

Fresno Unified Administrative Regulation (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 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 unlawful discrimination, including discriminatory harassment (including sexual harassment), intimidation, or bullying (including cyberbullying), based on actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnicity, ethnic group identification, age, religious creed, religion, marital status, pregnancy, parental status, childbirth, breastfeeding/lactation status, medical condition, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, genetic information or any other basis protected by law or regulation; the perception of one or more of such characteristics; or association with a person or a 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):

Executive Director/Equity Compliance Officer
Constituent Services Office
Fresno Unified School District
2309 Tulare Street
Fresno, California 93721
(559) 457-3736
Constituent.Services@fresnounified.org

District 504 Coordinator
Fresno Unified School District
1301 M Street
Fresno, CA 93721
(559) 457-3220
504@fresnounified.org

Chief of Human Resources
Title IX Officer/Age Discrimination Act
Fresno Unified School District
2309 Tulare Street
Fresno, California 93721
(559) 457-3730
titleix@fresnounified.org

Instructional Superintendent
Special Education Office
Fresno Unified School District
1301 M Street
Fresno, CA 93721
(559) 457-3220
Spedleadership@fresnounified.org

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, including cyberbullying, 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 (Education Code 234.4(a)):

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 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. The district's anti-cyberbullying procedures shall be readily accessible in a prominent location on the district's existing internet website in a manner that is easily accessible to parents/guardians and pupils. (EC Sections 234.4 and 234.6(b)(9))

(a) The website shall also include a section on social media bullying that includes all of the following references to possible forums for social media bullying:

- i. Internet websites with free registration and ease of registration
- ii. Internet websites offering peer-to-peer instant messaging
- iii. Internet websites offering comment forums or sections
- iv. Internet websites offering image or video posting platforms

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 1312.3 Uniform Complaint Procedures)

3. Provide to students a handbook that contains 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)

4. 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 school program or activity together with another student of the opposite biological sex, and that they may inform the principal/designee or compliance officer if they feel such participation would be against the student's religious beliefs and/or practices or a violation of their right to privacy. In such a case, the principal/designee or compliance officer shall meet with the student and/or parent/guardian who raises the objection to determine how best to accommodate that student. The notice shall inform students and parents/guardians that the district will not typically notify them of individual instances of transgender students participating in a program or activity.

(cf. 5145.6 - Parental Notifications)

5. The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians 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.

6. Provide to students, employees, volunteers, and parents/guardians 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 guidelines for addressing issues related to transgender and gender-nonconforming students.

(cf. 1240 - Volunteer Assistance)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - 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 intervene when safe to do so. (Education Code 234.1)

8. 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

(cf. 5131.5 - Vandalism and Graffiti)

2. Providing training to students, staff, and parents/guardians about how to recognize unlawful discrimination 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

(cf. 4112.6/4212.6/4312.6 - 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 perpetrators and anyone determined to have engaged in wrongdoing, including any student who is found to have made 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

Any student who feels that they have 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 24 hours, 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 (including cyberbullying), shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

When any report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying (including cyberbullying), is submitted to or received by the principal or compliance officer, they shall immediately investigate in accordance with the school site level complaint process (AR 5145.7 – Sexual Harassment) and inform the student or parent/guardian of the right to file a formal complaint 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 or filed shall instead be submitted to the Superintendent or designee. Even if the student chooses not to file a formal complaint, the principal or compliance officer shall implement immediate measures necessary to stop the discrimination and to ensure all students have access to the educational program and a safe school environment.

(cf. 1312.3 Uniform Complaint Procedure)
(cf. 5131.2 Anti-Bullying)
(cf. 5145.7 Sexual Harassment)

Upon receiving a complaint of discrimination, the principal/designee or compliance officer shall immediately investigate the complaint in accordance with the district's uniform complaint procedures specified in AR's 1312.3/5145.7.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

All forms created relative to this process shall be translated pursuant to EC Section 48985.

Transgender and Gender-Nonconforming Students

Gender identity means a student's internal, deeply rooted identification as male or female (or neither). All students have a gender identity, not just transgender students.

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 that traditionally associated with the assigned sex at birth.

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 the purpose or effect of having 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 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 their gender identity
2. Disciplining or disparaging a transgender student because their mannerisms, hairstyle, or style of dress correspond to their gender identity, or a non-transgender student because their mannerisms, hairstyle, or style of dress do not conform to stereotypes for their gender or are perceived as indicative of the other sex
3. Blocking a student's entry to the bathroom that corresponds to their gender identity because the student is transgender or gender-nonconforming
4. Taunting a student because they participate 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
6. Use of gender-specific slurs
7. Physical assault of a student motivated by hostility toward them because of their gender, gender identity, or gender expression

In addition to the school site level compliant process/grievance procedure (AR 5145.7 Sexual Harassment), the district's uniform complaint procedures (AR 1312.3) may be used to report and resolve complaints alleging discrimination against transgender and gender-nonconforming students. Examples of basis 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 their private information and the district will 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, the district shall limit disclosure to individuals reasonably believed to be able to protect the student's well-being. Any district employee to whom a student discloses their transgender or gender-nonconforming status shall seek the student's permission to notify the principal/designee or compliance officer. If the student refuses to give permission, the employee shall keep the student's information confidential, unless they are required to disclose or report the student's information pursuant to this procedure 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 their status as a transgender or gender-nonconforming student. If the student permits the employee to notify the principal/designee or compliance officer, the employee shall do so within three school days.

As appropriate given the physical, emotional, and other significant risks to the student, the

principal/designee or compliance officer may consider discussing with the student any need to disclose the student's transgender or gender-nonconformity status to their 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.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

2. **Determining a Student's Gender Identity:** The principal/designee or compliance officer shall accept the student's assertion unless district personnel present a credible basis for believing that the student's assertion is for an improper purpose. In such a case, the principal/designee or 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 their parents/guardians.

3. **Addressing a Student's Transition Needs:** The principal/designee or compliance officer shall arrange a meeting with the student and, if appropriate, their parents/guardians. 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 principal or designee shall identify specific school site employee(s) to whom the student may report any problem related to their 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 are meeting their 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:** The district may maintain sex-segregated facilities, such as restrooms and locker rooms, and sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs. A student shall be entitled to access facilities and participate in programs and activities consistent with their gender identity. If available and requested by any student, regardless of the underlying reason, the district shall offer options to address privacy concerns in sex-segregated facilities, 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 they are transgender or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with their 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 their 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 pursuant to a court order. However, at the written

request of a student or, if appropriate, their parents/guardians, the district shall use the student's preferred name and pronouns consistent with their gender identity on all other district- related documents.

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

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 their gender identity, without the necessity of a court order or a change to their 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 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 their gender identity, subject to any dress code adopted on a school site.

(cf. 5132 - Dress Code)

Fresno Unified School District prohibits discrimination, harassment (including sexual harassment), intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age (40 and above), religious creed, religion, political belief or affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, childbirth, breastfeeding/lactation status, medical condition, military and veteran status, or association with a person or a group with one or more of these actual or perceived characteristics or any other basis protected by law or regulation, in its educational program(s) or employment.

Regulation FRESNO UNIFIED SCHOOL DISTRICT

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