these resources shall receive instruction in the proper and appropriate use of technology. Such instruction shall incorporate students' responsibilities regarding academic honesty, honoring copyright provisions, assessing the reliability and accuracy of information, protecting personal data, and the potential for biases and errors in artificially generated content.

District technology includes, but is not limited to, computer hardware, software, or software as a service provided or paid for by the district, whether accessed on or off site or through district-owned or personally owned equipment or devices, including tablets and laptops; computer servers, wireless access points (routers), and wireless computer networking technology (wi-fi); the Internet; email; applications (apps), including AI apps; telephones, cellular telephones, smartphones, smart devices, and wearable technology; or any wireless communication device, including radios.

Teachers, administrators, and/or library media specialists are expected to review the technological resources and online sites that will be used in the classroom or assigned to students in order to ensure that they are appropriate for the intended purpose and the age of the students.

CSBA NOTE: The following optional paragraphs may be revised to reflect district practice. It is recommended that districts develop an "Acceptable Use Agreement" containing rules for the use of district technology, which students and their parents/guardians should be required to sign. See the accompanying Exhibit for an example of an "Acceptable Use Agreement" for students.

The Superintendent or designee shall notify students and parents/guardians about authorized uses of district technology, user obligations and responsibilities, and consequences for unauthorized use and/or unlawful activities in accordance with this ~~Board~~board policy and the district's Acceptable Use Agreement.

~~District technology includes, but is not limited to, computers, the district's computer network including servers and wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices.~~

Before a student is authorized to use district technology, the student and ~~his/her~~the student's parent/guardian shall sign and return the Acceptable Use Agreement. In that agreement, the student and parent/guardian shall agree not to hold the district or any district staff responsible for the failure of any technology protection measures or user mistakes or negligence and shall agree to indemnify and hold harmless the district and district staff for any damages or costs incurred.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. If the district chooses to monitor student use of district equipment or other technological resources, it is recommended that the district adopt an express, written policy and notify students of the policy through the "Acceptable Use Agreement~~.~~."

Searches of students' personally owned devices (e.g., cell phones, computers, other communications devices) may be subject to the Fourth Amendment of the U.S. Constitution which prohibits unreasonable search and seizure. In *New Jersey v. T.L.O.*, the U.S. Supreme Court held that the legality of a search of a student's belongings depends on whether the search is "reasonable." The "reasonableness" of a search depends on two factors: (1) whether there is individualized suspicion that the search will turn up evidence of a student's violation of the law or school rules and (2) whether the search is reasonably related to the objectives of the search and not excessively intrusive in light of the student's age, gender, and/or the nature of the infraction. See BP 5145.12 - Search ~~and~~And Seizure.

The district reserves the right to monitor student use of technology within the jurisdiction of the district without advance notice or consent. Students shall be informed that ~~their~~the use of district technology, ~~including, but not limited to, computer files, email, text messages, instant messaging, and other electronic communications~~as defined above, is not private and may be accessed by the district for the purpose of ensuring proper use. Students have no reasonable expectation of privacy in the use of ~~the~~ district technology. Students' personally owned devices shall not be searched except in cases where there is a reasonable suspicion, based on specific and objective facts, that the search will uncover evidence of a violation of law, district policy, or school rules.

CSBA NOTE: The following optional paragraph is for use by districts that have adopted a program, pursuant to Education Code 49073.6, ~~as added by AB 1442 (Ch. 799, Statutes of 2014),~~ to gather or maintain information from students' social media activity that pertains directly to school safety or student safety. Districts that choose to adopt such a program must comply with specified notification and program requirements; see BP/AR 5125 - Student Records.

The Superintendent or designee may gather and maintain information pertaining directly to school safety or student safety from the social media activity of any district student in accordance with Education Code 49073.6 and ~~BP/AR~~Board Policy/Administrative Regulation 5125 - Student Records.

Whenever a student is found to have violated ~~Board~~board policy or the district's Acceptable Use Agreement, the principal or designee may cancel or limit a student's user privileges or increase supervision of the student's use of the district's equipment and other technological resources, as appropriate. Inappropriate use also may result in disciplinary action and/or legal action in accordance with law and ~~Board~~board policy.

The Superintendent or designee, with input from students and appropriate staff, shall regularly review and update procedures to enhance the safety and security of students using district technology and to help ensure that the district adapts to changing technologies and circumstances.

Internet Safety

CSBA NOTE: 20 USC 7131 mandates that districts adopt an Internet safety policy as a condition of receiving federal Student Support and Academic Achievement Grants (20 USC 7101-7122) for the purpose of purchasing computers with Internet access or paying for direct costs associated with accessing the Internet. 47 USC 254 **mandates** that districts adopt an Internet safety policy in order to qualify for federal universal service discounts for Internet access (E-rate discounts). This **mandate** applies to districts that receive E-rate discounts for Internet access, Internet services, or internal connections, but not to districts that receive discounts for telecommunications services only.

Both 20 USC 7131 and 47 USC 254 require that the district's policy include the operation and enforcement of a "technology protection measure" that blocks or filters Internet access to visual depictions that are obscene, child pornography, or harmful to minors. As part of the funding application process, a district is required to certify that it has the required policy in place and is enforcing the operation of the technology protection measure.

The following paragraph is **mandated** for districts that use E-rate discounts or Student Support and Academic Achievement Grants and may be adapted by other districts that choose to install technology protection measures.

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and that the operation of such measures is enforced. (20 USC 7131; 47 USC 254; 47 CFR 54.520)

CSBA NOTE: Districts receiving E-rate discounts for Internet access, Internet services, or internal connections are also **mandated** by 47 USC 254 to adopt policy that addresses (1) access by minors to "inappropriate matter" on the Internet~~;~~, (2) safety and security of minors when using email, chat

rooms, and other forms of direct electronic communication~~;~~, (3) unauthorized access, including "hacking" and other unlawful online activities by minors~~;~~, (4) unauthorized disclosure, use, and dissemination of personal identification information regarding minors~~;~~, (5) measures designed to restrict minors' access to harmful materials~~;~~, and (6) education of students about appropriate online behavior, including interacting with other individuals on social networking sites and in chat rooms as well as cyberbullying awareness and response.

The remainder of this section addresses these mandates and may be revised to reflect district practice. Districts that do not receive E-rate discounts may choose to use or adapt this material at their discretion.

To reinforce these measures, the Superintendent or designee shall implement rules and procedures designed to restrict students' access to harmful or inappropriate matter on the Internet and to ensure that students do not engage in unauthorized or unlawful online activities.

CSBA NOTE: "Inappropriate matter" is not defined in the law and the determination of what matter is considered inappropriate for minors is a local decision to be made by the district. Penal Code 313 provides a definition of "harmful matter" as specified below. Districts that have adopted their own definition should revise the following paragraph as appropriate.

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

The district's Acceptable Use Agreement shall establish expectations for appropriate student conduct when using the Internet or other forms of electronic communication, including, but not limited to, prohibitions against:

1. Accessing, posting, submitting, publishing, or displaying harmful or inappropriate matter that is threatening, obscene, disruptive, or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, sex, gender, sexual orientation, age, disability, religion, or political beliefs

2. Intentionally uploading, downloading, or creating computer viruses and/or maliciously attempting to harm or destroy district equipment or materials or manipulate the data of any other user, including so-called "hacking"

CSBA NOTE: Penal Code 653.2 makes it a crime for a person to distribute another person's personal identification information electronically with the intent to cause harassment by a third party or to threaten a person's safety or that of ~~his/her~~a person's family (e.g., placing a person's picture or address online so that ~~he/she~~the person receives harassing messages).

3. Distributing personal identification information, including the name, address, telephone number, Social Security number, or other personally identifiable information, of another student, staff member, or other person with the intent to threaten, intimidate, harass, or ridicule that person

CSBA NOTE: Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with the California Cybersecurity Integration Center, to perform an independent security assessment of the district or individual district school. Districts are encouraged to consult with the California Office of Emergency Services (OES) and utilize resources

such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats. For more information see OES' website.

The Superintendent or designee shall regularly review current guidance regarding cybersecurity, data privacy, and digital media awareness and incorporate recommended practices into the district's processes and procedures related to the protection of the district's network infrastructure, the monitoring and response to cyberattacks, ensuring data privacy, and monitoring suspicious and/or threatening digital media content, in accordance with Board Policy 5125 – Student Records.

The Superintendent or designee shall provide age-appropriate instruction regarding safe and appropriate behavior on social networking sites, chat rooms, and other Internet services. Such instruction shall include, but not be limited to, the dangers of posting one's own personal identification information online, misrepresentation by online predators, how to report inappropriate or offensive content or threats, behaviors that constitute cyberbullying, and how to respond when subjected to cyberbullying.

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State	Description
Civ. Code 3120-3123	Digital equity bill of rights
Ed. Code 49073.6	Student records; social media
Ed. Code 51006	Computer education and resources
Ed. Code 51007	Programs to strengthen technological skills
Ed. Code 60044	Prohibited instructional materials
Pen. Code 313	Harmful matter
Pen. Code 502	Computer crimes; remedies
Pen. Code 632	Eavesdropping on or recording confidential communications
Pen. Code 653.2	Electronic communication devices; threats to safety

Federal	Description
15 USC 6501-6506	Children's Online Privacy Protection Act
16 CFR 312.1-312.12	Children's Online Privacy Protection Act
20 USC 7101-7122	Student Support and Academic Enrichment Grants
20 USC 7131	Internet Safety

47 CFR 54.520	Internet safety policy and technology protection measures; E-rate discounts
47 USC 254	Universal service discounts (E-rate)
Management Resources	**Description**
Court Decision	New Jersey v. T.L.O. (1985) 469 U.S. 325
CSBA Publication	Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007
Federal Trade Commission Publicat	How to Protect Kids' Privacy Online: A Guide for Teachers, December 2000
California Department of Educatio Publication	Artificial Intelligence: Learning With AI Learning About AI https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf
U.S. Department of Education Publication	2024 National Education Technology Plan (https://tech.ed.gov/netp/)
U.S. Department of Education Publication	Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations (https://www2.ed.gov/documents/ai-report/ai-report.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	California Coalition for Children's Internet Safety
Website	California Governor's Office of Emergency Services (https://www.caloes.ca.gov/)
Website	Center for Safe and Responsible Internet Use
Website	Federal Trade Commission, Children's Online Privacy Protection
Website	American Library Association
Website	Federal Communications Commission
Website	California Department of Education
Website	U.S. Department of Education
Website	CSBA

Cross References

Code	Description
0440	District Technology Plan
0440	District Technology Plan
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
3260	Fees And Charges
3260	Fees And Charges
3512	Equipment
3512-E(1)	Equipment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4131	Staff Development
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.8	Mobile Communication Devices
5131.9	Academic Honesty
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.12	Search And Seizure
5145.12	Search And Seizure

5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.9	Hate-Motivated Behavior
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6154	Homework/Makeup Work
6162.5	Student Assessment
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6162.8	Research
6162.8	Research
6163.1	Library Media Centers

Exhibit 6163.4-E(1): Student Use Of Technology

Status: ADOPTED

Original Adopted Date: 07/01/2015 **| Last Revised Date:** 09/01/2024 **| Last Reviewed Date:** ~~07~~09/01/~~2015~~2024

ACCEPTABLE USE AGREEMENT AND RELEASE OF DISTRICT FROM LIABILITY (STUDENTS)

CSBA NOTE: The following Exhibit presents a sample Acceptable Use Agreement outlining obligations and responsibilities of students using the district's technological resources. The district is encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel in the development of such an agreement. Districts using an Acceptable Use Agreement should require all students and their parents/guardians to sign the agreement as an acknowledgment that they have read and understood its contents~~; see the accompanying~~ and Board ~~policy.~~Policy 6164.4 – Student Use of Technology.

For a sample Acceptable Use Agreement for employees, see E(1) 4040 - Employee Use of Technology.

The _____ School District authorizes students to use technology ~~owned or otherwise provided by the district~~ , as ~~necessary for instructional purposes.~~defined in Board Policy 6163.4 – Student Use of Technology. The use of district technology is a privilege permitted at the district's discretion and is subject to the conditions and restrictions set forth in applicable ~~Board~~ board policies, administrative regulations, and this ~~Acceptable Use~~ Agreement. The district reserves the right to suspend access at any time, without notice, for any reason.

The district expects all students to use technology responsibly in order to avoid potential problems and liability. The district may place reasonable restrictions on the sites, material, and/or information that students may access through the system.

The district makes no guarantee that the functions or services provided by or through the district will be without defect. In addition, the district is not responsible for financial obligations arising from unauthorized use, or misuse, of the system.

Each student who is authorized to use district technology and ~~his/her~~the student's parent/guardian shall sign this ~~Acceptable Use~~ Agreement ~~as an indication,~~ which indicates that ~~they have~~the student has read and ~~understand the agreement.~~

~~**Definitions**~~

~~*District technology* includes, but is not limited to, computers, the district's computer network including servers~~understands the Agreement and ~~wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones~~

~~and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices~~Board Policy 6163.4 – Student Use of Technology.

Student Obligations and Responsibilities

Students are expected to use district technology safely, responsibly, and for educational purposes only~~.~~, and in accordance with the accompanying board policy and applicable copyright laws. The student in whose name district technology is issued is responsible for its proper use at all times. Students shall not share their assigned online services account information, passwords, or other information used for identification and authorization purposes, and shall use the system only under the account to which they have been assigned.

Students shall not gain unauthorized access to the files or equipment of others, access electronic resources by using another person's name or electronic identification, or send anonymous electronic communications. Furthermore, students shall not attempt to access any data, documents, emails, or programs in the district's system for which they do not have authorization.

Students are prohibited from using district technology for improper purposes, including, but not limited to, use of district technology to:

1. Access, post, display, create, or otherwise use material that is discriminatory, libelous, defamatory, obscene, sexually explicit, or disruptive

2. Bully, harass, intimidate, or threaten other students, staff, or other individuals ("cyberbullying")

3. Disclose, use, or disseminate personal identification information (such as name, address, email, telephone number, Social Security number, or other personal information) of another student, staff member, or other person with the intent to threaten, intimidate, harass, or ridicule that person

4. Share confidential information or personally identifiable information with an open artificial intelligence (AI) system of themselves, another student, staff member, or other person

5. Adjust the privacy settings on any technology tool or AI app unless directed to do so by a teacher or staff member

6. Violate the direction of teachers or other staff members, age restrictions, or the intended use of the technology

~~4.~~ 7. Infringe on copyright, license, trademark, patent, or other intellectual property rights

~~5.~~ 8. Intentionally disrupt or harm district technology or other district operations (such as destroying district equipment, placing a virus on district computers, adding or removing a computer program without permission from a teacher or other district personnel, changing settings on shared computers)

~~6.~~ 9. Install unauthorized software

~~7.~~ 10. "Hack" into the system to manipulate data of the district or other users

~~8.~~ 11. Engage in or promote any practice that is unethical or violates any law or ~~Board~~board policy, administrative regulation, or district practice

Privacy

Since the use of district technology is intended for educational purposes, students shall not have any expectation of privacy in any use of district technology.

The district reserves the right to monitor and record all use of district technology, including, but not limited to, access to the Internet or social media, Internet searches, browsing history, use of AI, communications sent or received from district technology, or other uses. Such monitoring/recording may occur at any time without prior notice for any legal purposes including, but not limited to, record retention and distribution and/or investigation of improper, illegal, or prohibited activity. Students should be aware that, in most instances, their use of district technology (such as web searches and emails) cannot be erased or deleted.

All passwords created for or used on any district technology are the sole property of the district. The creation or use of a password by a student on district technology does not create a reasonable expectation of privacy.

Personally Owned Devices

If a student uses a personally owned device to access district technology, ~~he/she~~the student shall abide by all applicable ~~Board~~ board policies, administrative regulations, and this ~~Acceptable Use~~ Agreement. Any such use of a personally owned device may subject the contents of the device and any communications sent or received on the device to disclosure pursuant to a lawful subpoena or public records request.

Reporting

If a student becomes aware of any security problem ~~(such as~~ (including, but not limited to, a cyberattack, phishing, or any compromise of the confidentiality of any login or account information~~)~~), or misuse of district technology, ~~he/she~~the student shall immediately report such information to the teacher or other district personnel.

Consequences for Violation

Violations of the law, ~~Board~~board policy, or this ~~agreement~~Agreement may result in revocation of a student's access to district technology and/or discipline, up to and including suspension or expulsion. In addition, violations of the law, ~~Board~~board policy, or this ~~agreement~~Agreement may be reported to law enforcement agencies as appropriate.

Student Acknowledgment

I have received, read, understand, and agree to abide by this ~~Acceptable Use~~ Agreement and other applicable laws and district policies and regulations governing the use of district technology. I understand that there is no expectation of privacy when using district technology. I further understand that any violation may result in loss of user privileges, disciplinary action, and/or appropriate legal action.

Name: _____ Grade: _____
(Please print)
School: _____
Signature: _____ Date: _____

Parent or Legal Guardian Acknowledgment

If the student is under 18 years of age, a parent/guardian must also read and sign the ~~agreement~~Agreement.

As the parent/guardian of the above-named student, I have read, understand, and agree that my child shall comply with the terms of the ~~Acceptable Use~~ Agreement. By signing this Agreement, I give permission for my child to use district technology and/or to access the school's computer network and the Internet. I understand that, despite the district's best efforts, it is impossible for the school to restrict access to all offensive and controversial materials. I agree to release from liability, indemnify, and hold harmless the school, district, ~~and~~ district personnel and the Board against all claims, damages, and costs that may result from my child's use of district technology or the failure of any technology protection measures used by the district. Further, I accept full responsibility for supervision of my child's use of ~~his/her~~my child's access account if and when such access is not in the school setting.

Name: _____ Date: _____
(Please print)
Signature: _____

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State	Description
Civ. Code 3120-3123	Digital equity bill of rights
Ed. Code 49073.6	Student records; social media
Ed. Code 51006	Computer education and resources
Ed. Code 51007	Programs to strengthen technological skills
Ed. Code 60044	Prohibited instructional materials
Pen. Code 313	Harmful matter
Pen. Code 502	Computer crimes; remedies
Pen. Code 632	Eavesdropping on or recording confidential communications
Pen. Code 653.2	Electronic communication devices; threats to safety

Federal	Description
15 USC 6501-6506	Children's Online Privacy Protection Act
16 CFR 312.1-312.12	Children's Online Privacy Protection Act
20 USC 7101-7122	Student Support and Academic Enrichment Grants
20 USC 7131	Internet Safety
47 CFR 54.520	Internet safety policy and technology protection measures; E-rate discounts
47 USC 254	Universal service discounts (E-rate)

Management Resources	Description
Court Decision	New Jersey v. T.L.O. (1985) 469 U.S. 325

CSBA Publication	Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007
Federal Trade Commission Publication	How to Protect Kids' Privacy Online: A Guide for Teachers, December 2000
California Department of Education Publication	Artificial Intelligence: Learning With AI Learning About AI https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf
U.S. Department of Education Publication	2024 National Education Technology Plan (https://tech.ed.gov/netp/)
U.S. Department of Education Publication	Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations (https://www2.ed.gov/documents/ai-report/ai-report.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	California Coalition for Children's Internet Safety
Website	California Governor's Office of Emergency Services (https://www.caloes.ca.gov/)
Website	Center for Safe and Responsible Internet Use
Website	Federal Trade Commission, Children's Online Privacy Protection
Website	American Library Association
Website	Federal Communications Commission
Website	California Department of Education

Website	U.S. Department of Education
Website	CSBA

Cross References

Code	Description
0440	District Technology Plan
0440	District Technology Plan
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
3260	Fees And Charges
3260	Fees And Charges
3512	Equipment
3512-E(1)	Equipment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4131	Staff Development
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.8	Mobile Communication Devices
5131.9	Academic Honesty
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process

5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.7	~~Sex Discrimination and Sex-Based Harassment~~Sexual Harassment
5145.9	Hate-Motivated Behavior
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6154	Homework/Makeup Work
6162.5	Student Assessment
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6162.8	Research
6162.8	Research
6163.1	Library Media Centers

Bylaw 9010: Public Statements

Status: ADOPTED

Original Adopted Date: 09/01/1990 **| Last Revised Date:** ~~08~~09/01/~~2013~~2024 **| Last Reviewed Date:** ~~08~~09/01/~~2013~~2024

~~CSBA NOTE: Pursuant to Government Code 54960, the district attorney or any interested person can sue the Governing Board in order to stop or prevent violations of the Brown Act or to determine whether any Board rule or action which penalizes or otherwise discourages the expression of one or more of its members is valid or invalid under law. The following optional bylaw may be modified as appropriate.~~

The Governing Board recognizes the responsibility of Board members in their role as community leaders to participate in public discourse on matters of civic or community interest, including those involving the district, and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding district issues, Board members are expected to respect the authority of the Board to choose its representatives, to communicate its positions, and to abide by established protocols.

Board Spokesperson

CSBA NOTE: Many districts designate the Governing Board president and/or Superintendent to communicate with the public on behalf of the district. ~~Any district that has designated another position for this responsibility may revise the~~The following paragraph should be revised to reflect ~~district~~Board practice.

All public statements authorized to be made on behalf of the Board shall be made by the Board president or, if appropriate, by the Superintendent or, with respect to a specific issue or topic, other ~~designated~~ representative~~.~~ as designated by the Board or Board president.

When speaking for the ~~district, the~~ Board ~~encourages its spokespersons to~~ Board, a spokesperson shall exercise restraint and tact and ~~to~~ communicate ~~the message~~ in a manner that promotes public confidence in the Board's leadership.

Board spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board~~.~~ ~~(Government Code 54963)~~ or by law. (Government Code 54963)

Statements by Individual Board Members

CSBA NOTE: The following paragraph is responsive to the recent U.S. Supreme Court holding in *Lindke v. Freed*, which held that a Board member who limits or prevents critics from speaking, such as by blocking them on social media, violates the First Amendment only if the member (1) has been granted the power to speak on behalf of the Board or the district, and (2) claims to be actually

exercising that power. For more information, see BB 9012 – Board Member Electronic Communications.

When speaking to community groups, members of the public, or the media, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify when a viewpoint is held by an individual Board member rather than the Board as a whole. For example, a Board member may include a disclaimer on the Board member's personal social media account that the Board member is expressing personal viewpoints ~~as such~~ and not ~~as the viewpoint~~ those of the Board~~. In addition,~~ or the district.

Board ~~encourages~~ members who ~~participate on social networking sites, blogs, or other discussion~~opt to express their opinions on district matters, whether in-person or ~~informational sites~~online, are expected to conduct themselves in a respectful, courteous, and professional manner and to model good behavior for district students and the community. ~~Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.~~

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State	Description
Ed. Code 35010	Control of district; prescription and enforcement of rules
Gov. Code 54960	Actions to stop or prevent violation of meeting provisions
Gov. Code 54963	Unauthorized disclosure of confidential information
Gov. Code 7920.000-7930.170	California Public Records Act

Management Resources	Description
Court Decision	Lindke v. Freed (2024) 601 U.S. 187
Website	CSBA District and County Office of Education Legal Services
Website	CSBA

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan

1000	Concepts And Roles
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1160	Political Processes
1340	Access To District Records
1340	Access To District Records
2110	Superintendent Responsibilities And Duties
4143	Negotiations/Consultation
4143.1	Public Notice - Personnel Negotiations
4143.1	Public Notice - Personnel Negotiations
4243	Negotiations/Consultation
4243.1	Public Notice - Personnel Negotiations
4243.1	Public Notice - Personnel Negotiations
9000	Role Of The Board
9005	Governance Standards
9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9121	President
9140	Board Representatives
9200	Limits Of Board Member Authority
9230	Orientation

Bylaw 9012: Board Member Electronic Communications

Status: ADOPTED

Original Adopted Date: 11/01/2008 **| Last Revised Date:** ~~12~~09/01/~~2020~~2024 **| Last Reviewed Date:** ~~12~~09/01/~~2020~~2024

CSBA NOTE: The following bylaw is optional ~~Board bylaw~~and should be ~~modified~~revised to reflect district practice.~~-~~ The Brown Act (Government Code 54950-54963) requires that Governing Board members conduct district business at properly noticed and agendized public meetings. In general~~,~~ ~~Board members should keep in mind that~~, for purposes of the Brown Act, electronic communications are subject to the same conditions and the same rules of confidentiality that are applicable to other forms of communication, such as individual conversations, telephone calls, or paper copies of documents. ~~However, the ease with which electronic communication can be shared and forwarded requires extra caution.~~

~~Furthermore, although Board members are not considered employees, there may be tax implications if the district provides Board members with laptop computers or subsidies for an Internet connection. In some circumstances, such provision or reimbursement may be considered a taxable benefit. Also see AR 3513.1 - Cellular Phone Reimbursement.~~

The Governing Board recognizes that electronic communication is an efficient and convenient way for Board members to communicate and expedite the exchange of information ~~within the~~with each other, district staff, and ~~with~~ members of the public. Board members shall exercise caution ~~so as~~ to ensure ~~that electronic communications are not used as a means for~~compliance with the Brown Act, the ~~Board to deliberate outside of an agendized Board meeting, circumvent the public's right to access records regarding district business, or restrict access to a public forum~~Public Records Act, and other applicable laws.

CSBA NOTE: Government Code 54952.2 defines a "meeting" as any congregation of a majority of the members of the Board at the same time and location, including a teleconference location as permitted by Government Code 54953, to hear, discuss, deliberate, or take action upon any item that is within the subject matter jurisdiction of the Board. Government Code 54952.2 prohibits a serial meeting, defined as a series of communications of any kind, directly or through intermediaries, involving a majority of the Board to discuss, deliberate, or take action on any item of district business outside of an authorized meeting~~.~~; see BB 9320 - Meetings And Notices. Thus, a series of emails, as well as other electronic communications such as ~~postings on an online forum~~text messages or replying directly to social media posts, that ultimately include a majority of the Board could lead to a Brown Act violation. ~~While the safest course of action is to not send an email to another Board member that, if forwarded, could lead to a discussion about district business by a majority of the Board, given the prevalence of email, such a practice may not be practical. However, in~~In order to help prevent an inadvertent violation, Board members may wish to consider ~~including~~"bcc'ing" other Board members to avoid the recipient "replying all", a "do not reply/forward alert" in the subject line of emails, or other cautionary measures, as appropriate.

A majority of the Board shall not, outside of an authorized meeting, use a series of electronic communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

~~CSBA NOTE: CSBA's GAMUT Meetings is an electronic board meeting management application for use by districts and county offices of education that streamlines meeting preparation and provides easy and secure access to meeting materials, including Board meeting agendas, supporting documents, and minutes. Further information is available on CSBA's web site.~~

Examples of permissible electronic communications concerning district business include, but are not limited to, dissemination of Board meeting agendas and agenda packets, reports of activities from the Superintendent, and reminders regarding meeting times, dates, and places.

~~CSBA NOTE: Pursuant to Government Code 54952.2, as amended by AB 992 (Ch. 89, Statutes of 2020), Board members may engage in separate conversations or communications with members of the public on an Internet-based social media platform that is open and accessible to the public as long as a majority of the Board does not use the platform to discuss among themselves business within the subject matter jurisdiction of the Board and members do not comment on or use digital icons (e.g., "likes" or emojis) to express reactions to communications made by other Board members. Consequently, a Board member is prohibited from responding directly to any communication from other members of the Board on a social media platform regarding matters that are within the subject matter jurisdiction of the Board.~~

Board members may engage in separate conversations or communications with members of the public on a social media platform to answer questions, provide information, or solicit information regarding a matter that is within the subject matter jurisdiction of the Board~~,~~ as long as a majority of the Board does not use the platform to discuss among themselves any business of a specific nature that is within the subject matter jurisdiction of the Board. ~~A Board member is prohibited from responding directly to any communication from other~~ Additionally, Board members ~~regarding matters that~~ are ~~within the subject matter jurisdiction of the Board or~~ prohibited from using digital icons ~~(e.g.,~~, such as "likes" or "emojis~~) to~~," that express reactions to communications made by other Board members regarding matters within the subject matter jurisdiction of the Board. (Government Code 54952.2)

~~CSBA NOTE: Board members who use a social media platform to communicate with the public about district business or Board activities should be cautious about blocking access to members of the public. In Knight First Amendment Institute at Columbia University v. Trump, the court held that President Donald Trump's twitter account was a public forum from which the government may not exclude people based on their views and that blocking critics from viewing and replying to the account excluded individuals from a public forum in violation of the First Amendment. While there is not a clearly defined rule as to whether a board member's social media account is a public forum, the holding has been used in cases restricting school board members from blocking members of the public from their social media. See Garnier v. Poway Unified School District.~~CSBA NOTE: Public statements by Board members is a sensitive and complicated area of Board governance. As a result, many districts have established bylaws or other protocols for public statements by Board members; see BB 9010 – Public Statements.

~~Whenever a Board member uses a social media platform to communicate with the public about district business or Board activities, the Board member shall not block access to a member of the public based on the viewpoint expressed by that individual.~~

Board members shall make every effort to ensure that their electronic communications conform to Board Bylaw 9010 – Public Statements and shall forward any complaints or requests for information to the Superintendent in accordance with applicable Board bylaws.

~~CSBA NOTE: The prohibitions in the Brown Act apply only to discussions regarding district business. Like other citizens, Board members are permitted to use email to discuss personal, nondistrict matters.~~CSBA NOTE: Electronic communications received and sent by Board members are subject to disclosure upon request pursuant to the Public Records Act (Government Code 7920.000 - 7930.215), including communications regarding district business sent or received on a Board member's personal account or device. For further information, see CSBA's, "Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications." It is recommended that districts with specific questions regarding this issue consult CSBA's District and County Office of Education Legal Services or district legal counsel. Also see BP/AR 1340 - Access To District Records and BP/AR 3580 - District Records.

~~Board members may use electronic communications to discuss matters that do not pertain to district business, regardless of the number of Board members participating in the discussion.~~

~~CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Many districts have established bylaws or other protocols describing how the Board has agreed to handle questions, concerns, or complaints received from members of the community. For example, see BB 9200 - Limits of Board Member Authority and BP 1112 - Media Relations.~~

~~Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that the response does not necessarily reflect the views of the Board as a whole. Any complaint or request for information should be forwarded to the Superintendent in accordance with Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate district process. As appropriate, communication received from the media shall be forwarded to the designated district spokesperson.~~

~~CSBA NOTE: Electronic communications received and sent by Board members are subject to disclosure upon request pursuant to the California Public Records Act (CPRA) (Government Code 7920.000 - 7930.170) depending on the content of the communication and whether it is "prepared, owned, used, or retained" by the district in its normal course of business. District legal counsel should be consulted as appropriate. Also see BP/AR 1340 - Access to District Records and BP/AR 3580 - District Records.~~

~~In City of San Jose v. Superior Court, the California Supreme Court held that a public official's communications about public business, even if sent or received on the official's personal account or device, are public records and are not categorically excluded from disclosure under the CPRA. The court observed that the CPRA requires public agencies to use "reasonable effort" to locate existing records in response to a public records request, but that such searches need not be extraordinarily extensive or intrusive. For further information, see CSBA's Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications.~~

To the extent possible, electronic communications regarding any district-related business shall be transmitted through a district-provided device or account. When any such communication is

transmitted through a Board member's personal device or account, the Board member shall copy the communication to a district electronic storage device for easy retrieval.

CSBA NOTE: Pursuant to the U.S. Supreme Court's decision in *Lindke v. Freed*, a Board member's social media account becomes a public forum subject to the First Amendment when the Board member (1) has been granted the power to speak on behalf of the Board or the district and (2) claims to be actually exercising that power. The determination as to whether a Board member's action meets these two conditions is a fact-specific undertaking. It is recommended that districts with questions regarding this issue consult CSBA's District and County Office of Education Legal Services or district legal counsel.

This Bylaw does not apply to Board member electronic communications not related to district business or not conducted by a Board member in the Board member's official capacity.

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State	**Description**
Ed. Code 35140	Time and place of meetings
Ed. Code 35145	Public meetings
Ed. Code 35145.5	Agenda; public participation and regulations
Ed. Code 35147	Open meeting laws exceptions
Gov. Code 11135	Prohibition of discrimination
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54952.2	Meeting; defined
Gov. Code 54953	Meetings to be open and public; attendance
Gov. Code 54954.2	Agenda posting requirements; board actions
Gov. Code 7920.000-7930.~~170~~215	California Public Records Act
Management Resources	**Description**
Attorney General Publication	The Brown Act: -Open Meetings for Legislative Bodies, rev. 2003 (https://oag.ca.gov/system/files/media/the-brown-act.pdf)
~~Court Decision~~	~~Knight First Amendment Institute at Columbia University v. Trump (2019) 928 F.3d 226~~

Court Decision	~~Garnier v. Poway Unified School District (S.D. Cal. September 26, 2019) No. 17-cv-2215-W (JLB), 2019 WL 4736208~~Lindke v. Freed (2024) 601 U.S. 187
Court Decision	City of San Jose v. Superior Court (2017) 2 Cal.5th 608
CSBA Publication	Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications, March 2017 (https://www.csba.org/-/media/CSBA/Files/Advocacy/ELA/2017-03_LegalAlert_PRA_ElectronicDevices.ashx?la=en&rev=7f24e74fc2474138940357bc5efe1377)
CSBA Publication	The Brown Act: -School Boards and Open Meeting Laws, rev. ~~2019~~2023
Website	CSBA District and County Office of Education Legal Services
Website	CSBA, GAMUT Meetings
Website	California Attorney General's Office
Website	CSBA

Cross References

Code	Description
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures

1312.3-E(2)	Uniform Complaint Procedures
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records
3320	Claims And Actions Against The District
3320	Claims And Actions Against The District
3580	District Records
3580	District Records
9000	Role Of The Board
9005	Governance Standards
9010	Public Statements
9121	President
9200	Limits Of Board Member Authority
9230	Orientation
9320	Meetings And Notices
9322	Agenda/Meeting Materials
9323.2	Actions By The Board
9323.2-E(1)	Actions By The Board

HAPPY VALLEY UNION SCHOOL DISTRICT

ENROLLMENT HISTORY

As of November 8, 2024

For the School Year of:	2011/ 2012	2012/ 2013	2013/ 2014	2014/ 2015	2015/ 2016	2016/ 2017	2017/ 2018	2018/ 2019	2019/ 2020	2020/ 2021	2021/ 2022	2022/ 2023	2023/ 2024	2024/ 2025
August	503	514	505	528	509	499	548	526	484	443	470	490	498	476
September	507	512	496	529	497	499	525	508	477	456	474	482	501	468
October	505	510	492	535	502	500	522	511	480	465	470	487	496	471
November	507	517	497	538	502	494	528	512	483	469	468	490	496	469
December	500	513	493	538	498	493	528	505	481	462	458	502	497	
January	509	520	498	532	503	496	530	500	491	460	462	505	500	
February	503	518	501	539	504	498	533	494	492	460	459	504	497	
March	504	520	511	536	501	503	530	494	493	462	458	502	500	
April	501	527	516	538	498	500	531	493	491	467	470	505	501	
May	501	532	512	537	499	507	541	500	490	476	464	510	495	
June	496	531	511	535	495	504	535	497	490	472	466	510	495	

HAPPY VALLEY UNION SCHOOL DISTRICT

ENROLLMENT HISTORY - CDS

As of November 8, 2024

For the School Year of:	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	2022/23	2023/24	2024/25
August	6	4	7	8	5	4	3	5	1
September	7	5	10	9	5	3	4	5	1
October	7	7	7	10	4	6	3	7	5
November	8	7	5	10	5	4	3	7	4
December	10	8	5	8	6	4	3	4	
January	10	10	4	6	8	5	3	4	
February	9	11	4	8	6	5	5	6	
March	9	9	6	9	6	5	3	6	
April	8	9	4	8	6	5	6	9	
May	10	9	7	8	6	7	5	9	
June	10	10	9	8	6	10	6	8	

Happy Valley Community Day School

2024-2025

Enrollment by Teacher and Grade

Teacher	------- 1 -------			------- 4 -------			------- 8 -------			--------- ALL ---------		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total
001 Gandolfo	1	-	1	2	-	2	1	-	1	4	-	4
School Total:	1		1	2		2	1		1	4		4

HAPPY VALLEY UNION SCHOOL DISTRICT

ENROLLMENT HISTORY - ELEMENTARY

As of November 8, 2024

For the School Year of:	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	2023/24	2024/25
August	278	284	263	248	237	254	252	246
September	279	279	266	205	237	245	252	245
October	279	281	263	212	229	247	242	242
November	275	282	264	215	224	246	240	239
December	280	282	266	215	223	251	239	
January	282	285 as of 1/16	275	215	222	252	245	
February	284	285	275	214	223	254	244	
March	281	284	276	216	228	246	245	
April	289	284	275	221	226	246	244	
May	286	284	274	226	226	248	239	
June	286	283	274	224	226	245	240	

Happy Valley Elementary School

11/08/2024
10:24 AM

2024-2025

Enrollment by Teacher and Grade

Teacher	4			5			6			7			8			ALL		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total
172 Baldwin 3	-	-	-	-	-	-	-	-	-	13	6	19	-	-	-	13	6	19
116 Bassett 1	-	-	-	-	-	-	11	11	22	-	-	-	-	-	-	11	11	22
127 Francescut 9	-	-	-	-	-	-	-	-	-	-	-	-	13	15	28	13	15	28
				-	-	-	-	-	-	-	-	-						
164 Goodman 19	-	-	-	10	13	23	-	-	-	-	-	-	-	-	-	10	13	23
111 Hutchison 17	-	-	-	13	9	22	-	-	-	-	-	-	-	-	-	13	9	22
141 Keown 8	-	-	-	-	-	-	13	15	28	-	-	-	-	-	-	13	15	28
114 Kinsey 21	8	16	24	-	-	-	-	-	-	-	-	-	-	-	-	8	16	24
173 Morgan 2	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	1	1
113 Price 11	-	-	-	-	-	-	-	-	-	11	9	20	-	-	-	11	9	20
110 Sanford 20	10	13	23	-	-	-	-	-	-	-	-	-	-	-	-	10	13	23
001 Unassigned 1 11	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	1	1
153 Youman 7	-	-	-	-	-	-	-	-	-	-	-	-	15	13	28	15	13	28
School Total:	**18**	29	**47**	23	23	46	24	27	51	24	15	39	**28**	28	**56**	**117**	122	**239**

HAPPY VALLEY UNION SCHOOL DISTRICT

ENROLLMENT HISTORY – INDEPENDENT STUDY

As of November 8, 2024

For the School Year of:	2020/2021	2021/2022	2022/2023	2023/2024	2024/2025			
August	5	13	9	10	7			
September	81	18	9	11	7			
October	77	21	10	12	6			
November	70	20	11	14	9			
December	56	20	15	20				
January	51	21	16	18				
February	52	22	16	18				
March	49	22	17	19				
April	44	21	18	19				
May	44	23	17	18				
June	43	23	20	18				

Enrollment by Teacher and Grade

Teacher	K			1			2			3			4			5			7			8			ALL		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total
004 Blevins	-	1	1	1	-	1	-	1	1	1	-	1	1	-	1	1	-	1	-	1	1	-	2	2	4	5	9
School Total:		1	1	1		1		1	1	1		1	1		1	1		1		1	1		2	2	4	5	9

HAPPY VALLEY UNION SCHOOL DISTRICT

ENROLLMENT HISTORY - PRIMARY

As of November 8, 2024

For the School Year of:	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	2023/2024	2024/25
August	193	207	215	198	185	216	224	231	214
September	200	213	217	205	165	216	224	232	215
October	201	210	217	207	172	212	227	235	218
November	197	216	210	209	179	215	230	235	217
December	195	218	206	207	186	210	235	234	
January	198	219	203	210	188	213	235	233	
February	201	226	205	209	191	210	231	230	
March	203	228	202	208	196	208	228	230	
April	205	238	205	208	195	211	235	229	
May	210	237	208	208	200	208	240	229	
June	211	238	205	208	200	207	239	229	

Happy Valley Primary School

11/08/2024
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2024-2025

Enrollment by Teacher and Grade

Teacher	------- TK -------			------- K -------			------- 1 -------			------- 2 -------			------- 3 -------			--------- ALL ---------		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total
141 Collver 7	-	-	-	2	-	2	-	1	1	1	-	1	3	-	3	6	1	7
140 Cook 8	-	-	-	1	-	1	3	-	3	-	-	-	-	-	-	4	-	4
	-	-	-	-	-	-				-	-	-	-	-	-			
132 Gurwell 2	8	8	16	-	-	-	-	-	-	-	-	-	-	-	-	8	8	16
135 Jaramillo 6	-	-	-	-	-	-	9	11	20	-	-	-	-	-	-	9	11	20
130 McEvoy 10	-	-	-	3	-	3	1	-	1	1	-	1	1	-	1	6	-	6
121 Piazza 5	-	-	-	-	-	-	11	12	24	-	-	-	-	-	-	11	13	24
126 Roach 13	-	-	-	-	-	-	-	-	-	13	13	26	-	-	-	13	13	26
123 Russell 4	-	-	-	10	11	21	-	-	-	-	-	-	-	-	-	10	11	21
134 Salcido 16	-	-	-	-	-	-	-	-	-	-	-	-	12	12	24	12	12	24
136 Sanders 12	-	-	-	-	-	-	-	-	-	11	13	24	-	-	-	11	13	24
120 Spencer 15	-	-	-	-	-	-	-	-	-	-	-	-	19	7	26	19	7	26
129 Stotka 3	-	-	-	10	10	20	-	-	-	-	-	-	-	-	-	10	10	20
School Total:	8	8	16	26	21	47	**24**	**24**	**49**	26	26	52	35	19	54	**119**	99	**217**