San Bernardino County Superintendent of Schools
Procedure 5145.3

Nondiscrimination-Harassment - Procedure

The San Bernardino County Superintendent of Schools (SBCSS) designates the individual(s) identified below as the Compliance Officer(s). The employee(s) is responsible for coordinating the efforts of the SBCSS to comply with applicable state and federal civil rights laws and to answer inquiries regarding the SBCSS's nondiscrimination policies. The individual(s) shall also serve as the Compliance Officer(s) specified in Exhibit (1) 1312.3 -- Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination of a student, and the Title IX Coordinator specified in Exhibit (1) 5145.7- Sexual Harassment as the responsible employee to handle complaints alleging unlawful sexual harassment, as permitted by law. The Compliance Officer(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

Assistant Superintendent, Human Resources
760 E. Brier Drive, San Bernardino, CA 92408
(909) 386-9576
Suzanne.Hernandez@sbcss.net

Reports of sex discrimination, including sexual harassment, may be submitted at any time by mail, phone, or email; in-person reports may be made during business hours.

Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, of students at SBCSS schools or activities and to ensure equal access of all students to the educational program, the County Superintendent or designee shall implement the following measures:

1. Publicize the SBCSS's nondiscrimination policy and related complaint procedures, including the 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 SBCSS-supported communications

2. Post the SBCSS's policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media, in a prominent location on the SBCSS's 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 SBCSS's website in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)

4. Post in a prominent location on the SBCSS's 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, including the following: (Education Code 221.6, 221.61, 234.6)

a) The name and contact information of the SBCSS's Title IX Coordinator, including the phone number and email address

b) The rights of students and the public and the responsibilities of the SBCSS under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the websites of the California Department of Education's Office of Equal Opportunity & Access 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 OCR's website

iii. A web link to the OCR complaint form and the contact information for the office, including the phone number and email address for the office

d) A link to the Title IX information included on the California Department of Education's (CDE) website

5. Post 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 SBCSS (Education Code 33353)

6. Post a link to statewide SBCSS-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 (Education Code 234.5-234.6)

   Such resources shall be posted in a prominent location on the SBCSS's website in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

7. Provide students a handbook that contains age-appropriate information that clearly describes the SBCSS'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

8. Annually notify all students and parents/guardians of the SBCSS'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 to determine how best to accommodate or resolve concerns that may arise from the SBCSS's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the SBCSS will address any individual student's interests and concerns in private.

9. Ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the SBCSS'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 school speak a single primary language other than English, the SBCSS'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 SBCSS shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

10. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and/or information regarding the SBCSS'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 SBCSS may use to provide a discrimination-free environment for all students.

11. 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).

12. 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 section 218.3.

13. 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).

14. At the beginning of each school year, inform each principal or school administrator of the SBCSS's responsibility to provide appropriate assistance or resources to protect students from threatened or potentially discriminatory behavior and ensure their privacy rights.

Process for Initiating and Responding to Complaints

Students who feel that they have been subjected to unlawful discrimination described above or in SBCSS policy are strongly encouraged to immediately contact the Compliance Officer, Title IX Coordinator, principal or school administrator, or any other staff member. In addition, students who observe any such incident are strongly encouraged to report the incident to the Compliance Officer, Title IX Coordinator, or principal or school administrator, regardless of whether the alleged victim files a complaint.

Any SBCSS employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall report the incident to the Compliance Officer, Title IX Coordinator, or principal or school administrator, within one work day, regardless of whether the alleged victim files a complaint.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to, or received by, the principal or school administrator, Compliance Officer, or Title IX Coordinator, the principal or school administrator, Compliance Officer, or Title IX Coordinator shall notify the student or parent/guardian of the right to file a formal complaint in accordance with Exhibit (1) 1312.3 -- Uniform Complaint Procedures or, for complaints of sexual harassment that meet the federal Title IX definition, Exhibit (1) 5145.71-- Title IX Sexual Harassment Complaint Procedures. Once notified verbally or in writing, the Compliance Officer or Title IX Coordinator shall begin the investigation and shall, to the extent consistent with Title IX, 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 involving the principal or school administrator, 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 County Superintendent or designee who shall determine how the complaint will be investigated.

Support for Intersex, Nonbinary, Transgender and Gender-Nonconforming Students

Gender refers to a student's sex and includes a student's gender identity and gender expression. (Education Code 210.7)

Gender identity refers to a 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 refers to a student's gender-related appearance and behavior, regardless of 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 refers to when a student's gender expression differs from stereotypical expectations.

Intersex refers to when a student has natural bodily variations in anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with female and

male bodies.

Nonbinary refers to when a student's 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.

Sex refers to the biological condition of being a female or male human being. (5 CCR 4910)

Transgender refers to when a student's gender identity is different from the sex assigned at birth.

The SBCSS shall ensure that all students, regardless of sex, gender, gender identity or gender expression, are afforded the same rights, benefits, and protections provided to students by law and SBCSS policy. To do so, the Superintendent or designee shall address each situation that arises on a case-by-case basis and in accordance with the following guidelines:

1. Acceptance of a Student's Gender Identity: The SBCSS shall accept the student's assertion of the student's gender identity and treat the student consistent with that gender identity unless SBCSS personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose

2. Use of Names and Pronouns: Upon request by a student, SBCSS personnel shall address the student by the requested name and pronoun(s), without the necessity of a court order or a change to the student's mandatory permanent student record

   Inadvertent slips or honest mistakes by SBCSS personnel in the use of the student's name and/or pronouns may not constitute a violation of this administrative regulation or the accompanying SBCSS policy.

3. Accessibility to Sex-Segregated Facilities, Programs, and Activities: When the SBCSS 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

   Additionally, a student shall be permitted to participate in accordance with the student's gender identity in other circumstances where students are separated by sex, such as for class discussions, yearbook pictures, and field trips.

   To address any student's privacy concerns in using sex-segregated facilities, the SBCSS shall consider offering 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, in no case shall the SBCSS require a student to utilize these options because of the student's sex, gender, gender identify, or gender expression. 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.

4. Adherence to 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, which may not discriminate on the basis of sex, gender, gender identity or gender expression

5. Equal Access to Educational Programs and Activities: Upon request by a student based on the student's gender identity or gender expression, the Compliance Officer shall identify and develop strategies for ensuring that the student's access to educational programs and activities is maintained

   The Compliance Officer shall consider the rights of all students and how those rights may affect and be affected by the rights of other students. Additionally, the Compliance Officer shall identify specific school site employee(s) to whom the student may report any problem related to the student's sex, gender, gender identity, or gender expression 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 providing equal access to programs and activities.

6. Right to privacy: A student's sex, gender, gender identity, and gender status is private information

   The SBCSS may only disclose such information to others when the disclosure is permitted by law, with the student's prior written consent, or when the SBCSS 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)

7. Student Records: A student's sex and legal name shall be maintained as part of a student's mandatory permanent student record as specified in 5 CCR 432 and shall only be changed with proper documentation (Education Code 49061-49072)

   When a request to change a student's gender or name is submitted without proper documentation, any change to the student's gender or name shall be applied only to documents not included in the mandatory permanent student record such as attendance sheets, report cards, and school identification.

   The County Superintendent or designee shall follow this guideline such that it does not change or alter the obligations of the SBCSS to maintain and ensure access to student records.

The SBCSS prohibits any act of verbal, nonverbal, or physical aggression, intimidation, or hostility, including any such act based on sex, gender, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the students' academic performance or of creating an intimidating, hostile, or offensive educational environment, regardless of whether the acts are sexual in nature, including, but not limited to:

1. Refusing to address or refer to a student in a manner consistent with the student's gender identity

2. Disciplining 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

3. Blocking, prohibiting, or restricting a student's entry to the restroom that corresponds to the student's gender identity

4. Disclosing student records that reveal a student's gender identity to individuals who do not have a legitimate need for the information except as permitted by law

5. Verbally or physically assaulting a student because of the student's sex, gender, gender identity, or gender expression, including, but not limited to, causing, attempting to cause, threatening to cause, or participating in an act of hate violence on the basis of sex, gender, gender identity, or gender expression

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 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**
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: November 4, 2016

Revised: April 1, 2026