SANTA CRUZ COUNTY BOARD OF EDUCATION

Students

BP 5145.3(a)

NONDISCRIMINATION/HARASSMENT

The County Board of Education is committed to working with the County Superintendent of Schools to provide a safe school environment that allows all students equal access and opportunities in academic and other educational support programs, services, and activities. Unlawful discrimination against a student in any county office of education (COE) school, program, or activity, including discriminatory harassment, intimidation, and bullying, is prohibited. Any form of retaliation against an individual who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination is also prohibited.

(cf. 0410 - Nondiscrimination in County Office Programs and Activities)
(cf. 5145.7 - Sexual Harassment)

This policy shall apply to all acts related to school activity or to school attendance occurring within a COE school or program, and 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.

Unlawful discrimination includes physical, verbal, nonverbal, or written conduct based on a 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, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or the student's association with a person or group with one or more of these actual or perceived characteristics. Unlawful discrimination also includes the creation of a hostile environment when the 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 COE school, program, or activity, or the provision or receipt of educational benefits or services, such as prohibiting a student from enrolling in a class or course on the basis of the student's sex.

When, as permitted by law, the COE maintains sex-segregated facilities, such as restrooms and locker rooms, or sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be allowed to access facilities and participate in programs and activities, class discussions, yearbook pictures, and field trips consistent with their gender identity. Each student's gender identity shall be the gender asserted by the student. Transgender and gender-nonconforming students shall be afforded the same rights, benefits, and protections as all COE students.

Board Adopted: July 15, 2021
Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation may be filed in accordance with the County Board's uniform complaint procedures and the processes established by the County Superintendent for investigating and resolving such complaints. 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 shall be taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

(cf. 1312.3 - Uniform Complaint Procedures)

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation in violation of law, County Board policy, or other related COE procedures 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.

**County Superintendent's Antidiscrimination Measures**

The County Board hereby incorporates by reference the policies, procedures, and measures implemented by the County Superintendent to prevent or address unlawful discrimination in COE schools, programs, and activities, including, but not limited to, the following:

1. Designation of a coordinator/compliance officer to handle complaints alleging unlawful discrimination

2. Posting of information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status in a prominent and conspicuous location on the COE's web site, as required pursuant to Education Code 221.61

3. Publicizing of the COE's nondiscrimination policies and complaint procedures

4. Provision of training and information about the COE's nondiscrimination policies and complaint procedures, including information related to state and federal laws pertaining to the rights of transgender and gender-nonconforming students, to students, parents/guardians, COE employees, and others as applicable

5. Establishment of a complaint process that ensures a prompt and fair resolution of complaints

6. Provision of annual notification required by law

7. Maintenance of student records in accordance with law

*Board Adopted: July 15, 2021*
Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
48900.3 Suspension or expulsion for act of hate violence
48900.4 Suspension or expulsion for threats or harassment
48904 Liability of parent/guardian for willful student misconduct
48907 Student exercise of free expression
48950 Freedom of speech
48985 Translation of notices
49020-49023 Athletic programs
51500 Prohibited instruction or activity
51501 Prohibited means of instruction
60044 Prohibited instructional materials

CIVIL CODE
1714.1 Liability of parents/guardians for willful misconduct of minor

GOVERNMENT CODE
11135 Nondiscrimination in programs or activities funded by state

PENAL CODE
422.55 Definition of hate crime
422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5
432 Student record
4600-4670 Uniform complaint procedures
4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20
1681-1688 Title IX of the Education Amendments of 1972
12101-12213 Title II equal opportunity for individuals with disabilities

UNITED STATES CODE, TITLE 29
794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42
2000d-1-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
6101-6107 Age Discrimination Act of 1975

CODE OF FEDERAL REGULATIONS, TITLE 28
35.107 Nondiscrimination on basis of disability; complaints

COURT DECISIONS

Management Resources:

CSBA PUBLICATIONS
Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, July 2016

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS
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

FIRST AMENDMENT CENTER PUBLICATIONS

Board Adopted: July 15, 2021
Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, Fact Sheet, August 2010

WEB SITES

CSBA: http://www.csba.org
California Department of Education: http://www.cde.ca.gov
California Safe Schools Coalition: http://www.casafeschools.org
First Amendment Center: http://www.firstamendmentcenter.org
National School Boards Association: http://www.nsba.org
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr

Board Adopted: July 15, 2021