

Board Policy

BP 0410

Philosophy, Goals, Objectives and Comprehensive Plans

Nondiscrimination In District Programs And Activities

Note: Discrimination in education programs and activities is prohibited by state and federal law. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination on the basis of race, color and national origin. Title IX (20 USC 1681-1688) prohibits discrimination on the basis of sex. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Vocational Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability. State law, Government Code 12940, prohibits employers from discriminating on the basis of all categories listed below, including discrimination on the basis of sexual orientation. Government Code 11138 mandates districts to adopt rules and regulations to carry out the intent of this nondiscrimination provision. Education Code 220 also prohibits discrimination on the basis of sexual orientation in all programs and activities in public schools. The Office for Civil Rights (OCR) of the U.S. Department of Education has authority to enforce federal laws in all programs and activities that receive federal funds. The California Department of Education may also investigate complaints regarding discrimination through the Uniform Complaint Procedure, see BP/AR 1312.3 - Uniform Complaint Procedures.

Note: Education Code 260 and the implementing regulations at 5 CCR 4900-4965 specify that the Board has primary responsibility for ensuring that district programs and activities are free from discrimination on the basis of both sex and gender, among other categories. 5 CCR 4910 defines "sex" as the biological condition or quality of being a female or male human being. "Gender," pursuant to 5 CCR 4910, is defined as a person's actual sex or perceived sex and includes a person's perceived identity, appearance or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with a person's sex at birth. In accordance with those definitions, the following paragraph lists both "sex" and "gender" as prohibited categories of discrimination.

The Governing Board is committed to equal opportunity for all individuals in education. District programs and activities shall be free from discrimination based on gender, sex, race, color, religion, ancestry, national origin, ethnic group identification, marital or parental status, physical or mental disability, sexual orientation or the perception of one or more of such characteristics. The Board shall promote programs which ensure that discriminatory practices are eliminated in all district activities.

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6145.2 - Athletic Competition)
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)
(cf. 6164.6 - Identification and Education Under Section 504)
(cf. 6178 - Career Technical Education)
(cf. 6200 - Adult Education)

Note: Pursuant to the ADA and its implementing regulations, 28 CFR 35.150 and 35.151, district facilities must be accessible to and usable by individuals with disabilities. Compliance methods may include equipment redesign, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, and alteration of existing facilities and construction of new facilities. It is important to note that the law does not require a district to make structural changes to existing facilities where other methods are effective in achieving compliance and where the district can demonstrate that the action would result in a fundamental alteration in the nature of the activity or an undue financial or administrative burden. Districts with questions about compliance with the ADA should consult with legal counsel as appropriate.

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act.

Note: Pursuant to 28 CFR 35.130 and 35.160, the ADA requires school districts to provide services and aids to ensure that a disabled individual is not excluded from participation or denied a benefit, service or program on the basis of a disability. However, if the district can show that providing such aids and services would fundamentally alter the nature of the function, program or meeting, or would be an undue burden, then the district need not provide them.

***Note: In addition, Government Code 54953.2, as added by AB 3035 (Ch. 300, Statutes of 2002), requires that all Board meetings meet the protections of the ADA and implementing regulations (28 CFR 35.160, 36.303). The district is required to ensure that the meeting is accessible to persons with disabilities and, upon request, to provide disability-related accommodations, such as auxiliary aids and services. ***

The Superintendent or designee shall ensure that the district provides auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, notetakers, written materials, taped text, and Braille or large print materials.

(cf. 6020 - Parent Involvement)

Individuals with disabilities shall notify the Superintendent or principal if they have a disability that requires special assistance or services. Reasonable notification should be given prior to the school-sponsored function, program or meeting.

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

Note: Pursuant to 34 CFR 104.8 and 106.9, a district that receives federal aid is required to take "continuing steps" to notify students, parents/guardians, employees, employee organizations and applicants for admission and employment that it does not discriminate in its educational programs or activities.

The Superintendent or designee shall notify students, parents/guardians, employees, employee organizations and applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination. Such notification shall be included in each announcement, bulletin, catalog, application form or other recruitment materials distributed to these groups. (34 CFR 104.8, 106.9)

The Superintendent or designee shall also provide information about related complaint procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Note: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by the parent/guardian in English or the primary language. In addition, the No Child Left Behind Act (20 USC 6311 and 6312) requires that districts receiving Title I funds provide parent/guardian notices in an understandable and uniform format and, to the extent practicable, in a language that parents/guardians understand.

In compliance with law, the district's nondiscrimination policy shall be published in the individual's primary language to the extent practicable.

(cf. 5145.6 - Parental Notifications)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48985 Notices to parents in language other than English

GOVERNMENT CODE

11000 Definitions

11138 Rules and regulations

12900-12996 Fair Employment and Housing Act
54953.2 Brown Act compliance with Americans with Disabilities Act
PENAL CODE
422.55 Definition of hate crime
422.6 Interface with constitutional right or privilege
CODE OF REGULATIONS, TITLE 5
4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance
UNITED STATES CODE, TITLE 20
1400-1482 Individuals with Disabilities in Education Act
1681-1688 Discrimination based on sex or blindness, Title IX
2301-2415 Carl D. Perkins Vocational and Applied Technology Act
6311 State plans
6312 Local education agency plans
UNITED STATES CODE, TITLE 29
794 Section 504 of the Rehabilitation Act of 1973
UNITED STATES CODE, TITLE 42
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended
2000h-2000h-6 Title IX
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.101-35.190 Americans with Disabilities Act
36.303 Auxiliary aids and services
CODE OF FEDERAL REGULATIONS, TITLE 34
100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI
104.1-104.39 Section 504 of the Rehabilitation Act of 1973
106.1-106.61 Discrimination on the basis of sex, effectuating Title IX, especially:
106.9 Dissemination of policy

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS
PUBLICATIONS

Protecting Students from Harassment and Hate Crime, January, 1999

Notice of Non-Discrimination, January, 1999

Nondiscrimination in Employment Practices in Education, August, 1991

WEB SITES

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>

CDE: <http://www.cde.ca.gov>

CSBA: <http://www.csba.org>

Safe Schools Coalition: <http://www.casafeschoolscoalition.org>

Pacific Disability and Business Technical Assistance Center: <http://www.adapacific.org>

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**Gravenstein Union School District
Sebastopol, California**

