

Superintendent Policy 5145.7: Sex Discrimination and Sex-Based Harassment

Status: ADOPTED

Original Adopted Date: 08/18/2021 | **Last Revised Date:** 09/03/2024 | **Last Reviewed Date:** 09/03/2024

The county office of education (COE) is committed to maintaining a welcoming, safe and supportive school environment that is free from discrimination and harassment. Sex discrimination, including sex-based harassment, as defined in the accompanying exhibit, targeted at any student, based on the student's actual or perceived sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identify; gender expression; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; and parental, martial and family status in a COE educational program, school, or school-sponsored or school-related activity is prohibited.

Additionally, 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 is prohibited. (Education Code 220.1; 34 CFR 106.71)

Students who feel that they are being or have experienced sex discrimination, including sex-based harassment, on school grounds or at a school-sponsored or school-related activity, or off-campus when the conduct has a continuing effect on campus, are strongly encouraged to immediately contact their teacher, the principal or program administrator, the COE's Title IX Coordinator, or any other available school employee.

Any employee who receives a report or observes an incident of sex discrimination, including sex-based harassment, by or against a student in a COE education program or activity shall report the incident to the Title IX Coordinator within one work day.

Once notified of a complaint or allegation of sexual harassment, the Title IX Coordinator shall ensure that it is addressed through the COE's Title IX complaint procedures.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the COE 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.

All COE staff shall be trained regarding the COE'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)

All COE students shall receive age-appropriate information on sex discrimination and sex-based harassment. Such instruction and information shall include:

1. What acts and behavior constitute sex discrimination and sex-based harassment, including the fact that 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 sex discrimination or sex-based harassment under any circumstance
3. Encouragement to report observed incidents of sex discrimination and sex-based harassment even when the alleged victim of the discrimination or harassment has not complained
4. A clear message that student safety is the COE's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sex discrimination or sex-based harassment incident will be addressed separately and will not affect the manner in which the 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 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 COE's procedures for investigating complaints and the person(s) to whom a report of 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 COE investigation of a sex discrimination or sex-based harassment complaint continues
8. A clear message that, when needed, the COE will implement supportive measures to ensure a safe school environment for a student who is the complainant or victim of sex discrimination or sex-based harassment and/or other students during an investigation

Disciplinary Actions

Upon completion of an investigation of a sex discrimination and/or sex-based harassment, any student found to have engaged in 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 pursuant to Education Code 48900.2, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

Record-Keeping

Records shall be maintained in accordance with law, including in accordance with 34 CFR 106.8 as specified in Exhibit 1 5145.71 – Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and COE policies and regulations, of all reported cases of sex-based harassment to enable the COE to monitor, address, and prevent repetitive harassing behavior in COE schools.

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.

Federal

20 USC 1092

Description

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 106.1-106.71

Nondiscrimination on the basis of sex in education
programs

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**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

Reese v. Jefferson School District, (2001, 9th Cir.) 208
F.3d 736

Court Decision

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d
473

Court Decision

Gebser v. Lago Vista Independent School District,
(1998) 524 U.S. 274

Court Decision

Flores v. Morgan Hill Unified School District, (2003, 9th
Cir.) 324 F.3d 1130

Court Decision

Donovan v. Poway Unified School District (2008) 167
Cal.App.4th 567

Court Decision

Doe v. Petaluma City School District, (1995, 9th Cir.) 54

	F.3d 1447
Court Decision	Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
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
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. 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
Website	U.S. Department of Education, Office for Civil Rights
Website	CSBA
Website	California Department of Education
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
Civ. Code 51.9	Liability for sexual harassment; business, service and professional relationships
Ed. Code 200-270	Educational equity; prohibition of discrimination on the basis of sex

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; definition of bullying
Ed. Code 48900	Grounds for suspension and 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 49060-49079	Student records
Gov. Code 12950.1	Sexual harassment training

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	Uniform Complaint Procedures
5131.2	Bullying
5131.2	Bullying
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.71	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	Title IX Sex Discrimination and Sex-Based Harassment

Complaint Procedures