

## **Fresno Unified Board Policy (BP) 5145.3 Nondiscrimination/Harassment**

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, programs, practices, or school attendance within a school under the jurisdiction of the Superintendent, unlawful discrimination, including discriminatory harassment, intimidation, and bullying targeted at any student by anyone, based on the student's actual or perceived sex, sexual orientation, gender, gender identity, gender expression, genetic information, race, ancestry, national origin, immigration status, ethnicity, ethnic group identification, age, religion, color, marital status, pregnancy or parental status, medical information, physical or mental disability, or 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.

This policy shall apply to all acts related to school activity or to school attendance occurring within a district school and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school. (Education Code 234.1)

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

*(cf. 6164.6 - Identification and Education under Section 504)*

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also includes the creation of a hostile environment through prohibited conduct that is so severe, persistent, or 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.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

The Governing Board shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The district may provide male and female students with separate shower rooms and sexual health and HIV/AIDS prevention classes in order to protect student modesty.

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*  
*(cf. 6145.2 - Athletic Competition)*  
*(cf. 6164.2 - Guidance/Counseling Services)*

The Board also prohibits any form of retaliation against any student who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination, harassment, intimidation, or bullying. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

*(cf. 5145.2 - Freedom of Speech/Expression)*  
*(cf. 5145.7 - Sexual Harassment)*

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. Staff shall provide training and information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the district's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. They shall report their findings and recommendations to the Board after each review.

*(cf. 1312.3 - Uniform Complaint Procedures)*  
*(cf. 1330 - Use of Facilities)*  
*(cf. 4131 - Staff Development)*  
*(cf. 4231 - Staff Development)*  
*(cf. 4331 - Staff Development)*  
*(cf. 6145 - Extracurricular and Cocurricular Activities)*  
*(cf. 6145.2 - Athletic Competition)*  
*(cf. 6164.2 - Guidance/Counseling Services)*

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include counseling, suspension and/or expulsion for behavior that is severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, bullying, or retaliation may 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))*  
*(cf. 5145.2 - Freedom of Speech/Expression)*

## Grievance Procedures

The Board hereby designates the following positions as Coordinator(s) for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying, and to answer inquiries regarding the district's nondiscrimination policies:

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

Chief of Human Resources  
Title IX Officer/Age DA (Discrimination Act)  
Fresno Unified School District  
2309 Tulare Street  
Fresno, California 93721  
(559) 457-3528  
Paul.Idsvoog@fresnounified.org

Special Education Manager/  
Section 504 Coordinator  
Fresno Unified School District  
4784 E. Dayton Avenue  
Fresno, CA 93726  
(559) 457-3220  
Jeanne.Butler@fresnounified.org

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

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

Any student who feels that they have been subjected to discrimination, harassment, intimidation, or bullying should immediately contact the Coordinator for Nondiscrimination, the principal or any other staff member. Any student who observes an incident should report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints brought to the attention of staff, alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

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

Any complaints of discrimination or any behavior prohibited by this policy, shall be addressed in accordance with the Administrative Regulation 5145.7 Sexual Harassment.

If dissatisfied with the district's decision, the complainant may submit their appeal in writing to the Office of Constituent Services within 15 calendar days of receiving the district's decision. The written concerns shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The district shall investigate in accordance with AR 1312.3 - Uniform Complaint Procedures.

Employees who observes an incident of discrimination, harassment, intimidation, or bullying or to whom such an incident is reported shall immediately report the incident to any of the

designated Coordinators for Nondiscrimination, or principal, whether or not the victim files a complaint. Upon receiving a complaint of discrimination or harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures. Where the Coordinator finds that harassment has occurred, they shall take prompt, appropriate action to end the harassment and address its effects on the victim.

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 web site or any other location that is easily accessible to students.

*(cf. 1113 - District and School Web Sites)*  
*(cf. 1114 - District-Sponsored Social Media)*  
*(cf. 6163.4 - Student Use of Technology)*

When required pursuant to Education Code 48985, complaint forms shall be translated into the student's primary language.

### **Record-Keeping**

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools. The record shall be maintained for one review cycle.

*(cf. 3580 - District Records)*

*Fresno Unified School District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived race, color, ethnicity, national origin, immigration status, ancestry, age, creed, religion, political affiliation, gender, gender identity, gender expression, genetic information, mental or physical disability, sex, sexual orientation, marital status, pregnancy or parental status, medical information, military 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.*

#### Legal Reference:

##### EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex, especially:

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

48985 Translation of notices

49020-49023 Athletic 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

422.6 Crimes, harassment

##### CODE OF REGULATIONS, TITLE 5

432 Student record  
4600-4687 Uniform Complaint Procedures  
4900-4965 Nondiscrimination in elementary and secondary education programs  
UNITED STATES CODE, TITLE 20  
1681-1688 Title IX of the Education Amendments of 1972  
12101-12213 Title II equal opportunity for individuals with disabilities  
UNITED STATES CODE, TITLE 29  
794 Section 504 of Rehabilitation Act of 1973  
UNITED STATES CODE, TITLE 42  
2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended  
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964  
6101-6107 Age Discrimination Act of 1975  
CODE OF FEDERAL REGULATIONS, TITLE 28  
35.107 Nondiscrimination on basis of disability; complaints  
CODE OF FEDERAL REGULATIONS, TITLE 34  
99.31 Disclosure of personally identifiable information  
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:

U.S. DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS PUBLICATIONS Dear Colleague Letter: Transgender Students, May 2016  
Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016 Dear Colleague Letter: Title IX Coordinators, April 2015  
Dear Colleague Letter: Harassment and Bullying, October 2010 Notice of Non-Discrimination, January, 1999

#### WEB SITES

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

Policy FRESNO UNIFIED SCHOOL DISTRICT  
Adopted: August 26, 1993 Fresno, California  
Revised: March 22, 2000  
Revised: June 29, 2005  
Revised: June 19, 2013  
Revised: May 14, 2014  
Revised: June 17, 2015  
Revised: November 16, 2016  
Revised: December 18, 2019

*Policy Section: 5000 Students*