

VENTURA COUNTY BOARD OF EDUCATION

BOARD POLICY NO. 5145.3

ADOPTED: 08/26/02

CLASSIFICATION: Students

**REVISED: 05/29/12
09/30/14
10/26/15
06/25/18
02/19/19
08/28/23**

SUBJECT: Nondiscrimination/Harassment

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a Ventura County Office of Education (VCOE) school or program, 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.

The County Superintendent and the County Board are committed to providing a safe school environment that allows all students equal access to opportunities in academic and other educational support programs, services, and activities. Unlawful discrimination against a student in any VCOE school, program, or activity, including discriminatory harassment, intimidation, and bullying, is prohibited. Any form of retaliation against an individual who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination is also prohibited.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct against a student based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or the student's association with a person or group with one or more of these actual or perceived characteristics. Unlawful discrimination also occurs when the prohibited conduct 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 any one of the characteristics specified above with respect to the provision of opportunities for a student's participation in any VCOE school, program, or activities, or a student's receipt of educational benefits or services, such as prohibiting a student from enrolling in a class or course on the basis of the student's sex.

In accordance with law, all VCOE students shall be afforded the same rights, benefits, and protections. When, as permitted by law, the VCOE maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, students may choose to access facilities and participate in such programs and activities consistent with their gender identity. In addition, students may choose 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.

Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying or retaliation, may be filed in accordance with the VCOE's uniform complaint procedures (UCP) pursuant to BP 1312.3 - Uniform Complaint Procedures. For complaints of sexual harassment, it is the responsibility of the VCOE's Title IX Coordinator to determine whether the complaint should be addressed through UCP, or if the alleged conduct meets the federal definition of sexual harassment pursuant to 34 CFR 106.30, the complaint procedures established in 34 CFR 106.44-106.45. Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action shall be taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequences or discipline, which may include suspension when the behavior is severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying shall be subject to disciplinary action, up to and including dismissal.

ANTI-DISCRIMINATION MEASURES

The County Board hereby incorporates by reference the policies, procedures, and measures implemented by the County Superintendent to prevent or address unlawful discrimination in VCOE schools, programs, and activities. VCOE nondiscrimination policies and practices shall be reviewed regularly, and action shall be taken to remove any identified barriers to student access to or participation in the educational program.

Legal Reference:

EDUCATION CODE

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| 200-262.4 | Prohibition of discrimination |
| 48900.3 | Suspension or expulsion for act of hate violence |
| 48900.4 | Suspension or expulsion for harassment, threats, or intimidation |

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| 48904 | Liability of parent/guardian for willful student misconduct |
| 48907 | Exercise of free expression; time, place and manner rules and regulations |
| 48950 | Speech and other communication |
| 48985 | Notices to parents in language other than English |
| 49020-49023 | Athletic Programs |
| 51500 | Prohibited instruction or activity |
| 51501 | Prohibited means of instruction |
| 60044 | Prohibited instructional materials |

GOVERNMENT CODE

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| 11135 | Prohibition of discrimination |
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PENAL CODE

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| 422.55 | Definition of hate crime |
| 422.6 | Crimes; harassment |

CODE OF REGULATIONS, TITLE 5

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| 432 | Student records |
| 4600-4670 | Uniform complaint procedures |
| 4900-4965 | Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance |

UNITED STATES CODE, TITLE 20

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| 1681-1688 | Title IX of the Education Amendments of 1972; discrimination based on sex |
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UNITED STATES CODE, TITLE 29

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| 794 | Rehabilitation Act of 1973; Section 504 |
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UNITED STATES CODE, TITLE 42

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| 12101-12213 | Americans with Disabilities Act |
| 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 |
| 6101-61107 | Age Discrimination Act of 1975 |

CODE OF FEDERAL REGULATIONS, TITLE 28

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| 35.107 | Nondiscrimination on basis of disability; complaints |
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CODE OF FEDERAL REGULATIONS, TITLE 34

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| 99.31 | Disclosure of personally identifiable information |
| 100.3 | Prohibition of discrimination on basis of race, color or national origin |

- 104.7 Section 504; designation of responsible employee and adoption of grievances procedures
- 104.8 Notice of nondiscrimination on the basis of handicap
- 106.8 Designation of coordinator; dissemination of policy, and adoption of grievance procedures
- 106.9 Severability
- 110.25 Prohibition of discrimination based on age

COURT DECISION

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

Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130