

**STUDENTS**

**SUBJECT: Nondiscrimination/Harassment**

The County Office of Education designates the individual(s) identified below as the employee(s) responsible for coordinating the County Office of Education’s efforts to comply with applicable state and federal civil rights laws and to answer inquiries regarding the County Office of Education’s nondiscrimination policies. The individual(s) shall also serve as the compliance officer(s) specified in AR 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, national origin, nationality, ethnicity, ethnic group identification, age, religion, marital or parental status, pregnancy, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, immigration status, 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(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

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(cf. 1312.1 - Complaints Concerning County Office of Education Employees)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 5145.7 - Sexual Harassment)  
(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

**Measures to Prevent Discrimination**

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, of students at County Office of Education schools or in school 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 County Office of Education’s nondiscrimination policy and related complaint procedures, including the coordinator/compliance officer's contact information, to

students, parents/guardians, employees, volunteers, and the general public by posting them on the County Office of Education's web site and other prominent locations and providing easy access to them through County Office of Education -supported communications.

2. Post in a prominent and conspicuous location on the County Office of Education web site information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the following:

(Education Code 221.61, 221.61, 234.6)

- a. The name and contact information of the County Office of Education's Title IX coordinator, including the phone number and email address.
  - b. The rights of students and the public and the responsibilities of the County Office of Education 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 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 with Title IX in accordance with AR 1312.3 - Uniform Complaint Procedures, which shall include:
    - (1) 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.
    - (2) 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.
    - (3) 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 (CDE) web site.
3. Provide to students a handbook that contains age-appropriate information that clearly describes the County Office of Education'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.
  4. Annually notify all students and parents/guardians of the County Office of Education's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all students, including transgender and gender-nonconforming 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 County Office of Education's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the County Office of Education will address any individual student's interests and concerns in private.

(cf. 5145.6 - Parental Notifications)

5. The County Superintendent or designee shall ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the County Office of Education'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 County Office of Education school speak a single primary language other than English, the County Office of Education'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 County Office of Education shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

6. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and information regarding the County Office of Education'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 County Office of Education may use to provide a discrimination-free environment for all County Office of Education students, including transgender and gender-nonconforming students.

(cf. 1240 - Volunteer Assistance)

(cf. 4131 - Staff Development)

7. 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)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

8. At the beginning of each school year, inform each site administrator or designee of the County Office of Education's responsibility to provide appropriate assistance or resources to protect students' privacy rights and ensure their safety from threatened or potentially discriminatory behavior.
9. Post the County Office of Education 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 County Office of Education's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

- (cf. 0410 - Nondiscrimination in County Office of Education Programs and Activities)
- (cf. 1113 - County Office of Education and School Web Sites)
- (cf. 1114 - County Office of Education-Sponsored Social Media)
- (cf. 5131.2 - Bullying)
- (cf. 5145.7 - Sexual Harassment)
- (cf. 5145.9 - Hate-Motivated Behavior)

10. 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 County Office of Education's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)
11. 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 County Office of Education's web site in a manner that is easily accessible to parents/guardians and students. (Education Code 234.5, 234.6)

#### Enforcement of County Office of Education Policy

The County 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.

(cf. 5131.5 - Vandalism and 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 County Office of Education's policy and regulation regarding unlawful discrimination.
4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to students, parents/guardians, and the community the school's response plan to unlawful discrimination or harassment.

(cf. 4112.6 - Personnel Files)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action against students, employees, and anyone determined to have engaged in wrongdoing in violation of County Office of Education policy,

including any student who is found to have filed a complaint of discrimination that the student knew was not true.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

### **Process for Initiating and Responding to Complaints**

Students who feel that they have been subjected to unlawful discrimination described above or in County Office of Education policy is strongly encouraged to immediately contact the compliance officer, site administrator, or any other staff member. In addition, any student who observes any such incident is strongly encouraged to report the incident to the compliance officer or site administrator, whether or not the alleged victim files a complaint.

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 officer or site administrator within a school day, 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)

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the site administrator or compliance officer, the site administrator or compliance officer shall notify the student or parent/guardian of the right to file a formal complaint, pursuant to the provisions in AR 1312.3 - Uniform Complaint Procedures or, for complaints of sexual harassment that meet the federal Title IX definition, AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Once notified verbally or in writing, the compliance officer 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 site administrator, compliance officer, 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.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

### **Transgender and Gender-Nonconforming Students**

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.

Transgender student means a student whose gender identity is different from the gender assigned at birth.

Regardless of whether they are sexual in nature, 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 are prohibited. Examples of the types of conduct which are prohibited in the County Office of Education 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 bathroom 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 transgender status to individuals who do not have a legitimate need for the information, without the student's consent.
6. Use of gender-specific slurs.
7. Physical assault of a student motivated by hostility toward the student because of the student's gender, gender identity, or gender expression.

The County Office of Education's uniform complaint procedures (AR 1312.3) shall be used to report and resolve complaints alleging discrimination against 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 County Office of Education 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 transgender status, discriminatory enforcement of a dress code, and other instances of gender- based harassment.

To ensure that transgender and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and County Office of Education policy, the County Office of Education shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. **Right to privacy:** A student's transgender or gender-nonconforming status is the student's private information and the County Office of Education 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 County Office of Education has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. In any case, the County Office of Education shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by the County Office of Education pursuant to 34 CFR 99.31. Any County Office of Education employee to whom a student's 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 County Office of Education 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 County Office of Education's ability to meet the student's needs related to the student's status as a 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 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 County Office of Education 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.

(cf. 1340 - Access to County Board of Education and County Superintendent of Schools Records)  
(cf. 3580 – County Office of Education Records)

2. **Determining a Student's Gender Identity:** The compliance officer shall accept the student's assertion of the student's gender identity and begin to treat the student consistent with his/her that gender identity unless County Office of Education 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 education programs and activities is maintained. The meeting shall discuss the 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 a transgender or gender-nonconforming individual, so that prompt action could 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 his/her 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.
  
4. Accessibility to Sex-Segregated Facilities, Programs, and Activities: When the County Office of Education 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 County Office of Education 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, access to a staff member's office, or use of the locker room before or after the other students. However, the County Office of Education shall not require a student to utilize these options because the student is 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.

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6153 - School-Sponsored Trips)

(cf. 7110 - Facilities Master Plan)

5. Student Records: A student's legal name or gender as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed with proper documentation. When a student presents government-issued documentation of a name and/or gender change or submits a request for a name and/or gender change through the process specified in Education Code 49070, the County Office of Education shall update the



student's records. (Education Code 49062.5, 49070) However, at the written request of a student or, if appropriate, his/her parents/guardians, the County Office of Education shall use the student's preferred name and pronouns consistent with his/her gender identity on all other County Office of Education-related documents. Such preferred name may be added to the student's record and official documents as permitted by law.

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5125.3 - Challenging Student Records)

6. **Names and Pronouns:** If a student so chooses, County Office of Education personnel shall be required to address the student by a name and the pronouns consistent with the student's gender identity, without the necessity of a court order or a change to his/her official County Office of Education record. However, inadvertent slips or honest mistakes by County Office of Education 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 County Office of Education 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.

(cf. 5132 - Dress and Grooming Code)