

# Arcadia USD

## Board Policy

### Nondiscrimination/Harassment

#### BP 5145.3

#### Students

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in the district's academic and other educational support programs, services, and activities. District programs and activities shall be free from discrimination, harassment, intimidation, and bullying of any student based on the student's race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex and gender (*including gender identity, gender expression, gender transition, transgender status, or gender nonconformity, and nonconformity with sex stereotypes*), sexual orientation; 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.

(cf. 0410 - Nondiscrimination)

(cf. ~~1312.3~~—Uniform Complaint Procedures)

(cf. 5131 – Conduct)

(cf. 5137 – Positive School Climate)

(cf. 6146.6 – Identification and Education Under Section 504)

Prohibited discrimination, harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and 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.

The Board also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying.

The Superintendent or designee shall provide age-appropriate training and information to students, parents/guardians, and employees regarding discrimination, harassment, intimidation, and bullying, including, but not limited to, the district's nondiscrimination policy, what constitutes prohibited behavior, how to report incidents, and to whom such reports should be made.

(cf. 4131 – Staff Development)

(cf. 4231 – Staff Development)

(cf. 4331 – Staff Development)

~~School staff and volunteers must be especially careful to guard against unconscious sex discrimination and stereotyping in instruction, guidance, and supervision.~~

**In providing instruction, guidance, supervision, or other services to district students, employees and volunteers shall carefully guard against segregating or stereotyping students.**

(cf. 1241 – Volunteer Assistance)

(cf. 6146 – Extracurricular and Cocurricular Activities)

(cf. 6145.2 – Athletic Competition)

(cf. 6164.2 – Guidance/Counseling Services)

**The principal or designee shall develop a plan to provide students with appropriate accommodations when necessary for their protection from threatened or potentially harassing or discriminatory behavior.** Separate arrangements may be made for students according to sex in order to protect modesty in shower rooms and sex instruction, to adjust grading standards in physical education and athletic competition, or to accommodate the special needs of choral groups, drill teams, cheerleaders and the like.

**Students who engage in discrimination or harassment in violation of law, Board policy, or administrative regulation shall be subject to appropriate discipline, up to and including counseling, suspension, and/or expulsion. Any employee who permits or engages in harassment or prohibited discrimination shall be subject to disciplinary action, up to and including dismissal.**

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4119.21/4219.21/4319.21- Professional Standards)

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

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

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

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

~~The Governing Board shall ensure equal opportunities for all students in admission and access to academic courses, guidance and counseling programs, athletic programs, testing procedures, vocational education and other activities.~~

### **Grievance Procedures**

**The following position is designated as Coordinator for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying, and to answer inquiries regarding the district's nondiscrimination policies:**

**Assistant/Deputy Superintendent - Educational Services**

**234 Campus Drive**

**Arcadia, CA 91007**

**626.821.6634**

**(cf. 1312.1 – Complaint Procedures)**  
**(cf. 1312.3 - Uniform Complaint Procedures)**

**Any student who feels that he/she has been subjected to discrimination, harassment, intimidation, or bullying should immediately contact the Coordinator, the principal, or any other staff member. In addition, any student who observes any such incident should report the incident to the Coordinator or principal, whether or not the victim files a complaint.**

**Any school employee who observes an incident of discrimination, harassment, intimidation, or bullying or to whom such an incident is reported shall report the incident to the Coordinator or principal, whether or not the victim files a complaint.**

**In addition, the employee shall immediately intervene when safe to do so. (Education Code 234.1)**

**Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with district's uniform complaint procedures specified in AR 1312.3 – Uniform Complaint Procedures.**

**The Superintendent or designee shall ensure that the student handbook clearly describes the district's nondiscrimination policy, procedures for filing a complaint regarding discrimination, harassment, intimidation, or bullying, and the resources that are available to students who feel that they have been the victim of any such behavior. The district's policy shall also be posted on the district website or any other location that is easily accessible to students.**

Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination ~~on the basis of sex, especially:~~  
~~221.5 Prohibited sex discrimination~~  
~~221.7 School sponsored athletic programs; prohibited sex 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  
 49020-49023 Athletic programs  
~~51006-51007 Equitable access to technological education 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

PENAL CODE

422.55 **Definition of hate crime** ~~Interference with constitutional right or privilege~~

**422.6 Crimes, harassment**

CODE OF REGULATIONS, TITLE 5

**4600-4687 Uniform Complaint Procedures**

~~4621 District policies and procedures~~

~~4622 Notice requirements~~

4900-4965 Nondiscrimination in elementary and secondary education programs ~~receiving state financial assistance~~

**UNITED STATES CODE, TITLE 20**

**1681-1688 Title IX of the Education Amendments of 1972**

UNITED STATES CODE, TITLE 42

*2000c Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c et seq.*

2000d-2000e-17 Title VI & VII Civil Rights Act of 1964 as amended

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

COURT DECISIONS

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

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

Management Resources:

**CSBA PUBLICATIONS**

**Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011**

**Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010**

**FIRST AMENDMENT CENTER PUBLICATIONS**

**Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006**

**NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS**

**Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity, 2004**

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

**Dear Colleague Letter: Harassment and Bullying, October 2010**

Notice of Non-Discrimination, January, 1999

~~Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 FR 47, March, 1994~~

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.firstamendment.org>

**National School Boards Association:** <http://www.nsba.org>

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

<http://www.ed.gov/about/offices/list/ocr>