

Regulation updated to reflect NEW LAW (SB 1375, 2016) which requires districts and schools to post specified Title IX information on their web sites by July 1, 2017. Regulation also explains the limited impact in California of the February 22, 2017 federal action to rescind earlier guidance regarding transgender students' use of sex-segregated facilities in accordance with their gender identity.

Students

AR 5145.3

NONDISCRIMINATION/HARASSMENT

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district's efforts to comply with **applicable** state and federal civil rights laws, including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975, and to answer inquiries regarding the district'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 ~~regarding~~ **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, or any other legally protected status; ~~the 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. The coordinator/compliance officer(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

Director, ~~of Special Education~~/Student **Support** Services
9470 Moody Street
Cypress, CA 90630
(714) 220-6900

Measures to Prevent Discrimination

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

1. Publicize the district'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 district's web site and other prominent locations and providing easy access to them through district-supported social media, when available.
2. **Post in a prominent and conspicuous location on the district and school web sites 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)**

- a. The name and contact information of the district's Title IX coordinator, including the phone number and email address
 - b. The rights of students and the public and the responsibilities of the district 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
3. Provide to students a handbook that contains age-appropriate information that clearly describes the district'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. (Education Code 234.1)
34. Annually notify all students and parents/guardians of the district's nondiscrimination policy. ~~The notice shall inform students and parents/guardians of the possibility that students will participate in a sex-segregated, and that they may inform the compliance officer if they feel such participation would be against the student's religious beliefs and/or practices or a violation of his/her right to privacy. In such a case, the compliance officer shall meet with the student and/or parent/guardian who raises the objection to determine how best to accommodate that student.~~ **including its responsibility to provide a safe, nondiscriminatory school program or activity together with another student of the opposite biological sex, and that they may inform the compliance officer if they feel such participation would be against the student's religious beliefs and/or practices or a violation of his/her right to privacy. In such a case, the compliance officer shall meet with the student and/or parent/guardian who raises the objection to determine how best to accommodate that student.** **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 district's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the district will ~~not typically notify them of~~ **address any individual instances of transgender students participating in a program or activity** **student's interests and concerns in private.**

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

56. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and information regarding the district'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 district may use to provide a discrimination-free environment for addressing issues related to all district students, including transgender and gender-nonconforming students.
67. 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)
78. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate assistance or resources to protect students' privacy rights and ensure their safety from threatened or potentially discriminatory behavior.

Enforcement of District Policy

The 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
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 district'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

5. Taking appropriate disciplinary action against ~~perpetrators~~ **students, employees,** and anyone determined to have engaged in wrongdoing **in violation of district policy,** including any student who is found to have ~~made~~ **filed** a complaint of discrimination that he/she knew was not true

Process for Initiating and Responding to Complaints

Any student who feels that he/she has been subjected to unlawful discrimination described above or in district policy is strongly encouraged to immediately contact the compliance officer, principal, 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 principal, 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 principal 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 ~~any~~ **verbal** report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is ~~submitted~~ **made** to or received by the principal or compliance officer, he/she shall ~~inform~~ **make a note of the report and encourage** the student or parent/guardian ~~of the right to file a formal~~ **the complaint in writing,** pursuant to the provisions in AR 1312.3 - Uniform Complaint Procedures. ~~Any report of unlawful discrimination involving the principal, compliance officer, or any other person to whom the complaint would ordinarily be reported~~ **Once notified verbally or in writing, the principal or filed compliance officer** shall ~~instead be submitted to~~ **begin** the Superintendent or designee. ~~Even if the student chooses not to file a formal complaint, the principal or compliance officer~~ **investigation and** shall implement immediate measures necessary to stop the discrimination and ~~to ensure~~ **that** all students have access to the educational program and a safe school environment.

~~Upon receiving a complaint of~~ **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,** ~~the compliance officer shall immediately investigate the complaint in accordance with the district's uniform complaint procedures specified in AR 1312.3.~~

Any report or complaint alleging unlawful discrimination by the principal, 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 Superintendent or designee who shall determine how the complaint will be investigated.

Transgender and Gender-Nonconforming Students

Gender identity of a student means ~~at~~the student's gender-related identity, appearance, or behavior ~~as determined from the student's internal sense of his/her gender~~, 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 ~~or gender expression is different from that traditionally associated with the~~ **gender he/she was assigned sex** 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, ~~regardless of whether they are sexual in nature, where the act has~~ **or that have** the purpose or effect of ~~having~~ **producing** a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment are prohibited ~~under state and federal law~~. Examples of **the** types of conduct which are prohibited in the district 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 his/her gender identity
2. Disciplining or disparaging a ~~transgender student because his~~ **or excluding him/her mannerisms, hairstyle, or style of dress correspond to** **from participating in activities for behavior or appearance that is consistent with his/her gender identity**, ~~or a non-transgender student because his/her mannerisms, hairstyle, or style of dress do~~ **that does not conform to stereotypes for his/her gender** **stereotypical notions of masculinity** or are perceived **femininity**, as indicative of the other sex ~~applicable~~
3. Blocking a student's entry to the bathroom that corresponds to his/her gender identity ~~because the student is transgender or gender-nonconforming~~
4. Taunting a student because he/she 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 him/her because of his/her gender, gender identity, or gender expression

The district'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 district 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 Board policy, the district 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 his/her private information and the district ~~will~~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 district has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. In ~~the latter instance~~any case, the district shall ~~limit~~only allow disclosure of a student's personally identifiable information to ~~individuals reasonably believed~~employees with a legitimate educational interest as determined by the district pursuant to be able to protect the student's well-being. 34 CFR 99.31. Any district employee to whom a student discloses his/her 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 district 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 he/she is required to disclose or report the student's information pursuant to this ~~procedure~~administrative regulation, and shall inform the student that honoring the student's request may limit the district's ability to meet the student's needs related to his/her 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 ~~physical, emotional, and other significant risks to the student~~student's need for support, the compliance officer may ~~consider discussing~~discuss with the student any need to disclose the student's transgender or gender-nonconformity status or gender identity or gender expression to his/her parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The district 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.

2. Determining a Student's Gender Identity: The compliance officer shall accept the student's assertion of his/her gender identity and begin to treat the student consistent with his/her gender identity unless district personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose. ~~In such a case, the~~

~~compliance officer shall document the improper purpose and, within seven school days of receiving notification of the student's assertion, shall provide a written response to the student and, if appropriate, to his/her parents/guardians.~~

3. Addressing a Student's Transition Needs: The compliance officer shall arrange a meeting with the student and, if appropriate, his/her parents/guardians to identify ~~potential issues, including transition-related issues, and to develop strategies for addressing them~~**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 his/her 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 ~~student's 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 district ~~may maintain~~**maintains** sex-segregated facilities, such as restrooms and locker rooms, ~~and/or offers~~ sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs. ~~A student,~~ **students** shall be ~~entitled~~**permitted** to access facilities and participate in programs and activities consistent with his/her**their** gender identity. ~~If available and requested by any student, regardless of the underlying reason, the district shall offer options~~ To address **any student's** privacy concerns in **using** sex-segregated facilities, **the district 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 district shall not require a student to utilize these options because he/she is transgender or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with his/her 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 his/her gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.
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 pursuant to a court order. However, at the written request of a student or, if appropriate, his/her parents/guardians, the district shall use the student's preferred name and pronouns consistent with his/her gender identity on all other district-related documents. **Such preferred name may be added to the student's record and official documents as permitted by law.**

6. Names and Pronouns: If a student so chooses, district personnel shall be required to address the student by a name and the pronouns consistent with his/her gender identity, without the necessity of a court order or a change to his/her official district record. However, inadvertent slips or honest mistakes by district personnel in the use of the student's name and/or consistent pronouns ~~shall~~**will, in general,** not constitute a violation of this administrative regulation or the accompanying district policy.
7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with his/her gender identity, subject to any dress code adopted on a school site.