

San Bernardino County Superintendent of Schools Policy 5145.3

Nondiscrimination-Harassment

The San Bernardino County Superintendent of Schools (SBCSS) desires to provide a welcoming, safe, and supportive school environment that allows all students equal access to and opportunities in the SBCSS academic, extracurricular, and other educational support programs, services, and activities.

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

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

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also occurs when prohibited conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

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

Because unlawful discrimination could occur when disciplining students, including suspension

and expulsion, discipline, in accordance with SBCSS Policies and Procedures, shall be enforced in a fair, consistent, and non-discriminatory manner.

The SBCSS 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, participates, or refuses to participate in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The SBCSS facilitates student's access to the educational program by publicizing the SBCSS's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the SBCSS policies prohibiting discrimination, harassment, intimidation, and bullying and other required information shall be posted on the SBCSS'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 SBCSS shall provide training and/or information on the scope and use of the policy and complaint procedures and take other measures designed to increase understanding of the requirements of law related to discrimination. SBCSS will regularly review the implementation of the nondiscrimination policies and practices as necessary and take action to remove any identified barrier to student access to or participation in the SBCSS's educational program. The findings and recommendations shall be reported to the SBCSS after each review.

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, SBCSS 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, related to a SBCSS activity, attendance, or SBCSS related or SBCSS sponsored activity, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

When a student has been suspended, or other means of correction have been implemented against the student for an incident of racist bullying, harassment, or intimidation, the principal, school administrator, or designee may engage both the victim and perpetrator in a restorative

justice practice suitable to the needs of the students. The principal, school administrator, or designee may also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and may 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 parents/guardians of victims and perpetrators shall be notified and law enforcement may be contacted.

Complaints alleging unlawful discrimination in SBCSS programs and activities shall be investigated and resolved in accordance with SBCSS Policy 1312.3 - Uniform Complaint Procedures, when required by law. However, complaints alleging sexual harassment under Title IX shall be investigated and resolved in accordance with the procedures specified in Exhibit (1) 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Record-Keeping

A record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be maintained to enable the SBCSS to monitor, address, and prevent repetitive prohibited behavior in SBCSS schools.

Antidiscrimination Measures

The SBCSS hereby incorporates by reference the policies, procedures, and measures implemented by the SBCSS to prevent or address unlawful discrimination in SBCSS schools, programs, and activities. SBCSS nondiscrimination policies and practices shall be reviewed regularly, and action shall be taken to remove any identified barriers to student access to or participation in the educational program.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for SBCSS 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 education programs
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 200-262.1	Educational equity; prohibition of discrimination on the basis of sex
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 threats or harassment
Ed. Code 48900.5	Suspension; other means of correction
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48907	Students' exercise of free expression; rules and regulations
Ed. Code 48950	Freedom of 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	Unlawful discrimination
Gov. Code 12926	Prohibition of discrimination; definitions
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 106.30	Discrimination on the basis of sex; definitions
34 CFR 110.25	Prohibition of discrimination based on age
34 CFR 99.31	Disclosure of personally identifiable information
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
CA Office of the Attorney General Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024
CA Office of the Attorney General Publication	Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018
California Department of Education Publication	Protection for LGBTQ+ Students: AB 1955
Court Decision	McDonnell Douglas Corp v. Green (1973) 411 U.S. 792
Court Decision	Burlington Northern and Santa Fe Ry. Co. v. White (2006) 548 U.S. 53
Court Decision	Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581
Court Decision	John T. D. v. River Delta Joint Unified School District (2021) WL 5176356

Court Decision	Students for Fair Admissions v. Harvard (2024) 600 U.S. 181
Court Decision	Tennessee v. Cardona (2024) 737 F.Supp.3d 510
Court Decision	Flores v. Morgan Hill Unified School District (2003) 324 F.3d 1130
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, May 19, 2020, Vol. 85, No. 97, pages 30026-30579
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
U.S. Department of Education Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics, May 2024
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Addressing Discrimination Against Jewish Students, May 2023

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, July 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. DOJ Publication	Dear Colleague Letter: Enforcement of Title IX under the provisions of the 2020 Title IX Rule, February 4, 2025
Website	U.S Department of Justice, Civil Rights Division
Website	U.S. Department of Education, Office for Civil Rights
Website	First Amendment Center
Website	CSBA
Website	California Safe Schools Coalition
Website	California Office of the Attorney General
Website	California Interscholastic Federation
Website	California Department of Education

Cross References

Code	Description
0410	Nondiscrimination In County Office Programs And Activities
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1312.3-E(3)	Uniform Complaint Procedures
1312.4	Williams 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
3553	Free And Reduced Price Meals

3553	Free And Reduced Price Meals
5111	Admission
5111	Admission
5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
5131.2	Bullying
5131.2	Bullying
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
5145.7	Sexual Harassment
5145.7-E(1)	Sexual Harassment
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.71-E(2)	Title IX Sexual Harassment Complaint Procedures
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth

Approved: April 1, 2026