

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Amended Agenda

The Napa County Board of Education will hold a regular meeting on Tuesday, September 3, 2024, at 3:30 p.m., at the Napa County Office of Education, 2121 Imola Avenue, Napa, CA. **Members of the public may attend the meeting in-person or virtually. Please view Public Participation information below.**

This hybrid meeting will be conducted with a mixture of in-person and remote attendance.

<https://napacoe.zoom.us/j/85404848681>

1. ORGANIZATION

- A. Call to Order
- B. Flag Salute
- C. Public Participation

Members of the public are invited to participate in person or can join by computer, tablet, smartphone, or telephone. Remote access can be achieved by following the instructions below:

Join from PC, Mac, Linux, iOS or Android:

You are invited to a Zoom webinar.

When: September 3, 2024, 2024 03:30 PM Pacific Time (US and Canada)

Topic: NCOE September 3 Board Meeting

Join from a PC, Mac, iPad, iPhone or Android device:

Please click the link below to join the webinar:

<https://napacoe.zoom.us/j/85404848681>

Or One tap mobile :

US: +16699006833,,85404848681# or +16694449171,,85404848681#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 669 444 9171 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968

Webinar ID: 854 0484 8681

International numbers available: <https://napacoe.zoom.us/u/kFD1RNcZp>

- D. Welcome to Visitors
- E. Approval of Agenda
- F. Approval of Minutes – August 6, 2024
- G. Public Comment

Members of the public wishing to provide public comment must request to be called upon using one of the following options:

- i. using the chat feature on the web conference to send a request to meeting hosts, or
- ii. using the hand raising feature in the participant panel on the web conference, or hand raising if in-person attendance, or,
- iii. emailing a request to jschultz@napacoe.org or smorris@napacoe.org.

Comments by the Public for Items on the Agenda: Anyone may provide public comment to the Board in support of, or in opposition to, any item being presented to the Board for consideration on the agenda during the Board’s consideration of the item. Individuals shall be allowed up to three minutes for their presentation.

Comments by the Public for Items NOT on the Agenda: Suggestions, comments, and requests may be presented to the Board at this time, for items not on the agenda, on those subjects over which the Board has jurisdiction. Normally, the Board will take no action on any topic at this time. Individuals shall be allowed up to three minutes for their presentations.

2. PRESENTATIONS AND PUBLIC HEARINGS

- A. The Board shall hold a Public Hearing (in compliance with Education Code section 60119) to encourage participation by parents, teachers, members of the community and bargaining unit leaders on the issue of sufficiency and current content of textbooks and instructional materials as utilized in the 2024-2025 school year. Action will be taken in Item 5.A. (Nancy Dempsey, Director, Juvenile Court and Community Schools).
- B. Report on the NCOE Strategic Plan Priorities (Julie McClure, Associate Superintendent).
- C. Presentation on Opioid Overdose Crisis and Naloxone for Emergency Treatment (Ariana Ponce & Nadia Barboza, Health Education Specialists, Napa County Health and Human Services Agency).

3. CORRESPONDENCE, COMMUNICATONS, AND REPORTS

The Superintendent and/or Board members may report miscellaneous items for information purposes.

4. CONSENT AGENDA ITEMS

Background information on these items is provided to the Board prior to the meeting. Action is taken by a common motion without discussion unless discussion of an item(s) is requested by a Board member(s).

- A. Temporary County Certificates: Education Code Section 44332 authorizes the issuance of Temporary County Certificates for the purpose of authorizing salary payments to

employees whose credential applications are being processed. (Julie McClure, Associate Superintendent)

- B. Approval of Resolution 2024-21: Board Member Compensation. Napa County Board of Education Bylaw 9250(a) provides for compensation to its Board members for attending meetings. The Bylaw further provides for compensation to members who miss meetings of the Board while performing designated services for the county or absent because of illness, jury duty or a hardship deemed acceptable by the Board. (Julie McClure, Associate Superintendent)

5. ACTION ITEMS

- A. Board Adoption of Resolution Approval Resolution 2024-22: the Board will be asked to certify (per Agenda Item 2.A.) that the Napa County Office of Education has complied with the requirements of Education code 60119 for the 2024-2025 school year. (Nancy Dempsey, Director, Juvenile Court and Community Schools)
- B. Board Approval of Resolution 2024-23: AmeriCorps Neighbor to Neighbor Contract. The Board will be asked to approve Resolution 2024-23: AmeriCorps Neighbor to Neighbor contract. (Barbara Thorsen, Assistant Director, Community Programs).
- C. Second Reading and Board Approval Conflict of Interest Board Bylaw and Exhibit (BB 9270 and E 9270). The Board will be asked to approve Conflict of Interest Board Bylaw and Exhibit (BB 9270 and E 9270). (Julie McClure, Associate Superintendent).
- D. Board Interview and Approval of Appointment of Student Board Member Ernesto Villalvazo. The Board will interview and appoint Student Board Member Ernesto Villalvazo if selected. (Julie McClure, Associate Superintendent).
- E. Board Approval to Authorize Staff to File the Notice of Exemption (NOE) for California Environmental Quality Act (CEQA) requirements for Renewable Energy Project. The Board will be asked to authorize staff to File for Notice of Exemption (NOE) for California Environmental Quality Act (CEQA) requirements for Renewable Energy Project. (Josh Schultz, Deputy Superintendent).

6. PROVISIONAL APPOINTMENT, TRUSTEE AREA 4 VACANCY 5:00 p.m.

- A. Public Input Regarding Provisional Appointment

- B. Interview Applicants for Board Vacancy
 - 1. Mary Elke
 - 2. Marilyn Reid
 - 3. Nadine Wade-Gravett

- C. Selection and Board Approval of Provisional Appointee

D. Oath of Office

7. SCHEDULED MATTER

Discussion, review, and direction regarding:

A. Possible motion of support of state and federal legislative updates and positions on legislation. (Jennifer Kresge, Board Trustee)

8. INFORMATION ITEMS

A. Personnel Activity Report: vacancies, listing of personnel appointments, terminations, transfers, etc. (Julie McClure, Associate Superintendent)

B. First Reading of Revisions to Policies related to recent Title IX Changes. (Julie McClure, Associate Superintendent). Policies include:

- BP 0410 Nondiscrimination in County Office Programs and Activities
- BP 5145.3 Nondiscrimination/Harassment
- AR 5145.3 Nondiscrimination/Harassment
- BP 5145.7 Sex Discrimination and Sex-Based Harassment
- AR 5145.7 Sex Discrimination and Sex-Based Harassment
- AR 5145.71 Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

C. Review Board Bylaw 9150 Student Board Members (Julie McClure, Associate Superintendent)

D. Mayacamas Charter Oversight Update (Josh Schultz, Deputy Superintendent)

9. FUTURE AGENDA ITEMS:

10. NEXT MEETING OF THE NAPA COUNTY BOARD OF EDUCATION

The regular meeting of the Napa County Board of Education will be held October 1, 2024.

11. ADJOURNMENT

In compliance with the American with Disabilities Act, if special assistance is needed to participate in this meeting, contact the Napa County Office of Education (NCOE) at 253-6810. Notification forty-eight hours prior to the meeting will enable the NCOE to make reasonable arrangements to ensure accessibility to this meeting. I HEREBY CERTIFY THE AGENDA FOR THE STATED MEETING WAS POSTED ON THE NCOE WEBSITE AND IN NCOE'S DISPLAY CASE AT 2121 IMOLA AVENUE, NAPA, CA 94559, and the Napa Preschool site, Friday, August 23, 2024. Informational material is available for review at the NCOE.

MEETING OF THE NAPA COUNTY BOARD OF EDUCATION
Tuesday, August 6, 2024

Members present

Jean Donaldson, Janna Waldinger, Don Huffman, Gerry Parrott, Sindy Biederman, Jennifer Kresge

1. ORGANIZATION

A. CALL TO ORDER

President Huffman called the meeting to order at 3:35 p.m.

B. FLAG SALUTE

The salute to the Flag was led by Gerry Parrott.

C. PUBLIC PARTICIPATION

President Huffman reviewed the instructions for public participation via teleconference.

D. WELCOME TO VISITORS

Visitors were welcomed to the meeting.

E. APPROVAL OF AGENDA

On a motion by Mr. Donaldson and a second by Mrs. Biederman, the Agenda for the August 6, 2024 meeting was approved. *Ayes* - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mr. Huffman. *Noes* - None. Mrs. Kresge not present to vote.

F. APPROVAL OF MINUTES

On a motion by Mrs. Biederman and a second by Mr. Parrott, the Minutes from the July 16, 2024 meeting were approved. *Ayes* - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mr. Huffman. *Noes* - None. Mrs. Kresge not present to vote.

G. Public Comment was given.

2. PRESENTATIONS

A. Carolynne Beno, Ed.D., FCMAT, provided information on the Fiscal Crisis Management Assistance Team (FCMAT) scope of work focusing on ensuring Mayacamas Countywide Middle School complies with the MOU and the requirements of the Education Code related to the operation of a charter school.

3. CORRESPONDENCE, COMMUNICATIONS, AND REPORTS

- Ms. Waldinger reported that she and Dr. Barbara Nemko attended multiple hearings in Sacramento today on Ethnic Studies. Ms. Waldinger noted that they met with assembly people who are voting and let them know the importance of the work to be done regarding creating ethnic studies curriculum.

- Dr. Nemko added to Ms. Waldinger’s report that the Ethnic Studies Bill 2918 was in appropriations. Dr. Nemko further noted that a lot of antisemitism has crept into Ethnic Studies, and the bill is intended to monitor this concern. The bill is currently on suspense but will come back August 15. If it does not make it out at that time, the bill is dead for the year.
- Dr. Nemko reported that she went to the State Board meeting in July to hear Dr. Lucy Edwards’ team present our Literacy for All program, at the request of the State Board. Dr. Nemko further reported that over the next three days, local people at Camille Creek are getting the training.
- Dr. Nemko announced that Dr. Lucy Edwards, Director of Continuous Improvement and Academic Support, has been promoted to Assistant Superintendent at the Napa County Office of Education.
- Dr. Nemko reported that Nancy Dempsey is doing a roll out of the Verizon Grant on August 16 at Camille Creek, and the Board is invited to attend. Every student will receive their own Chromebook and account, and the teachers will receive professional development.
- Mrs. Kresge reported that she spoke with a student from St. Helena who expressed interest in student board member positions on the Napa County Board of Education board. Board President Huffman asked that this topic be brought back for discussion at the September meeting.

4. CONSENT AGENDA ITEMS

A. On a motion by Mrs. Kresge and a second by Mrs. Biederman, the Board approved Consent Agenda Item 4.A. (Temporary County Certificates). Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes – None.

B. No action was taken on Consent Agenda Item 4.B. (Board Member Compensation).

5. ACTION ITEMS

A. On a motion by Mrs. Kresge and a second by Mr. Parrott, the Board approved Board Policy 0410 Nondiscrimination in County Office Programs and Activities. Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes – None.

B. On a motion by Mrs. Biederman and a second by Mrs. Kresge, the Board approved the Napa County Clear Administrative Services Credential (CASC) Induction Program Assurances. Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes – None.

C. On a motion by Ms. Waldinger and a second by Mrs. Biederman, the Board approved to change the November meeting date from November 5, 2024 to November 12, 2024 and to include a Board Retreat on November 12. Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes – None.

6. SCHEDULED MATTER

Mrs. Kresge reported on the following topics:

- The matter of undocumented children have a right to attend public schools.
- Education Week article: A shift away from four-year college.

7. INFORMATION ITEMS

- A. The Personnel Activity Report was presented.
- B. Lucy Edwards and Nancy Dempsey presented slides on the LCAP updates, noting that feedback from the CDE was technical in nature to make sure that we are meeting all of the compliance regulations.
- C. Lucy Edwards reported on the Teacher Assignment Monitoring Outcomes (TAMO) and noted that the report is now available online. Dr. Edwards noted that since this information was not available at the June meeting, when the Board approved the local indicator data, Dr. Edwards is required to present it at the Board meeting today as an information item.
- D. Ms. McClure presented a First Reading Biennial Review of Conflict of Interest Board Bylaw and Exhibit (BB 9270 and E 9270) and recommended the Board Bylaw 9270 and Exhibit 9270 be presented to the Board for a second reading and approval at the September 3, 2024 meeting.
- E. Jean Donaldson, Board Trustee, reported that the Ad Hoc Committee approved the Candidate Interview Questions for Board Trustee Area 4.
- F. President Huffman asked the Board to send their preference for a Board Retreat moderator to Ellen Sitter by August 14.
- G. Dr. Nemko reported on the Napa County Grand Jury Task Force Report 2023-2024.

8. FUTURE AGENDA ITEMS

9. NEXT MEETINGS OF THE NAPA COUNTY BOARD OF EDUCATION

The next regular meeting of the Napa County Board of Education will be held Tuesday, September 3, 2024.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 5:41 p.m.

Respectfully submitted,
Barbara Nemko, Secretary
es

Approved _____ Date _____

MEETING OF THE NAPA COUNTY BOARD OF EDUCATION
Tuesday, July 16, 2024

Members present

Jean Donaldson, Janna Waldinger, Don Huffman, Gerry Parrott, Sindy Biederman
Remote Attendance: Jennifer Kresge

1. ORGANIZATION

A. CALL TO ORDER

President Huffman called the meeting to order at 3:35 p.m.

B. FLAG SALUTE

The salute to the Flag was led by Jean Donaldson.

C. PUBLIC PARTICIPATION

President Huffman reviewed the instructions for public participation via teleconference.

D. WELCOME TO VISITORS

Visitors were welcomed to the meeting.

E. APPROVAL OF AGENDA

On a motion by Mrs. Biederman and a second by Mrs. Kresge, the Agenda for the July 16, 2024 meeting was approved. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes - None.

F. APPROVAL OF MINUTES

On a motion by Mrs. Biederman and a second by Ms. Waldinger, the Minutes from the June 18, 2024 meeting were amended to include in Item 6.C. that Mrs. Biederman agreed to include a facilitator at the Board Retreat. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes - None.

G. Public Comment was given.

2. PRESENTATIONS

- A. Mrs. Biederman provided a brief history of the Korean War Armistice Day Resolution and introduced Dell Pratt, Chief Master Sargent, USAF (Retired), Napa County Veterans Services Officer.

Mr. Pratt presented a brief history of the Korean War and shared with the Board a historical artifact, a piece of the demilitarized zone (DMZ) from the 38th parallel between North Korea and South Korea as well as a story about a local Korean War veteran.

3. CORRESPONDENCE, COMMUNICATIONS, AND REPORTS

- Mr. Huffman announced that Ann Cash, Board Trustee, resigned from the Board last week. Mr. Huffman encouraged staff to consider some form of proclamation for Mrs. Cash who dedicated more than 25 years of service to the Board.
- Mrs. Kresge noted that we need to provide some level of recognition for Mrs. Cash's years of service.
- Mrs. Kresge reported that she attended the Museum of Tolerance event in Los Angeles recently, and thanked Dr. Nemko for sending the invitation to the Board.

4. CONSENT AGENDA ITEMS

A. On a motion by Mrs. Kresge and a second by Mr. Donaldson, the Board approved Consent Agenda Item 4.A. (Temporary County Certificates). Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes - None.

B. No action was taken on Consent Agenda Item 4.B. (Board Member Compensation).

5. ACTION ITEMS

A. On a motion by Ms. Waldinger and a second by Mr. Parrott, the Board approved Resolution 2024-17: AmeriCorps VIP 2024-2025 "AmeriCorps Volunteer Infrastructure Program" (VIP) AmeriCorps Program Contract. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes - None.

B. On a motion by Ms. Waldinger and a second by Mr. Parrott, the Board approved Resolution 2024-18: CalSERVES Expanded Learning 2024-2025 "CalSERVES AmeriCorps Expanded Learning" AmeriCorps Program Contract. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes - None.

C. On a motion by Mr. Parrott and a second by Mrs. Kresge, the Board approved the Consolidated Application and Reporting System (CARS) 2024-2025 Application for Funding Categorical Aid Program. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes - None.

D. On a motion by Ms. Waldinger and a second by Mr. Donaldson, the Board approved the Arts, Music, and Instructional Materials Discretionary Block Grant Plan. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes - None.

E. On a motion by Mrs. Kresge and a second by Mr. Parrott, the Board approved Proposition 28: Arts and Music in Schools Funding Annual Report Fiscal Year

2023-24. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes – None.

- F. On a motion by Ms. Waldinger and a second by Mr. Parrott, the Board approved a Memorandum of Understanding (MOU) Between NCOE and the Mayacamas Countywide Middle School (MCMS). Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes – None.
- G. On a motion by Mrs. Kresge and a second by Ms. Waldinger, the Board approved Pursuing a Provisional Appointment to fill the Board Vacancy in Trustee Area 4. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes – None.
- H. On a motion by Mrs. Kresge and a second by Mrs. Biederman, the Board approved Resolution 2024-19 Korean War Armistice Day. Roll Call Vote: Ayes - Mr. Donaldson, Mrs. Biederman, Mr. Parrott, Ms. Waldinger, Mrs. Kresge, Mr. Huffman. Noes – None.

6. SCHEDULED MATTER

Mrs. Kresge reported on the Governor’s signed agreement making personal financial literacy a required course to graduate high school in California.

Mrs. Kresge reported that the Los Angeles USD has banned cellphones and social media use at schools.

7. INFORMATION ITEMS

- A. The Personnel Activity Report was presented.
- B. Mr. Schultz reviewed Board Policy 0410 Nondiscrimination in County Office Programs and Activities with proposed changes. A Second Reading of Board Policy 0410 Nondiscrimination in County Office Programs and Activities will take place at the next meeting.
- C. Mr. Schultz reported there were no complaints under the Williams Uniform Complaints Procedures Quarterly Report.
- D. The Board reviewed possible Board Retreat dates and moderator options. Mrs. Biederman reviewed the role of a moderator noting that she has a suggestion for a moderator. Mrs. Kresge noted that she will also suggest a moderator for the Board Retreat.

8. FUTURE AGENDA ITEMS: FCMAT Charter Oversight Presentation; Ad Hoc Committee Report (Interview Questions for Trustee position); and, Board Retreat Moderator options.

9. NEXT MEETINGS OF THE NAPA COUNTY BOARD OF EDUCATION

The next regular meeting of the Napa County Board of Education will be held Tuesday, August 6, 2024.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 5:02 p.m.

Respectfully submitted,
Barbara Nemko, Secretary
es

Approved _____ Date _____

APPROVED

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Items: 2.A. and 5.A.
September 3, 2024

TITLE:

Adoption of Resolution 2024-22: The Board will be asked to certify (per Agenda Item 2.A.) that the Napa County Office of Education has complied with the requirements of Education Code Section 60119 for the 2024-2025 school year.

HISTORY:

The Pupil Textbook and Instructional Materials Incentive Program was enacted in 1994 to ensure that textbooks and instructional materials consistent with the content and cycles of the curriculum frameworks are available to all students. (Education Code Section 60252)

The governing boards of school districts must hold a public hearing at which the governing board shall encourage participation by parents, teachers, members of the community interested in the affairs of the school district, and bargaining unit leaders to comment regarding the sufficiency and current content of textbooks and instructional materials in order to receive funds for instructional materials from any state source. (Education Code Section 60119)

CURRENT PROPOSAL:

This assurance is required for the 2024 - 2025 fiscal year in order to be eligible to receive instructional materials funds.

Teachers and administrators annually review the curriculum for adherence, content, and alignment to standards. A thorough review as to efficacy of all texts and materials is made before adoption. An attempt to align with the other county districts is made wherever proven reasonable and effective.

FUNDING SOURCE:

Not a budget item.

SPECIFIC RECOMMENDATION:

It is recommended that the Board receive public comment on the issue of availability of textbooks and instructional materials for Napa County Office of Education programs for the 2024-25 school year and that the Board adopt Resolution 2024-22 stating each pupil in the NCOE's programs has sufficient textbooks or instructional materials in specified subjects consistent with the content and cycles of the curriculum frameworks adopted by the state board.

**NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent**

**RESOLUTION OF THE BOARD OF TRUSTEES
OF THE NAPA COUNTY OFFICE OF EDUCATION
IN COMPLIANCE WITH EDUCATION CODE SECTION 60119**

Resolution No. 2024-22

Whereas, the governing board of the Napa County Office of Education, in order to comply with the requirements of Education Code Section 60119 held a public hearing on September 3, 2024 at 3:30 p.m., which is on or before the eighth week of school (between the first day that students attend school and the end of the eighth week from that day) and which did not take place during or immediately following school hours, and;

Whereas, the governing board provided at least 10 day notice of the public hearing posted in at least three public places within the district that stated the time, place, and purpose of the hearing, and;

Whereas, the governing board encouraged participation by parents, teachers, members of the community, and bargaining unit leaders in the public hearing, and;

Whereas, information provided at the public hearing and to the governing board at the public meeting detailed the extent to which textbooks and instructional materials were provided to all students, including English learners, in the district/county office of education, and;

Whereas, the definition of “sufficient textbooks or instructional materials” means that each pupil has a textbook or instructional materials, or both, to use in class and to take home, and;

Whereas, sufficient textbooks and instructional materials were provided to each student, including English Learners, that are aligned to the academic content standards and consistent with the cycles and content of the curriculum frameworks in the following subjects:

- Mathematics – Renaissance Math Freckle; Numeracy Project, Scholastic; 2009; Bright Thinker
- Physical Science – Pearson, Concepts and Challenges, 2009; Earth Science, 2009, Glencoe Science; Scholastic Science World; Bright Thinker
- Life Science – Life Science, 2009, Prentice Hall ; Scholastic Magazine; Bright Thinker
- World History – Prentice Hall, World History, 2009; Upfront Magazine/Scholastic; Bright Thinker
- U.S. History – Glencoe McGraw-Hill, American Odyssey, 2004; Upfront Magazine/Scholastic; Bright Thinker
- Civics – Prentice Hall, Civics, 2007; Bright Thinker; I Civics.com
- English/language arts – Reading with Relevance; Bright Thinker; Freckle ELA, Sunday Literacy

- ELD – Freckle ELA; Bright Thinker
- Health – Health Smart, 2020
- Foreign Language – Bright Thinker, Duo Lingo
- Fine Arts – Edestam Arts; Nimbus Arts
- Foundations of Restaurant Management & Culinary Arts – Level 1 and 2, National Restaurant Assn. and Pearson 2011
- The Culinary Professional, 2010, The Goodheart-Willcox Company; Foundations of Restaurant Management and Culinary Arts, 201, Pearson
- Welding: Core Curriculum: Cengage Welding Principles and Applications 2021

Therefore, it is resolved that for the 2024-2025 school year, the Napa County Office of Education has provided each pupil with sufficient textbooks and instructional materials aligned to the academic content standards and consistent with the cycles and content of the curriculum frameworks.

AYES:

NOES:

ABSTAIN:

ABSENT:

Barbara Nemko, Clerk of the Napa County Board of Education

Date

**Napa County
Office of Education**
Strategic Plan Report 2024

ncoe
CORE
Values

Innovation • Equity • Service
Collaboration • Recognition • Integrity

1

Strategic Priorities

INCREASE STRATEGIC COLLABORATION

SUPPORT MENTAL HEALTH AND WELLNESS

STRENGTHEN LEADERSHIP & PROFESSIONAL LEARNING

PRACTICE CONTINUOUS IMPROVEMENT

2

Priority Workgroups

NCOE STRATEGIC PRIORITIES

Priority Workgroups led by:

- Julie McClure
- Seana Wagner
- Connie Silva
- Jill Barnes
- Lucy Edwards

Participants lent their voices from across the organization

INCREASE STRATEGIC COLLABORATION
Establish meaningful relationships to collaboratively address common challenges and leverage resources within and among schools, districts, and NCOE programs

SUPPORT MENTAL HEALTH AND WELLNESS
Provide and/or coordinate an inclusive set of mental health and wellness services for staff, students, and families in a proactive, culturally relevant, and linguistically appropriate manner

STRENGTHEN LEADERSHIP & PROFESSIONAL LEARNING
Develop and implement a responsive, professional learning and coaching structure to support the diverse needs of Napa's education community

PRACTICE CONTINUOUS IMPROVEMENT
Implement an improvement approach that utilizes data to improve outcomes for students and families

3

Strategic Priorities

Priority 1

STRENGTHEN LEADERSHIP AND PROFESSIONAL LEARNING

THE GOAL

Strengthen Leadership & Professional Learning

Create a fully-developed onboarding, training, and coaching structure to support new and transitioning employees within the organization, with differentiation by department and position.

4

Strategic Priorities

Priority 1

STRENGTHEN LEADERSHIP AND PROFESSIONAL LEARNING

THE WORK

- Worked with representatives across the organization to articulate and systematize our approach.
- Committed resources in the form of a new position inclusive of professional learning.
- Invested in a learning management system (Docebo) to create and track employee learning plans.

5

Strategic Priorities

Priority 1

STRENGTHEN LEADERSHIP AND PROFESSIONAL LEARNING

THE PRODUCTS

Onboarding System

Created a system for new hire onboarding, inclusive of HR, TTSS, and departmental responsibilities.

NEW HIRE ONBOARDING PD PROCESS MAP

6

Strategic Priorities

Priority 1
STRENGTHEN LEADERSHIP AND PROFESSIONAL LEARNING

THE PRODUCTS

Professional Learning Events

Created an inclusive professional learning plan including specific training for the organization's leaders and staff across all departments.

MONTH	ACTIVITY
AUGUST	8/8 Safety Training, 10:00-11:00
SEPTEMBER	9/11 Leadership Learning Community, 4:00-5:00 9/24 Staff Learning Day, 8:00-12:00
OCTOBER	
NOVEMBER	11/8 Docebo Data Literacy Launch, 12:00-1:00 11/20 Leadership Learning Community, 10:00-11:00 11/27 Docebo Data Literacy Launch, 12:00-1:00
DECEMBER	12/12 Staff Learning Day, 8:00-12:00
JANUARY	1/9 Docebo Data Literacy Launch, 12:00-1:00 1/16 Leadership Learning Community, 10:00-11:00 1/23 Docebo Data Literacy Launch, 12:00-1:00
FEBRUARY	2/13 Leadership Learning Community, 10:00-11:00
MARCH	3/10 Docebo Data Literacy Launch, 12:00-1:00

7

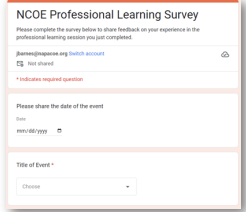
Strategic Priorities

Priority 1
STRENGTHEN LEADERSHIP AND PROFESSIONAL LEARNING

THE PRODUCTS

Evaluation & Continuous Improvement

Developed a system for evaluating professional learning to continuously improve offerings to provide orientation and ongoing support to staff.



8

Strategic Priorities

Priority 1
STRENGTHEN LEADERSHIP AND PROFESSIONAL LEARNING

THE IMPACT

97%
strongly agree or agree
new knowledge will support their work

New to a director position and can help me be more open minded when having discussions with my team.

97%
strongly agree or agree
PL events were a good use of their time

The best training! Learned so much valuable information. This was clear and very informative. Really helpful and well done!

98%
strongly agree or agree
Provided practical strategies they can apply in their position

It gave me create ideas on how to better, emotionally, help my students! THANK YOU so much for showing a video about high school and how they do SEL curriculum!

9

Strategic Priorities

Priority 1
STRENGTHEN LEADERSHIP AND PROFESSIONAL LEARNING

THE IMPACT

Committing time for a position and for the committee work did positively impact our ability to provide quality PD and helped ease the burden of the content experts by creating more of a system and support. Thank you!



10

Strategic Priorities

Priority 1
STRENGTHEN LEADERSHIP AND PROFESSIONAL LEARNING

SUSTAINABILITY & NEXT STEPS

- Administrative Assistant Learning Plan Pilot developed in Docebo.
- Develop a New Manager Track within the Leadership Learning Community.
- Examine long term impact of the work on job satisfaction and retention.

11

Strategic Priorities

Priority 2
INCREASE STRATEGIC COLLABORATION

THE GOAL

Increase Strategic Collaboration
Establish meaningful relationships to collaboratively address common challenges and leverage resources with and among schools, districts, and NCOE programs.

12

Strategic Priorities

THE WORK *Priority 2*
INCREASE STRATEGIC COLLABORATION

- Worked with representatives across the organization to map and increase access to collaborative groups within and lead by the organization.
- Committed staff/resources to ensure opportunities for collaboration are embedded into the yearly schedule.
- Engaged with Districts and other education partners to deepen and strengthen our collaborative work.

13

Strategic Priorities

THE PRODUCTS *Priority 2*
INCREASE STRATEGIC COLLABORATION

Alignment of Student Programs to LCAP Goals

Created a planning process for aligning student programs with District LCAP goals and implemented with 3 Napa Districts to increase opportunities for effective collaboration with Districts.

14

Strategic Priorities

THE PRODUCTS *Priority 2*
INCREASE STRATEGIC COLLABORATION

Internal Collaborative Groups

Identified, published and encouraged staff participation in Internal Collaborative groups to support job performance and build connections across the organization.

15

Strategic Priorities

THE PRODUCTS *Priority 2*
INCREASE STRATEGIC COLLABORATION

External Collaborative Groups

Documented and published External Collaborative Groups led by NCOE and encouraged organizational awareness and participation.

16

Strategic Priorities

THE PRODUCTS *Priority 2*
INCREASE STRATEGIC COLLABORATION

Explore NCOE

Created a lunchtime series of workshops open to all staff to increase organizational knowledge and facilitate effective collaboration.

<https://napacounty.sharepoint.com/SitePages/Explore-NCOE.aspx>

17

Strategic Priorities

THE PRODUCTS *Priority 2*
INCREASE STRATEGIC COLLABORATION

Staff Calendar

Developed and distributed an annual staff calendar that aligned equity themes, professional learning, cultural events, and collaborative opportunities.

18

Strategic Priorities

THE IMPACT *Priority 2*
INCREASE STRATEGIC COLLABORATION

Explore NCOE has been incorporated into the fabric of the organization with protocols and a staffing plan.

- 18 hour long events have been produced showcasing programs and topics of interest across NCOE
- 186 staff have participated in at least one event
- All NCOE departments are represented with additional in person and virtual options for participations
- Attendance increase 24% from 2022-23 to 2023-24

19

Strategic Priorities

THE IMPACT *Priority 2*
INCREASE STRATEGIC COLLABORATION

97%
of survey respondents learned something new they would use in their work at Explore NCOE

65%
of survey respondents indicated Explore NCOE sparked collaborative ideas.

I liked the updates and keeping informed of what is happening.

I like how everyone comes together in unity.

20

Strategic Priorities

SUSTAINABILITY & NEXT STEPS *Priority 2*
INCREASE STRATEGIC COLLABORATION

- Continue to review evaluation data to ensure Explore NCOE and other collaborative oppoprtnites provide meaningful opportunities for participation .
- Continue to revisit Collaborative Workgroups to update the document, promote opportunities, and discuss need for any additional groups.
- Create an **annual report** on our impact with district and community partners.

21

Strategic Priorities

Priority 3
SUPPORT MENTAL HEALTH AND WELLNESS

THE GOAL

Support Mental Health and Wellness

Provide and/or coordinate an inclusive set of mental health and wellness services for staff, students, and families in a proactive, culturally relevant, and linguistically appropriate manner.

22

Strategic Priorities

Priority 3
SUPPORT MENTAL HEALTH AND WELLNESS

THE WORK

- Established countywide partnerships centering on student/family and adult mental wellness.
- Provided regular and robust professional learning around mental well-being for students, families and staff.
- Provided access to mental wellness resources through communities of practice and web resources for stakeholders to utilize.
- Restructured key positions to incorporate an ongoing mental health and wellness focus into duties.

23

Strategic Priorities

Priority 3
SUPPORT MENTAL HEALTH AND WELLNESS

THE PRODUCTS

Napa County Mental Health Partnership

The Napa County Mental Health Partnership was launched to provide districts resources and collaborative opportunities to expand the scope, quality and sustainability of mental health services.

24

Strategic Priorities

Priority 3
SUPPORT MENTAL HEALTH AND WELLNESS

THE PRODUCTS

Mental Health Professional Learning and Support

Provided Wellness focused training and support opportunities to staff to support well-being and increase connections across the organization.

25

Strategic Priorities

Priority 3
SUPPORT MENTAL HEALTH AND WELLNESS

THE PRODUCTS

Mental Health Resources

Offered students, staff, and families a range of mental health resources, including:

- Calm App
- Care Solace
- Employee Benefits Handbook
- Mental Health and Wellness Referral Brochure

26

Strategic Priorities

Priority 3
SUPPORT MENTAL HEALTH AND WELLNESS

THE IMPACT - DATA

- 96%** Of NCOE staff report that they are aware of the Mental Health & Wellness supports offered by NCOE
- 45%** Report they have accessed the resources and supports over the last year (22-23).
- 11%** The increase in percentage of staff accessing NCOE resources and supports from 21-22 to 22-23. That's a 32% improvement rate.

27

Strategic Priorities

Priority 3
SUPPORT MENTAL HEALTH AND WELLNESS

THE IMPACT

I've appreciated the way new resources have been communicated with staff. The supports feel more "normalized" and less like something you only need when in crisis.

I took advantage of the EAP counseling services, which has been very helpful. Love the Calm app and that I could offer it to my family.

Having a point person now in charge of Mental Health & Wellness, emphasis on Mental Health & Wellness at last managers meeting, access to free Calm app, workshops, so much good stuff!

28

Strategic Priorities

Priority 3
SUPPORT MENTAL HEALTH AND WELLNESS

SUSTAINABILITY & NEXT STEPS

- Provide support to Districts through ongoing collaborative work to access ongoing funding for student mental health services.
- Continue to offer wellness workshops and learning opportunities through professional learning events.
- Maintain and update resource materials.

29

Strategic Priorities

Priority 4
PRACTICE CONTINUOUS IMPROVEMENT AND DATA MANAGEMENT

THE GOAL

Practice Continuous Improvement & Data Management

Provide coaching and training on data literacy and management with an equity focus.

30

Strategic Priorities

THE WORK *Priority 4*
PRACTICE CONTINUOUS IMPROVEMENT AND DATA MANAGEMENT

- Developed and implemented the annual NCOE Staff Survey to measure progress towards goals and assess needs.
- Provided a range of data literacy training to school/districts and NCOE staff.
- Conducted a Data Coaching pilot program.

31

Strategic Priorities

THE PRODUCTS *Priority 4*
PRACTICE CONTINUOUS IMPROVEMENT AND DATA MANAGEMENT

NCOE Staff Survey

The NCOE Annual Staff Survey was developed to assess staff needs and perceptions as well as progress on our strategic priorities.

32

Strategic Priorities

THE PRODUCTS *Priority 4*
PRACTICE CONTINUOUS IMPROVEMENT AND DATA MANAGEMENT

Discover Data Literacy

Conducted lunch time series focusing on various aspects of data literacy to increase knowledge and promote the use of data for improvement among NCOE staff.

33

Strategic Priorities

THE PRODUCTS *Priority 4*
PRACTICE CONTINUOUS IMPROVEMENT AND DATA MANAGEMENT

Data Literacy Coaching

Paired experienced data literacy coaches with staff to help them develop strategies and tools for use in their specific work environment.

I think it was a useful experience for both of us. As a coach, I enjoyed the process and learned some things, and I feel like he learned some things that are going to be helpful for him going forward.

34

Strategic Priorities

THE IMPACT *Priority 4*
PRACTICE CONTINUOUS IMPROVEMENT AND DATA MANAGEMENT

Discover Data Literacy Lunches:

Over 84% of staff respondents would like DISCOVER Data Literacy Lunches to continue in the 2024-25 school year.

Data Viz, Survey Development, Public Dashboards, Pivot Tables, Equity

I love the one-hour format with tangible tools and interactive games. Great format to build capacity in our staff!

Participants: Napa (57), RPDC (133), Zoom (38)

Survey Takers: Napa (12), RPDC (6), Zoom (63)

35

Strategic Priorities

THE IMPACT *Priority 4*
PRACTICE CONTINUOUS IMPROVEMENT AND DATA MANAGEMENT

Discover Data Literacy Lunches:

Data Viz, Survey Development, Public Dashboards, Pivot Tables, Equity

Thinking about the event, how would you rate the following statements?

Statement	Strongly Agree	Agree	Disagree	Strongly Disagree
The event was a good use of my time.	59%	31%	10%	0%
The event was well organized.	60%	35%	5%	0%
I learned something from this event.	53%	42%	5%	0%
The event provided opportunity to connect with colleagues.	53%	41%	6%	0%
I will use a strategy or tool learned from this event.	55%	34%	5%	0%
The event facilities were accessible.	66%	29%	5%	0%
The speakers were engaging.	56%	31%	10%	0%

36

Strategic Priorities

SUSTAINABILITY & NEXT STEPS

Priority 4
PRACTICE CONTINUOUS IMPROVEMENT AND DATA MANAGEMENT

- Continue to build NCOE **data literacy capacity** during Data Literacy sessions and align data literacy coaching to session topics
- Continue to build capacity of district/school leadership in using **improvement methods/tools** to measure educational progress and solve problems
- Support programs in engaging in an **annual improvement project** and creating **improvement stories** they can use in presenting their work.

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D.

Item 4-A
Sept. 03, 2024

TITLE:

Temporary County Certificates

HISTORY:

Education Code Section 44332 authorizes the issuance of Temporary County Certificates for the purpose of authorizing salary payments to certificated employees whose credential applications are being processed. The applicant must make a statement under oath that he or she has duly filed an application for a credential and that to the best of his or her knowledge no reason exists why a certificate should not be issued.

CURRENT PROPOSAL:

Consider approval of Temporary County Certificates. Such certificate shall be valid for not more than one calendar year from the date of issuance. In no event shall a Temporary Certificate be valid beyond the time that the commission either issues or denies the originally requested credential or permit. Therefore, it is necessary to process these certificates in a timely manner. This authorization extends to all public-school districts under the Napa County Office of Education jurisdiction.

FUNDING SOURCE:

Not Applicable

RECOMMENDATION:

It is recommended that the Napa County Board of Education approve the issuance of the Temporary County Certificates presented at this **09/03/2024** meeting.

Prepared by: Sarah White ,Credentials Analyst
08/22/2024

**NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko Ph.D.**

TO: **Napa County Board of Education**
FROM: **Sarah White, Credentials Analyst**
NAPA COUNTY OFFICE OF EDUCATION

DATE: **Sept. 03, 2024**
Item -A

<u>NAME</u>	<u>TYPE</u>	<u>DOJ CLEARED</u>	Waiver 72- HR Public Notice YES
Nyeholt, Brittany	Admin services	6/1/2012	
Urena, Lizbeth	30-Day Sub permit	6/10/2024	

NAPA VALLEY UNIFIED SCHOOL DISTRICT

<u>NAME</u>	<u>TYPE</u>	<u>DOJ CLEARED</u>
Idsoe, Justin	STSP-MS CRED	7/2/2024
Sandoval-Zavala,Roberto	PPS-SOCIAL WORK	6/17/2022
Mejia-Zuazo,Christina	MS CRED	10/12/2006
GUNDLFINGER,SAGE	STSP SPED - ECSE	7/28/2023
Luna-Morales,Claudia	PPS - SOCIAL WORK	6/24/2024
WILLIAMS,MATTEA	STSP-MUSIC	7/26/2023
Vigil,Kristina	PPS SCH PSYCH INTERN	2/28/2024
SZULAWSKI, CIRSTEN	PIP- EdSp MM/SN	9/5/2023
VARGAS,ZAHID	ADULT ED	6/8/2016
MAREK,SHANNON	EdSp INTERN	8/21/2012
Varin,Camille	CLAD PERMIT	6/25/2024
Cosca, Erik	STSP SS CHEM	6/20/2024
CRUZ, KENYA	STSP- SS-MATH	4/25/2024
Campos Rodriguez,Irlanda	PIP MS CRED	9/9/2021
Hernandez Sanchez,Ariadna	PIP EdSP MMSN	6/20/2024
Torres,Amber	EdSp ECSE	6/20/2024
MIER-BUONCRISTIANI, CLARA	MS,ELAM	9/26/2011

**CALISTOGA JOINT UNIFIED SCHOOL
DISTRICT**

Sager, Rebecca	SS- Music INTERN	11/14/2023
----------------	------------------	------------

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Item: 5.B.
August 14, 2024

TITLE:

Item 5.B. Neighbor2Neighbor Resolution 2024-23 AmeriCorps Neighbor2Neighbor (N2N) 2024-2025 "AmeriCorps Neighbor2Neighbor AmeriCorps Program Contract

HISTORY:

The CalSERVES project, under the direction of Sara Sitch, operates an AmeriCorps funded program for the Napa County Office of Education. "The AmeriCorps Neighbor2Neighbor Program" utilizes AmeriCorps who will address loneliness and work to build strong neighborhoods in vulnerable communities. At the end of the first program year, the AmeriCorps members will be responsible for increasing the capacity of host sites to support neighborhood leaders who will in turn engage their neighbors in activities to become more connected, resilient and disaster ready. CalSERVES is funded under competitive grant programs every three years, but funds are actually awarded in annual contract increments.

CURRENT PROPOSAL:

This resolution is required in order to accept the 2024-2025 contracts and funding for the Neighbor2Neighbor Project up to the amount of \$782,987.00.

FUNDING SOURCE:

The Corporation for National and Community Service's AmeriCorps program awards funds to the State of California's community service agency, CaliforniaVolunteers – Office of the Governor (CV). CV then sub-awards funds to NCOE and other entities running AmeriCorps programs in California.

SPECIFIC RECOMMENDATION:

It is recommended that the Board adopt Resolution 2024-23 acknowledging and accepting responsibility for the grant awards and the contracts for the grant awards, approving the term and dollar amount of the contracts, and appointing the Superintendent and/or Chief Business Official to act on the behalf of the Board.

PREPARED BY:

Sara Sitch, Program Director
August 14, 2024

**NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent**

Item 5.B.

**AmeriCorps 2024-2025 “Neighbor2Neighbor Program”
Neighbor2Neighbor AmeriCorps Program Contract
Resolution 2024-23**

BE IT RESOLVED BY THE NAPA COUNTY BOARD OF EDUCATION,
GOVERNING BODY FOR THE NAPA COUNTY OFFICE OF EDUCATION, THAT

Barbara Nemko, Ph.D., County Superintendent of Schools,

OR

Joshua Schultz, Deputy Superintendent of Schools

is hereby authorized to execute for and on behalf of the named applicant, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining federal financial assistance in an amount not to exceed \$782,987.00 to operate the Neighbor2Neighbor AmeriCorps Program Contract in 2024-2025.

Passed and approved this September 3, 2024.

CERTIFICATION

I, Don Huffman, duly elected and President of the NAPA COUNTY BOARD OF EDUCATION, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the NAPA COUNTY BOARD OF EDUCATION, governing body of the NAPA COUNTY OFFICE OF EDUCATION on September 3, 2024.

Date: _____

Don Huffman, President, Napa County Board of Education

Napa County Office of Education
Barbara Nemko, Ph.D., Superintendent

Item: 5.C.
September 3, 2024
Board Meeting

TITLE: Second Reading and Board Approval Biennial Review of Conflict of Interest Board Bylaw and Exhibit (BB 9270 and E 9270)

HISTORY:

The Board is required to update/review the Conflict of Interest Bylaw in even years and submit the Local Agency Biennial Notice to the Board of Supervisors by October 1, 2024.

The Bylaw includes an updated section on Campaign Contributions. The Bylaw is updated to reflect SB 1439 which makes applicable to elected county office of education (COE) officers the prohibition against accepting, soliciting, or directing a contribution of more than \$250 from any party or participant to a proceeding involving a license, permit, or other entitlement for use, including a contract, or from that person's agent, while the proceeding is pending before the County Board of Education and for 12 months following the date a final decision is rendered in the proceeding, and from participating in making, or in any way attempting to use the official position to influence the County Board's decision when a COE officer received a contribution of more than \$250 from a party or participant in the preceding 12 months, as specified.

There are no changes to identified positions indicated in the Exhibit.

CURRENT PROPOSAL:

The Conflict of Interest Board Bylaw (BB 9270) should be updated to the CSBA version, reflecting current requirements.

FUNDING SOURCE: n/a

SPECIFIC RECOMMENDATION:

It is recommended that the Board approve the Conflict of Interest Board Bylaw and Exhibit (BB 9270 and E 9270).

PREPARED BY:

Julie McClure, Associate Superintendent

8/20/2024

Board Bylaw 9270: Conflict Of Interest

Status: DRAFT

Original Adopted Date: 01/13/1998 | **Last Revised Date:** 01/05/2021

CSBA NOTE: The following County Board of Education Bylaw addresses legal requirements related to conflict of interest for California county boards of education only. County boards that hire the County Superintendent of Schools (Sacramento, San Diego, San Francisco, and Santa Clara) and the Los Angeles County Board of Supervisors who hire the County Board and the County Superintendent, may modify the bylaw to make it applicable to the County Superintendent as appropriate. In addition, in appropriate circumstances, sections of this bylaw that are expressly applicable only to a county board may be modified to make them applicable to a hired county superintendent or any consultant hired by the County Board as appropriate. For example, the section below entitled "Conflict of Interest under Government Code 1090 - Financial Interest in a Contract" may be modified to include references to the County Superintendent and/or consultant, if appropriate.

Generally, the County Superintendent will adopt a superintendent policy that meets conflict of interest code requirements and designates the disclosure requirements and categories applicable to the County Superintendent and county office of education staff (COE). However, if such a County Superintendent policy has not been adopted, the County Board of Education should consult with the County Superintendent to ensure that all conflict of interest code requirements are being met.

The determination as to whether a conflict of interest exists must be analyzed under two separate sets of statutes: (1) the conflict of interest provisions of the Political Reform Act (PRA) (Government Code 87100-87505), detailed in the section below entitled "Conflict of Interest under the Political Reform Act," and (2) Government Code 1090-1098, detailed in the section below entitled "Conflict of Interest under Government Code 1090 - Financial Interest in a Contract." Even when a conflict does not exist pursuant to those statutes, a violation may still occur under the common law doctrine against conflict of interest; see the section below entitled "Common Law Doctrine Against Conflict of Interest."

Because the law and definitions are quite complex, it is strongly recommended that the County Board consult with CSBA's District and County Office of Education Legal Services or COE legal counsel and staff from the Fair Political Practices Commission (FPPC), as soon as a potential conflict is presented.

The County Board of Education desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the county office of education (COE) and the public. In accordance with law, County Board members shall disclose any conflict of interest and, as necessary, shall abstain from participating in any decisions or discussions that could affect or be effected by those interests, especially, as prohibited by Government Code 1090, those interests related to contracts. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

CSBA NOTE: The County Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313. County Board members are required by Government Code 87500 to annually file a Statement of Economic Interest/Form 700 to disclose any assets and income which may be materially affected by official actions. Under the PRA, there are two separate categories of Form 700 disclosure requirements. Pursuant to Government Code 87302, the disclosure requirements for most County Board members are determined by the County Board and set forth in the conflict of interest code. However, for County Board members who "manage public investments," Government Code 87200 also applies. Those County Board members referred to by the FPPC as Government Code 87200/Article 2 filers must file broader disclosure statements pursuant to the disclosure requirements specified in law and FPPC regulation.

Pursuant to Government Code 87303, the conflict of interest code must be approved by the appropriate code reviewing body. For COE's that have jurisdictions entirely in one county, the code reviewing body is the board of supervisors of the county in which the COE is located. The FPPC is the code reviewing body for those COEs with jurisdiction covering more than one county.

Pursuant to FPPC regulation 2 CCR 18730, the requirements of the Government Code are satisfied if the County Board adopts a conflict of interest code that incorporates 2 CCR 18730 by reference, along with a list of designated positions and disclosure categories. The accompanying exhibit contains a sample resolution which includes an appendix with designated positions and disclosure categories which, once adopted by the County Board, will comprise the terms of the conflict of interest code that should be submitted to the County Board of Supervisors. The designated positions in the County Board's conflict of interest code will include County Board members, and, when applicable County Board consultants and the County Superintendent if hired by the County Board. If the

County Board does not wish to adopt a resolution as its conflict of interest code, it should modify the following paragraph accordingly.

The Board shall review the Napa County Office of Education's conflict of interest code in even-numbered years. If no change in the code is required, the Napa County Office of Education shall submit by October 1 a written statement to that effect to the code reviewing body, the County Board of Supervisors. If a change in the code is necessitated by changed circumstances, the Napa County Office of Education shall submit an amended code to the code reviewing body. (Government Code 87306.5)

When a change in the conflict of interest code is necessitated due to changed circumstances, such as the hiring of a new consultant in a position that is not already designated in the conflict of interest code or a change to an existing consultant's scope of work in a manner that changes the consultant's position to a designated position, the amended code shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

When reviewing and preparing the conflict of interest code, the County Board shall provide members of the community, the County Superintendent of Schools, COE staff, and consultants of the County Board adequate notice and a fair opportunity to present their views. (Government Code 87311)

County Board members shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the conflict of interest code. A County Board member who leaves office shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date of leaving office. (Government Code 87302, 87302.6)

Conflict of Interest under the Political Reform Act

CSBA NOTE: The FPPC has adopted an eight-step analysis, detailed in Government Code 87100-87500, 2 CCR 18700-18755, and interpretive opinions, to determine whether a conflict of interest exists under the PRA. When such a conflict exists, the affected County Board member must disclose the interest and not participate in the decision, as specified below. Because Family Code 297.5 grants a registered domestic partner the same rights, protections, and benefits as a spouse under state law, analysis of a conflict of interest with regards to a County Board member's spouse is also applicable to a registered domestic partner.

A County Board member shall not make, participate in making, or in any way use or attempt to use the official position to influence a governmental decision in which the County Board member knows or has reason to know that there is a disqualifying conflict of interest. A conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the County Board member's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the County Board member's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A County Board member is involved in making a governmental decision when, acting within the authority of the office or position, votes on a matter, appoints a person, obligates or commits the County Board to any course of action, or votes to enter into or approve any contractual agreement on behalf of the County Board. (2 CCR 18704)

A County Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the County Board shall abstain from voting on the matter. Although the County Board member may remain on the dais, if the County Board member chooses to stay the County Board member's presence shall not be counted towards achieving a quorum for that matter. A County Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the County Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18700)

Conflict of Interest from Campaign Contributions

CSBA NOTE: Pursuant to Government Code 84308, as amended by SB 1439 (Ch. 848, Statutes of 2022), elected COE officers, such as County Board members, and "agency heads", which likely include County Superintendents, are prohibited from participating in decisions involving parties who have provided campaign contributions of more than \$250 in the prior 12 months to the officer's campaign committee. Such officers are also prohibited from accepting, soliciting, or directing campaign contributions of more than \$250 from a party or participant who has a financial interest in a County Board decision, to any campaign committee while the decision is pending and for 12 months after the decision is made. These provisions do not apply to labor contracts, competitively bid contracts, and personal employment contracts.

To avoid improper influence over the County Board's decision-making involving the issuance of a license, permit, or other entitlements for use, including a contract, COE officers, which includes County Board members or agency

heads, shall comply with Government Code 84308, including the following: (Government Code 84308)

1. A COE officer is prohibited from accepting, soliciting, or directing a contribution of more than \$250 from any party or participant to a proceeding involving a license, permit, or other entitlement for use, including a contract, or from that person's agent, while the proceeding is pending before the County Board and for 12 months following the date a final decision is rendered in the proceeding, if the County Board member knows or has reason to know that the party or participant has a financial interest in the County Board's decision.
2. Any COE officer who received a contribution of more than \$250 from a party or participant in the preceding 12 months shall disclose that fact on the record of the proceeding prior to the County Board rendering a decision in the proceeding. If the COE officer willfully or knowingly received the contribution and knows or has reason to know that the participant has a financial interest in the County Board's decision, the COE officer shall not make, participate in making, or in any way attempt to use the official position to influence the County Board's decision.
3. A COE officer who receives a contribution that would otherwise require disqualification as described in Item #2 above may participate in the proceeding if the contribution is returned within 30 days from the time the COE officer knows or should have known about the contribution and the proceeding.
4. A COE officer who unknowingly accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date of the County Board's final decision on the proceeding may cure the violation by returning the contribution, or the portion exceeding \$250, within 14 days of accepting, soliciting, or directing the contribution, provided the COE officer did not knowingly or willfully accept, solicit, or direct the prohibited contribution. The COE officer shall maintain records of curing the violation.

The provisions in Government Code 84308 as specified above do not apply to labor contracts, competitively bid contracts, and personal employment contracts. (Government Code 84308)

Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

CSBA NOTE: Pursuant to Government Code 1090, if a County Board member has a financial interest in a contract, it is an absolute bar for that County Board to enter into the contract. The Attorney General has opined in 69 Ops.Cal.Atty.Gen. 255 (1986) that, unlike the PRA, the prohibitions in Government Code 1090 cannot be resolved by having the financially interested County Board member abstain from participating in the matter. However, there are two categories of exceptions. If a financial interest meets the definition of a "noninterest" as specified in Government Code 1091.5, then the restrictions in Government Code 1090 do not apply and the County Board can enter into the contract. Secondly, if a County Board member's interest is deemed a "remote interest" pursuant Government Code 1091, then the County Board can enter into the contract as long as certain conditions are satisfied, as specified below.

Pursuant to Education Code 1042, the County Board may, on a limited basis, contract with and employ persons for the purpose of furnishing the County Board with special services. The prohibitions in Government Code 1090 apply to any County Board employees and consultants, including a hired county superintendent. However, the Attorney General has opined in 63 Ops.Cal.Atty.Gen. 868 (1980) that an employee's financial interest would not prohibit the County Board from entering into a contract as long as the employee has not participated in the making of the contract, such as in discussions and planning, as detailed below.

Government Code 1090 does not define financial interest, but courts have held that, for the purposes of this statute, the definition of "financial interest" is not the same as the definition in the PRA which requires a "material financial effect" in order for a conflict to exist. Because the determination of whether a financial interest exists involves a review of statutes, court decisions, and Attorney General opinions as they apply to the particular facts at issue, the analysis can be complex and CSBA's District and County Office of Education Legal Services or COE legal counsel should be consulted as appropriate.

County Board members shall not be financially interested in any contract made by the County Board and shall not be included in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids for such contracts. If a County Board member has such a financial interest, the County Board is barred from entering into the contract. (Government Code 1090)

CSBA NOTE: Pursuant to Government Code 1091.5, certain financial interests are defined as "noninterests," meaning a conflict of interest does not exist and the County Board can enter into the contract. One of the

noninterests listed in Government Code 1091.5 is when a County Board member's spouse has been employed by the County Board for at least one year prior to the County Board member's election or appointment. The Attorney General has opined in 80 Ops.Cal.Atty.Gen. 320 (1997) that when a spouse has not been employed for at least one year prior the County Board member's election or appointment, the exception does not apply and Government Code 1090 prohibits the County Board from entering into a new contract to hire the spouse.

Attorney General opinions and case law have further clarified the application of this noninterest exception when a previously employed spouse changes to a different position during the County Board member's term. Generally, these opinions (92 Ops.Cal.Atty.Gen. 26 (2009), 87 Ops.Cal.Atty.Gen. 23 (2004)) have held that a lateral transfer or change of classification that does not require County Board approval is the same employment not requiring a new contract and thus constitutes a noninterest. However, in *Thorpe v. Long Beach Community College District* and 69 Ops.Cal.Atty.Gen. 255 (1986) it was found that when a new contract is involved, the exception in Government Code 1091.5 does not apply and the action would be prohibited under Government Code 1090 because County Board approval of the contract is required.

To avoid the appearance of impropriety, County Board members may decide not to participate in any discussion or action involving contracts where the County Board member's interest is a "noninterest" or "remote interest."

Because this area of law is complex, it is strongly recommended that CSBA's District and County Office of Education Legal Services or COE legal counsel be consulted if a County Board member's spouse is an employee of the County Board or the COE, or when analyzing whether an interest is a noninterest or remote interest.

A County Board member shall not be considered to be financially interested in a contract if the interest is a "noninterest" as defined in Government Code 1091.5.

CSBA NOTE: The County Board may vote to enter into or approve a contract when a County Board member's interest is a "remote interest" as defined in Government Code 1091. Generally, this issue arises when the County Board wishes to enter into a contract with the County Board member's employer. When the conditions specified in Government Code 1091 are satisfied (e.g., County Board member is an employee of a nonprofit organization, the employer has at least 10 employees, and the County Board member has been employed more than three years), then the County Board may enter into the contract as long as the affected County Board member discloses the remote interest and abstains from the matter. County Board members who willfully fail to disclose a remote interest in a contract may be subject to a fine or imprisonment pursuant to Government Code 1097.

A County Board member shall not be considered to be financially interested in a contract if the County Board member has only a "remote interest" in the contract as specified in Government Code 1091 and if the remote interest is disclosed during a County Board meeting and noted in the official County Board minutes. The affected County Board member shall not vote or debate on the matter or attempt to influence any other County Board member's vote. (Government Code 1091)

To avoid the appearance of impropriety, County Board members may decide not to participate in any discussion or action involving contracts where the County Board member's interest is a "noninterest" or "remote interest" as described in Education Code 1091 and 1091.5.

Common Law Doctrine Against Conflict of Interest

CSBA NOTE: Even when there is not a conflict pursuant to the PRA (Government Code 87100-87505) or Government Code 1090, the Attorney General has found that special situations may still exist under the common law doctrine against conflict of interest which, unlike the statutes, extends to noneconomic interests. In 92 Ops.Cal.Atty.Gen. 19 (2009), the Attorney General opined that a redevelopment board member should abstain from voting on a loan agreement where the recipient of the loan was a corporation owned by the board member's adult son. Although the board member was not financially interested in the contract under the PRA or Government Code 1090, the Attorney General determined that abstention was necessary in order to avoid a conflict between the member's official and personal interests and to avoid the appearance of impropriety.

The County Board is encouraged to consult CSBA's District and County Office of Education Legal Services or COE legal counsel if situations arise that raise the question as to whether such a conflict exists.

A County Board member shall abstain from any official action in which the County Board member's private or personal interest may conflict with official duties. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

County Board members shall abstain from voting on personnel matters that uniquely affect relatives. Relative means

an adult who is related to the County Board member by blood, affinity, or adoptive relationship within the third degree.

A relationship within the third degree includes an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

Rule of Necessity or Legally Required Participation

CSBA NOTE: Pursuant to Government Code 87101, when a conflict exists under the PRA, the County Board may still enter into a contract if the rule of necessity or legally required participation applies. In general, this rule will permit a County Board to acquire an essential supply or service. The rule also permits a County Board member to carry out an essential duty of the office in accordance with 2 CCR 18705, where the County Board member is the only one who may legally act and there is no alternative source of decision-making authority. It is recommended that CSBA's District and County Office of Education Legal Services or COE legal counsel be consulted when situations arise involving the rule of necessity.

On a case-by-case basis and upon advice of legal counsel, a County Board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18705.

Incompatible Offices and Activities

CSBA NOTE: Government Code 1099 and 1126 prohibit County Board members from engaging in any employment or activity which is inconsistent, incompatible, in conflict with, or inimical to their duties as a County Board member.

The Attorney General has opined (105 Ops.Cal.Atty.Gen. 69 (2022); 85 Ops.Cal.Atty.Gen. 60 (2002); 68 Ops.Cal.Atty.Gen. 171 (1985); 65 Ops.Cal.Atty.Gen. 606 (1982)) that it would be incompatible for County Board members to serve on other elected or appointed boards, councils, or commissions that have interests which may conflict with the interests of the COE. If a County Board member is sworn into an incompatible office, then the County Board member's position in the prior office is automatically terminated.

The determination as to whether an activity or office is incompatible is complex and requires a case-by-case analysis of the particular activities or duties of the office; therefore, it is recommended that CSBA's District and County Office of Education Legal Services or COE legal counsel be consulted as appropriate.

County Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the County Board member's duties as an officer of the COE. (Government Code 1099, 1126)

Gifts

CSBA NOTE: Pursuant to 2 CCR 18730, the gift limitation is currently \$520. This amount is adjusted in odd-numbered years by the FPPC. Pursuant to Government Code 89503, County Board members and candidates are subject to gift limitation for gifts from all sources except when exempted by law or regulation. For those County Board members who file a Form 700 based on the disclosure categories specified in the conflict of interest code pursuant to Government Code 87302 (see the accompanying exhibit), the gift limit is only applicable to those individuals and entities that are disclosed on the Form 700.

Exceptions exist within Government Codes 82028, 82030, 82033, and 82034 as specified in the definitions of gifts, income, interest in real property, and investment. If questions arise as to such exceptions, the COE may seek clarification from the FPPC through email to advice@fppc.ca.gov or consult CSBA's District and County Office of Education Legal Services or COE legal counsel.

County Board members may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitation on gifts does not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the County Board for its members. (Government Code 89506)

Honoraria

County Board members shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, in accordance with law. (Government Code 89501, 89502)

The term honorarium does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession unless the sole or predominant activity of the business, trade, or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the COE for donation into the general fund without being claimed as a deduction from income for tax purposes

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Management Resources References

Description

Attorney General Opinion	105 Ops.Cal.Atty.Gen.69 (2022)
Attorney General Opinion	92 Ops.Cal.Atty.Gen. 26 (2009)
Attorney General Opinion	92 Ops.Cal.Atty.Gen. 19 (2009)
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 217 (2006)
Attorney General Opinion	86 Ops.Cal.Atty.Gen. 138(2003)
Attorney General Opinion	85 Ops.Cal.Atty.Gen. 60 (2002)
Attorney General Opinion	82 Ops.Cal.Atty.Gen. 83 (1999)
Attorney General Opinion	81 Ops.Cal.Atty.Gen. 327 (1998)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 320 (1997)
Attorney General Opinion	69 Ops.Cal.Atty.Gen. 255 (1986)
Attorney General Opinion	68 Ops.Cal.Atty.Gen. 171 (1985)
Attorney General Opinion	65 Ops.Cal.Atty.Gen. 606 (1982)
Attorney General Opinion	63 Ops.Cal.Atty.Gen. 868 (1980)
Court Decision	Thorpe v. Long Beach Community College District (2000) 83 Cal.App.4th 655
Court Decision	McGee v. Balfour Beatty Construction, LLC, et al. (2016) 247 Cal.App.4th 235
Court Decision	Kunec v. Brea Redevelopment Agency (1997) 55 Cal.App.4th 511
Court Decision	Klistoff v. Superior Court (2007) 157 Cal.App.4th 469
Court Decision	Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261
CSBA Publication	Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010
Fair Political Practices Commission Publication	Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005
Institute For Local Government Publication	Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009
Institute for Local Government Publication	Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

Management Resources References

Website

Website

Website

State References

2 CCR 18110-18997

2 CCR 18700-18760

2 CCR 18722-18740

2 CCR 18753-18756

Ed. Code 1006

Ed. Code 35107

Ed. Code 35230-35240

Ed. Code 35233

Ed. Code 41000-41003

Ed. Code 41015

Fam. Code 297.5

Gov. Code 1090-1099

Gov. Code 1125-1129

Gov. Code 52334-53235.2

Gov. Code 81000-91014

Gov. Code 82011

Gov. Code 82019

Gov. Code 82028

Gov. Code 82030

Gov. Code 82033

Gov. Code 82034

Gov. Code 84308

Gov. Code 87100-87103.6

Gov. Code 87200-87210

Gov. Code 87300-87313

Gov. Code 87500

Gov. Code 89501-89503

Gov. Code 89506

Gov. Code 91000-91014

Pen. Code 85-88

Public Contract Code 6102

Rev. & Tax Code 203

Cross References

9222

Description[Institute for Local Government](#)[Fair Political Practices Commission](#)[CSBA](#)**Description**[Regulations of the Fair Political Practices Commission](#)[Conflicts of Interest](#)[Disclosure of interests](#)[Conflict of interest codes](#)[Prohibition against school district employees serving on county board of education](#)

School district employees

Corrupt practices

Prohibitions applicable to members of governing boards

Moneys received by school districts

Investments

Rights, protections, and benefits of registered domestic partners

Prohibitions applicable to specified officers

Incompatible activities

Ethics training

Political Reform Act of 1974

Code reviewing body

[Designated employee; definition](#)

Gift; definition

Income; definition

Interest in real property; definition

Investment; definition

Campaign disclosure

General prohibitions

Disclosure

[Conflict of interest code](#)

Statement of economic interests

Honoraria and gifts

Ethics; travel

Enforcement

Bribes

Awarding of contracts

Taxable and exempt property - colleges

Description[Resignation](#)

Cross References

9230

9321

9323

Description[Orientation](#)[Closed Session](#)[Meeting Conduct](#)

APPENDIX

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

1. Persons occupying the following positions are designated employees (Government Code 87302):

Governing Board Members

Superintendent of Schools

Deputy Superintendent and Chief Business Official

Associate Superintendent

Directors

Designated persons in this category must report:

a. Interests in real property located entirely or partly within the local education agency's boundaries, or within two miles of agency's boundaries or of any land owned or used by the agency. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property except for those associated with a residence used exclusively as a personal residence.

b. Investments or business positions in or income from sources which:

(1) Are engaged in the acquisition or disposal of real property within the local education agency's boundaries

(2) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the Napa County Office of Education or

(3) Manufacture or sell supplies, books, machinery or equipment of the type used by the Napa County Office of Education

2. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

3. A consultant is an individual who, pursuant to a contract with the Napa County Office of Education, makes a governmental decision whether to: (2 CCR 18701)

a. Approve a rate, rule or regulation

b. Adopt or enforce a law

c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement

d. Authorize the Napa County Office of Education to enter into, modify or renew a contract that

requires approval of the local education agency

e. Grant Napa County Office of Education approval to a contract or contract specifications which require agency approval and in which the agency is a party

f. Grant Napa County Office of Education approval to a plan, design, report, study or similar item

g. Adopt or grant Napa County Office of Education approval of agency policies, standards or guidelines

A consultant is also an individual who, pursuant to a contract with the Napa County Office of Education, serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the Napa County Office of Education's Conflict of Interest Code. (2 CCR 18701)

Board Bylaw 9270: Conflict Of Interest

Status: ADOPTED

Original Adopted Date: 01/13/1998 | **Last Revised Date:** 01/05/2021 | **Last Reviewed Date:** 01/05/2021

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. In accordance with law, Board members and designated employees shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision.

Incompatible Activities

Governing Board members shall not engage in any employment or activity that is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the Napa County Office of Education. (Government Code 1126)

An employee of Napa County Office of Education may not be sworn into office as an elected or appointed member of that agency's Board unless he/she resigns as an employee. If the employee does not resign, the employment automatically terminates when he/she is sworn into office. (Education Code 35107)

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the Napa County Office of Education. (Government Code 1099, 1126).

Conflict of Interest Code

The Napa County Office of Education's conflict of interest code shall be used to determine whether a conflict of interest exists in relationship to two separate sets of statutes: (1) the conflict of interest provisions of the Political Reform Act (PRA) (Government Code 87100-87500.1), detailed in the section below entitled "Conflict of Interest under the Political Reform Act," and (2) Government Code 1090-1098,

The Board shall review the Napa County Office of Education's conflict of interest code in even-numbered years. If no change in the code is required, the Napa County Office of Education shall submit by October 1 a written statement to that effect to the code reviewing body, the County Board of Supervisors. If a change in the code is necessitated by changed circumstances, the Napa County Office of Education shall submit an amended code to the code reviewing body. (Government Code 87306.5)

When a change in the Napa County Office of Education's conflict of interest code is necessitated by changed circumstances such as the creation of new designated positions, amendments or revisions shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

When reviewing and preparing conflict of interest codes, the Napa County Office of Education shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR 18700)

Statements of economic interests submitted to the Napa County Office of Education by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

Financial Interest

A Board member or designated employee shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the Board member's or designated employee's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the Board member's or designated employee's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A Board member or designated employee makes a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the County Office to

any course of action, or enters into any contractual agreement on behalf of the County Office. (2 CCR 18702.1)

A Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Board shall abstain from voting on the matter. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that matter. A Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18702.1)

A Board member shall abstain from any official action in which his/her private or personal financial interest may conflict with his/her official duties.

A Board member shall not be considered to be financially interested in a contract if his/her interest includes, but is not limited to, any of the following: (Government Code 1091.5)

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public local education agency of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091
4. That of a spouse of an officer or employee of the Napa County Office of Education if his/her spouse's employment or office holding has existed for at least one year prior to his/her election or appointment
5. That of a non-salaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a non-compensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the nonprofit board or to which the school Board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

In addition, a Board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code 1091.5)

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

A Board member may enter into a contract if the rule of necessity or legally required participation applies as defined

in Government Code 87101.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

A relationship within the third degree includes the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Gifts

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

Gifts of travel, including public transportation, and related lodging and subsistence shall be subject to the prevailing gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the Napa County Office of Education for Board members and designated employees. (Government Code 89506)

Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, in accordance with law. (Government Code 89501, 89502)

The term honorarium does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches.
 2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the Napa County Office of Education for donation into the general fund without being claimed as a deduction from income for tax purposes.
-

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Item # 5.D.

September 3, 2024

TITLE: Board Interview and Approval of Appointment of Student Board Member (s)

HISTORY:

Under Assembly Bill 824, county boards of education are authorized to appoint high school students as members of their governing boards. The term of each student member will be one year. The Student Board Member will have a preferential vote and receive the materials and access outlined in Board Bylaw 9150.

The Board received an application from one qualified applicant for the Student Board Member position, Ernesto Villalvazo.

CURRENT PROPOSAL:

It is recommended the Board interview and appoint if selected Student Board Member applicant Ernesto Villalvazo to the Napa County Board of Education for 2024-2025.

FUNDING SOURCE:

N/A

SPECIFIC RECOMMENDATION:

It is recommended that the Board interview and approve if selected the appointment of Ernesto Villalvazo to the Napa County Board of Education as the Student Board Member for 2024-2025.

Prepared by: Julie McClure
8/30/24

**Interview Questions for Student Representative
to the Napa County Board of Education**

Applicant: _____

1. As a Napa County Office of Education Board Member, you will represent the students at Camille Creek Community School. What qualities or skills do you have that will help you in your role as a board member?

Rating 1 (poor) – 5 (excellent) _____

2. How will you communicate with the students at the school to best understand their views on school needs?

Rating 1 (poor) – 5 (excellent) _____

3. Name three areas of improvement needed for students at Camille Creek that you would like to influence as a student board member.

Rating 1 (poor) – 5 (excellent) _____

4. Being a Board Member involves speaking in public. What is your comfort level with public speaking?

Rating 1 (poor) – 5 (excellent) _____

5. How will you manage your time to ensure you can review the board packet sent the Friday before the meeting? How will you arrange your schedule and transportation to be present at each meeting the first Tuesday of each month from 3:30 - approximately 6:00pm?

Rating 1 (poor) – 5 (excellent) _____

6. What do you feel that you would gain from the experience of being a student board representative for the Napa County Office of Education?

Rating 1 (poor) – 5 (excellent) _____

Notes:

Interviewer Signature _____

Date _____

Student Board Member Application-24/25

Name: Ernesto (Ernie) Villalvazo

Grade: 11

Statement of Interest:

As a student, I've experienced ups and downs in my school years. There have been times in my school years where I was disrespectful to students and staff, but have also felt disrespected. Since starting school at Camille Creek, I've felt a calm and more bearable school experience. I get treated with respect by the adults on campus even though I'm a student. I haven't always felt that way at my other schools and I feel like I've had the opportunity to get much more involved in what happens on campus. I'm currently part of the Camille Creek Tech Team and am working with the Culinary program in addition to my regular academics. I've always been a good leader and want to be a school board member so that I can enrich my own experience and make staff and students' experiences better. I look forward to being able to be a voice for my school when it comes to academic and extracurricular materials.

I think being on the school board will allow me to learn from people who have more experience and to learn more about how schools work. If given the opportunity, I know I will represent Camille Creek well.

SIGNATURE: By completing and submitting I understand, if chosen, I will be expected to TYPE FULL NAME BELOW

Ernie Villalvazo

To Whom It May Concern,

I am writing to provide my highest recommendation for Ernesto Diaz, who has been under my supervision over the past 4 months during his participation of ERD. During this time, I have had the opportunity to observe Ernesto grow, mature, and demonstrate significant personal and academic improvement as well as great leadership skills.

From the beginning of my time working with Ernesto he has demonstrated a strong determination to propel himself forward in life and make positive changes. I have been impressed by his commitment to fulfilling his regular attendance at school and participation in community service.

Throughout his time on probation, Ernesto Diaz consistently demonstrates a positive attitude and a willingness to learn from his past experiences. He has shown resilience in the face of adversity and has worked hard to rebuild trust with his family, peers, and the community.

I believe that Ernesto has a bright future ahead and is fully capable of continuing on a positive path. He has demonstrated the qualities of perseverance, responsibility, leadership and self-awareness, which will serve him well in his future endeavors.

I wholeheartedly recommend Ernesto Diaz for a position as Student Board Member for Napa County Office of Education, as I am confident that he will make the most of this opportunity and continue to grow into a responsible and successful individual.

Please feel free to contact me if you require any further information or if you have any questions.

Sincerely,

Gregory Ervin JR

Case Manager/Prevention Specialist

Aldea Inc.

Friday, August 30th, 2024

To Whom It May Concern,

It is with great pleasure that I have the opportunity to write a letter of recommendation for Ernesto Villavalzo to join the County School Board as a student representative. I have only known Ernie for only a few weeks but he has been a great addition to Camille Creek Community School. Starting with our program this summer he became a dependable and reliable volunteer in both our Kitchen and on campus Technology programs. Socially Ernie is extremely pleasant, kind and respectful to all students and staff on campus. Ernie also is willingly participating in on campus therapy as he continues to better himself and he recently was hired to work at Taco Bell. Ernie has shown his commitment in a variety of ways in a short time that makes me believe he would do extremely well on the board. Please feel free to reach out to contact me with any questions regarding Ernesto's application.



Jeffrey R. Scott
Teacher
Camille Creek Community School
jrscott@napacoe.org

Garrett Sathre
Technology Coordinator
Camille Creek Community School
gsathre@napacoe.org
8/30/2024

Dear Selection Committee,

I am writing to enthusiastically recommend Ernie Diaz for a position on the Napa County Office of Education (NCOE) Student Board. As Ernie's teacher, my short time with Ernie beginning last year I have had the pleasure of witnessing his growth and development throughout the school year and I am confident that he would make an outstanding addition to the NCOE Student Board.

Ernie is a remarkable young man who shows the qualities of leadership, thoughtfulness, and kindness. He is exceptionally articulate, often contributing insightful perspectives during class discussions and group projects. His ability to communicate effectively and consider the viewpoints of others has earned him the respect of both his peers and teachers.

One of Ernie's most notable characteristics is his stellar school attendance. His commitment to his education is unwavering, and he consistently demonstrates responsibility and punctuality. Ernie's dedication is further reflected in his willingness to go above and beyond what is expected of him. Whether it's volunteering for school events, helping classmates with their work, or taking on additional responsibilities.

Beyond his academic achievements and work ethic, Ernie is known for his warm demeanor and positive personality. He is approachable, friendly, and always willing to lend a helping hand. His ability to connect with others, coupled with his strong sense of empathy, makes him an excellent candidate for the NCOE Student Board, where collaboration and understanding are key.

I have no doubt that Ernie would bring a thoughtful and considerate voice to the NCOE Student Board. His leadership, dedication, and integrity make him an ideal representative for his peers and a valuable asset to your organization.

Thank you for considering Ernie for this opportunity. Please feel free to contact me if you require any further information.

Sincerely,
Garrett Sathre

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Items: 5.E.
September 3, 2024

TITLE:

Authorization to File Notice of Exemption (NOE) for California Environmental Quality Act (CEQA) requirements for Renewable Energy Project.

HISTORY:

The Napa County Office of Education is in the process of developing renewable energy project in the parking lots at the Napa Preschool Program and Camille Creek. The purpose of these projects would be to lower energy costs resulting in savings for the general fund, reducing NCOE's carbon footprint, and accessing incentive and special financing programs.

In accordance with the California Environmental Quality Act (CEQA), the project would qualify for a Categorical Exemption under Title 14 CCR, Article 19, Section 15301, Class 1. CEQA does not require that a Notice of Exemption (NOE) be filed, however if a NOE is filed a shorter statute of limitations of 35 days commences for any challenge to the project. If a NOE is not filed, the normal 180-day statute of limitations would apply to the project.

The Napa County Office of Education has considered the environmental impact of the renewable energy project in accordance with CEQA and its guidelines. The project would have no significant adverse environmental impacts and qualifies for a Categorical Exemption under title 14 CCR, Article 19, Section 15301, Class 1. Authorization by the Board is requested to File Notice of Exemption under the California Environmental Quality Act for a Renewable Energy Project at the Napa Preschool Program and the Camille Creek Community School.

FUNDING SOURCE:

General Fund.

SPECIFIC RECOMMENDATION:

Authorize staff to File the Notice of Exemption.

Prepared by: Joshua Schultz
August 29, 2024

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Item # 6.B.

September 3, 2024

TITLE: Provisional Appointment, Trustee Area 4 Vacancy

HISTORY:

Ann Cash, Napa County Board of Education Trustee for Area 4, submitted her resignation on July 10, 2024. Ann was appointed on August 20, 2001 as an interim trustee, then first elected in November 2002.

When any vacancy exists on the County Board of Education the Board shall, within 60 days, order an election or make a provisional appointment to fill it. On July 16, 2024, the Napa County Board of Education approved moving forward with a provisional appointment. Due to the effective date of the vacancy being less than 130 days before the next election, a person appointed to fill the vacancy shall hold the position until the expiration of Ann Cash's term, which is December 9, 2026.

CURRENT PROPOSAL:

Board to review applications, interview and appoint applicant for Trustee Area 4 vacancy.

FUNDING SOURCE:

Not Applicable.

SPECIFIC RECOMMENDATION:

Board to review applications, interview and appoint applicant for Trustee Area 4 vacancy.

Prepared by: Julie McClure

JM/es

August 28, 2024

_____ 6. What do you know about the services the Napa County Office of Education provides in Napa? How would you like to see support from the County Office expanded in Napa?

_____ 7. Have you had the opportunity to review the Napa County Office of Education Board Policies? Specifically, do you have an understanding for the time obligation and the meetings requirements?

_____ **Total Overall Rating**

Additional Comments: _____



TRUSTEE AREA 4 CANDIDATE APPLICATION FORM

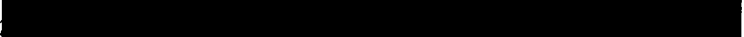
Please complete the Candidate Application Form by 4:30 PM on Wednesday, August 21, 2024. Applications should be returned to the Napa County Office of Education, 2121 Imola Avenue, Napa, CA, 94559 or by email to esitter@napacoe.org, by 4:30 PM on Wednesday, August 21, 2024. Application forms received after that date and time will render the applicant ineligible for consideration for this provisional appointment to the position of trustee.

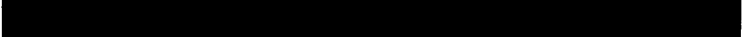
Any registered voter who resides within Trustee Area 4 (visit bit.ly/NCBOElookup to confirm your address) is eligible to be a member of the County Board of Education except the County Superintendent of Schools, any member of the County Superintendent's staff, or any employee or board member of a school district or charter school within Napa County. For more information see NCOE board policy 9220 and 9223 – visit napacoe.org/board-of-education/policies/ to access.

For more information contact the Superintendent's Office at (707) 253-6810 or esitter@napacoe.org.

Name: *Mary Elke*

Home Address: 

Email Address: 

Phone Number: 

Employer Name: *Self/semi-retired; grape grower under contract with Fer Menté winery*

Employer Address: *N/A*

Employer Phone Number: *N/A*

[SEE PAGE 2]



NAPA COUNTY OFFICE
OF
EDUCATION

707.253.6810
info@napacoe.org
www.napacoe.org
@NapaCOE

Please answer the following questions using no more than 500 words for each response on a separate sheet of paper. Applicants must also submit a one-page résumé.

1. Why do you want to serve as a member of the Napa County Board of Education?
2. In what school and/or community committees or activities have you been active? Please describe your contributions and what, in your opinion, makes you uniquely qualified to represent Trustee Area 4.
3. What strengths, skills, and interests will you add to the Board?
4. Identify any potential conflict of interest that you might have or that the community might perceive that you have, and state how you would overcome that conflict.

Please see attached.

- 1. I firmly believe in the value of public schooling. It provides the opportunity for all the diverse communities in Napa Valley to intersect and share goals for our children.**
- 2. I have had not direct involvement in the schools in Napa Valley. Since 1979, I have been a grape grower in Napa and vineyard manager in Mendocino County. I have been a 35 year member of the Napa Valley Grapegrowers Assoc., and was a member of the Farmworker Housing task force when the newest worker housing was being constructed on Silverado Trail. But, prior to that time, I was an elementary school teacher, received a masters degree from Stanford University School of Education. In the early 1980's, I set up the first elementary school computer lab in a small rural California unified school district. Schooling has not dominated my career, but it has always been my avocation.**
- 3. I have time to dedicate to the position. I am a strong advocate of public schooling. I have classroom and administrative experience. I am conscientious and do my "homework". Perhaps most critically, I believe that all important decisions, in any endeavor in life, do not have "black and white" answers, but rather are nuanced shades of gray with some reasonable arguments on both sides. A leader's task is to hear all the facts and rules and regulations, and then make a judgment, but remain open to new facts, rules and events that may alter that initial judgment in the future.**
- 4. I am not aware of any conflicts of interest.**

Resume

Mary Elke
[REDACTED]

Widowed with two adult sons and two granddaughters

1952-1965 Attended public school K-12 Covina, CA

1965-69 BA degree in history from Pomona College, Claremont, CA

1969-70 Received CA Standard Life Teaching Credential via a program that placed new teachers in rural schools while simultaneously getting credentialed. Taught 4th grade in Beaumont Elementary School (Riverside Co.)

1970-71 Taught 5th-6th grade combination class at Barranca Elementary School, West Covina, CA

1972-75 Worked in San Francisco as a legal secretary, paralegal while doing "in-office" law study; passed the "baby" Bar

1975-76 Received MA degree in Administration & Policy Analysis from Stanford University School of Education

1976-77 Employed by San Mateo Co. Superintendent of School implementing SB 160

1977-1984 stay at home mom with two sons

1985 Member of Leadership Palo Alto

1985-1996 Held various volunteer positions in Palo Alto Unified School District: PTA president, Site Council President, task force on school financing, implication of Basic Aide district financing

1985-1996 office manager and paralegal for small law firm in Palo Alto

1997-2016 Managed 50 acre vineyard in Anderson Valley, Mendocino Co. Sold grapes to 10+ wineries in Napa and Sonoma counties. Founded Elke Winery producing 1,500-5,000 cases annually of Pinot Noir, Chardonnay and sparkling wine under the "Elke" label.

TRUSTEE AREA 4 CANDIDATE APPLICATION FORM

Please complete the Candidate Application Form by **4:30 PM on Wednesday, August 21, 2024**. Applications should be returned to the Napa County Office of Education, 2121 Imola Avenue, Napa, CA, 94559 or by email to esitter@napacoe.org, by **4:30 PM on Wednesday, August 21, 2024**. Application forms received after that date and time will render the applicant ineligible for consideration for this provisional appointment to the position of trustee.

Any registered voter who resides within Trustee Area 4 (visit bit.ly/NCBOElookup to confirm your address) is eligible to be a member of the County Board of Education except the County Superintendent of Schools, any member of the County Superintendent's staff, or any employee or board member of a school district or charter school within Napa County. For more information see NCOE board policy 9220 and 9223 – visit napacoe.org/board-of-education/policies/ to access.

For more information contact the Superintendent's Office at (707) 253-6810 or esitter@napacoe.org.

Name: Marilyn Reid

Home Address: [REDACTED]

Email Address: [REDACTED]

Phone Number: [REDACTED]

Employer Name: Retired

Employer Address: N/A

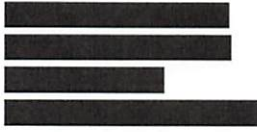
Employer Phone Number: N/A

[SEE PAGE 2]

Please answer the following questions using no more than 500 words for each response on a separate sheet of paper. Applicants must also submit a **one-page résumé**.

1. Why do you want to serve as a member of the Napa County Board of Education?
I have been involved in education for over 50 years as a teacher, tutor, mentor...I am excited about being involved in the "government/leadership" aspects of education...providing the best experience for all students.
2. In what school and/or community committees or activities have you been active? Please describe your contributions and what, in your opinion, makes you uniquely qualified to represent Trustee Area 4.
I have been involved in parent/grandparent support of a number of local schools recently, including Unidos, Mayacamas and River. I am the president of the Napa High Alumni Association so am involved in scholarships, biliteracy medallions, fund raising, etc. for the school. I feel qualified to represent Trustee Area 4 because of all the educational experiences I have had...this is almost a natural extension of the experiences I have already had.
3. What strengths, skills, and interests will you add to the Board?
organizational skills/listening/collaboration/activities that involve student groups, such as sports, track club
4. Identify any potential conflict of interest that you might have or that the community might perceive that you have, and state how you would overcome that conflict.
My relationship on the Foundation/support for Mayacamas Countywide Middle School...this was merely one of my educational experiences...but a wonderful one. I see this potential conflict as a "positive" in that NCOE is the "umbrella" for MCMS!

Marilyn Reid



Skills

Technology/organizational/personal contact/planning...heading many organizations...wearing a lot of hats!

Experience

8/16/2023-6/14/2024...8th grade Math...**Mayacamas Charter Middle School**

8/1973-6/2007

Napa Valley Unified School District

- Snow Elementary...K1/3rd/5th grades
- Shearer Elementary...team-teach 2nd/3rd grades
- Alta Heights Elementary ...1980-2003...All "combination" classes...3-6th grade
- Harvest Middle School...8/2003-6/2007...6th grade Science/Math specialist/ Social Studies/Bilingual-Bicultural/7 & 8th grade ELD

8/1970-6/1973

Redwood City School District

- Kindergarten
- K-1
- Special Education teaching

2007 - Present

- Private tutoring K-12/classroom aide El Centro Elementary
- School volunteer-River Middle School

Education

8/1969 - 6/1970 Cal Poly, San Luis Obispo

Lifetime (Ryan) Elementary K-8 Teaching Credential

8/1966 -5/1969 Dominican College of San Rafael

Bachelor of Science/Psychology (Pre-Med)

8/1965 -1966 Napa Valley College

Awards & Other Achievements

NVUSD Teacher of the Year (nominated 3 times)

NVUSD Mentor Program

Traveled throughout CA teaching "cooperative learning" strategies to teachers..Center Source

TRUSTEE AREA 4 CANDIDATE APPLICATION FORM

Please complete the Candidate Application Form by **4:30 PM on Wednesday, August 21, 2024**. Applications should be returned to the Napa County Office of Education, 2121 Imola Avenue, Napa, CA, 94559 or by email to esitter@napacoe.org, by **4:30 PM on Wednesday, August 21, 2024**. Application forms received after that date and time will render the applicant ineligible for consideration for this provisional appointment to the position of trustee.

Any registered voter who resides within Trustee Area 4 (visit bit.ly/NCBOElookup to confirm your address) is eligible to be a member of the County Board of Education except the County Superintendent of Schools, any member of the County Superintendent's staff, or any employee or board member of a school district or charter school within Napa County. For more information see NCOE board policy 9220 and 9223 – visit napacoe.org/board-of-education/policies/ to access.

For more information contact the Superintendent's Office at (707) 253-6810 or esitter@napacoe.org.

Name: *NADINE WADE-GRAVETT*

Home Address: [REDACTED]

Email Address: [REDACTED]

Phone Number: [REDACTED]

Employer Name: *NAPA VALLEY COLLEGE*

Employer Address: *2277 NAPA VALLEJO HIWAY*

Employer Phone Number: *707-253-3222*

[SEE PAGE 2]

RECEIVED

AUG 20 2024

Please answer the following questions using no more than 500 words for each response on a separate sheet of paper. Applicants must also submit a **one-page résumé**.

1. Why do you want to serve as a member of the Napa County Board of Education?
2. In what school and/or community committees or activities have you been active? Please describe your contributions and what, in your opinion, makes you uniquely qualified to represent Trustee Area 4.
3. What strengths, skills, and interests will you add to the Board?
4. Identify any potential conflict of interest that you might have or that the community might perceive that you have, and state how you would overcome that conflict.

RESUME IS LINKED TO ELECTRONIC
APPLICATION

1. Why do you want to serve as a member of the Napa County Board of Education?

Who I am helps to let you know why I want to become an NCOE board member. I am and have been a dedicated public servant serving and volunteering to help the students of Napa Valley.

I have recently retired from Napa Valley College after 42 years of service. I had the pleasure and honor of working most of my career at one institution. I was a classroom faculty member, as well as an administrator. I served as the Athletic Director and Dean of Occupational Programs while at NVC. I interacted with local sports organizations, Unified School curriculum committees, occupational and vocational programs at the college and high school level. I worked with the private sector advisory committees to assist in economic and program development.

All my experience was directed towards how education can meet a student's and community needs. Over the many years, I have had the honor of influencing, mentoring and guiding students as they explored and developed. I believe that I have been able to make a difference. I am passionate about the power that education can play to change lives. I have dedicated my career and volunteer experiences to help students realize their potential.

Giving back to my community that has been so supportive of me is important. I believe that I have the skills, experience and time that will make me a positive and contributing board member. I have served on many different boards, both public and private, that has developed my skills. Listening, gathering information, analyzing, and seeking input from a variety of sources are skills I have that will make me a valuable board member. I understand the role of a school board member. The board's job is to help set goals and direction, ensure accountability, and serve as a link to, and represent the community I will serve. Our job is to support the growth and development of our students, faculty and community. As an educator with over 40 years of experience, I am well qualified to serve as a board member.

Hard work and hard decisions do not deter me from the ability to act and make informed decisions.

2. In what school and/or community committees or activities have you been active? Please describe your contributions and what, in your opinion, makes you uniquely qualified to represent Trustee Area 4.

1.Board Member- Napa County Alcohol and Tobacco Coalition

2.Board Member- NEWS- Napa Emergency Women's Services

3.Board Member/Chair- Napa Parks and Recreation

4.Board Member- Napa Private Industry Council

5.Board Member/ Chair- Napa High School Booster Club

6.Board Member/Chair- Bay Area Occupational Dean's

7.Board Member/Chair-Bay Valley Conference Athletic Association

8.Board Member-California Community College Athletic Association

9.Committee Member-Development of New Technology High School

10.Committee Member- Tech Prep-High School and College

**11.Napa Valley College committee assignments- Academic Senate,
curriculum, facilities and online education**

12.Committee Member-High School Curriculum Standards Review

13. Leadership Napa Valley Participant

I have a wide range of board experiences, including several chair assignments. I have been actively involved in the community in various capacities. I have also volunteered with several local organizations, including Clinic Ole, NEWS, high schools and assisted in a program to use sports to curb violence, and have worked to register voters in Napa County. My experience in Leadership Napa Valley, exposed and educated me to the many varied

components of the Napa Valley. I feel very connected to our community, through involvement and service.

3. What strengths, skills, and interests will you add to the board?

I have a strong sense of commitment to community and my actions back my commitment. I have dedicated my career to education and to providing learning opportunities for all students. My leadership roles at the college required effective communication with students, faculty, peers and with the community. I have had to make difficult decisions in the past and feel that I was able to make them due to gathering as much input, information and opinions from others. I have worked to find the best solution to problems and then communicate my thinking to those involved. I have also been honored as the outstanding McPherson Faculty and I believe that honor reflects my understanding and application of effective teaching. To this day, I am approached by former students and athletes who appreciated my mentorship and guidance. As my experience indicates, I am not afraid of hard and involved work. I have also been supportive of the many different learning styles and applications for students, especially in the vocational arena.

Nadine Wade-Gravett

Objective Trustee with Napa County Board of Education

Experience 1999-2022- Napa Valley College
Full time Faculty- Physical Education and Health
Faculty Emeritus
Current Part Time Faculty-Present

1986-1999 Napa Valley College Napa, Ca

Dean of Occupational Education and Athletics

- Responsible for program development and supervision.
- Responsible for curriculum development
- Responsible for development and management of occupational grants
- Responsible for management and operation of ten intercollegiate programs

1981-1986 Napa Valley College Napa, Ca

Full time Adaptive Physical Education Instructor

- Responsible for program development.
- Responsible for community outreach.
- Responsible for fiscal management and student supervision.

1978-1981 DeAnza and Diablo Valley College

Part Time Faculty Position

- Responsible for development of adaptive physical education program.
- Conducted community physical assessment programs
- Developed outward bound program for disabled students.

Education 1972-1976 San Francisco State University
B.A., Physical Education.
Graduated Summa Cum Laude.

1976-1980 San Francisco State University
M.A., Applied Sciences
Graduated Magna Cum Laude

1992-1996 University Of San Francisco

Ed.D Education, Organization and Development

Experience

- 1.Board Member- Napa County Alcohol and Tobacco Coalition
- 2.Board Member- NEWS- Napa Emergency Women's Services
- 3.Board Member/Chair- Napa Parks and Recreation
- 4.Board Member- Napa Private Industry Council
- 5.Board Member/ Chair- Napa High School Booster Club
- 6.Board Member/Chair- Bay Area Occupational Dean's
- 7.Board Member/Chair-Bay Valley Conference Athletic Association
- 8.Board Member-California Community College Athletic Association
- 9.Committee Member-Development of New Technology High School
- 10.Committee Member- Tech Prep-High School and College
- 11.Napa Valley College committee assignments- Academic Senate, curriculum, facilities and online education
- 12.Committee Member-High School Curriculum Standards Review
13. Leadership Napa Valley Participant

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

TO: Napa County Board of Education

DATE: September 3, 2024

FROM: John Zikmund, Human Resources

RE: Personnel Activity

BOARD ITEM: 8A

NEW CERTIFICATED EMPLOYEE

Laura Lehman– Psychologist, Early Childhood Services

Lauretta Boulding - CTE Teacher, Camille Creek/Crossroads (Welcome Back, previously laid off)

NEW CLASSIFIED EMPLOYEE

Zachariah Baker - HR Technician, Human Resources

CHANGE IN ASSIGNMENT

Jessica Ayala Gonzalez –Early Childhood Education Assistant to Child Development Teacher, Early Childhood Services

Lucy Pearson Edwards – Managing Director of Continuous Improvement to Assistant Superintendent

RESIGNATION

None

RETIREMENT ANNOUNCEMENTS

None

TERMINATION

None

LAYOFF/NON-REELECTS/TEMPORARY RELEASE NOTICES

None

POSITION VACANCIES

Early Childhood Education Assistant (3) – Early Childhood Services

Child Development Teacher (3), Associate Child Development Teacher (2) – Early Childhood Services

Special Education Teacher, School Nurse, Speech and Language Therapist - Early Childhood Services

Early Intervention Assistant – Napa Infant Program, Early Childhood Services

Admin. Assistant II – College and Career Readiness

Program Specialist - College and Career Readiness

Training Manager – RPDC

Retirement & Payroll Specialist - Fiscal

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Item # 8.B.

September 3, 2024

TITLE:

First Reading of Revisions to Policies related to recent Title IX Changes

Policies include:

- BP 0410 Nondiscrimination in County Office Programs and Activities
- BP 5145.3 Nondiscrimination/Harassment
- AR 5145.3 Nondiscrimination/Harassment
- BP 5145.7 Sex Discrimination and Sex-Based Harassment
- AR 5145.7 Sex Discrimination and Sex-Based Harassment
- AR 5145.71 Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

HISTORY:

In April 2024, the U.S. Department of Education released revised regulations which support the implementation of Title IX, a federal law prohibiting sex discrimination in publicly funded education programs and activities. These revised regulations require changes to the policies listed above to ensure compliance.

Five key aspects of the new regulations:

1. Revises the grievance procedures making it easier to file a complaint
2. Broadens the definition of “hostile environment” sex-based harassment under Title IX
3. Adds protected characteristics including gender identity to Title IX’s protections
4. Provides that Title IX protects pregnancy and requires accommodations for pregnancy
5. Requires training for all employees on certain topics and no longer limits training requirements to employees involved in Title IX complaint processes

CURRENT PROPOSAL:

Board review of policies impacted by Title IX changes.

FUNDING SOURCE:

Not Applicable.

SPECIFIC RECOMMENDATION:

Board approval of proposed changes to policies impacted by new Title IX regulations.

Prepared by: Julie McClure
JM/es
August 28, 2024

County Board Policy 0410: Nondiscrimination In County Office Programs And Activities

Status: DRAFT

Original Adopted Date: 02/18/2021 | Last Revised Date: 08/06/2024

CSBA NOTE: Education Code 234.1 mandates county offices of education (COEs) to adopt policy as well as a process to ensure that COE programs and activities are free from unlawful discrimination. Education Code 234.1 requires that the COE's nondiscrimination policy include a statement that the policy applies to all acts related to school activity or school attendance and, as amended by AB 1078 (Ch. 229, Statutes of 2023), to all acts of the County Board of Education and the County Superintendent of Schools in enacting policies and procedures that govern the COE. Education Code 234.1, as amended by AB 1078, contains similar language regarding a district governing board and district superintendent.

In accordance with various provisions of state and federal law, discrimination in education programs and activities is unlawful when it is based on certain actual or perceived characteristics of an individual. Education Code 220 prohibits discrimination based on race or ethnicity, nationality, immigration status, sex, sexual orientation, gender, gender identity, gender expression, religion, disability, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55. Education Code 260 prohibits discrimination based on age. Government Code 11135 prohibits discrimination based on many of the foregoing characteristics and on an individual's genetic information and medical condition. 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; 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474) prohibits discrimination on the basis of sex, including sex stereotypes; sex characteristics; gender; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital and family status. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability.

Education Code 260 and 5 CCR 4900-4965 require the County Board to monitor compliance with these state and federal laws. The federal laws are enforced by the Office for Civil Rights (OCR) of the U.S. Department of Education (USDOE), and the California Department of Education (CDE) may investigate complaints regarding discrimination pursuant to 5 CCR 4600-4670.

OCR's May 2024 Dear Colleague Letter, "Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics," which expands and clarifies USDOE's 2023, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools," provides that Title VI's protections from race, color, and national origin discrimination extends to students who experience discrimination based on actual or perceived (1) shared ancestry or ethnic characteristics, or (2) citizenship or residency in a country with a dominant religion or distinct religious identity. While Title VI does not protect individuals based solely on religious discrimination, it does apply to antisemitism and other forms of discrimination when based on shared ancestry or ethnic characteristics. The guidance includes clarifying examples regarding existing legal requirements under Title VI.

Additionally, OCR's November 2023 Dear Colleague Letter, "Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics," states that all students, including students who are or are perceived to be Jewish, Israeli, Muslim, Arab, or Palestinian, as well as students who come from, or are perceived to come from, all regions of the world, are entitled to a school environment free from discrimination based on race, color, or national origin. The Dear Colleague Letter provides that Title VI also protects students from discrimination which is based on (1) actual or perceived citizenship or residency in a country with a dominant religion or distinct religious identity, including Jewish, Muslim, Sikh, Hindu, Christian, and Buddhist students, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes, (2) a student's skin color, physical features, or style of dress that reflects both ethnic and religious traditions, and (3) where a student came from or is perceived to have come from. Discrimination based on a student's foreign accent, foreign name, or a student speaking a foreign language may also violate Title VI's prohibitions against discrimination.

OCR's August 2023 Dear Colleague Letter, "Race and School Programming," states that a COE may not separate students based on race, but may include group discussions or activities that focus on race as part of the curriculum, courses, or programs so long as access or participation is not permitted or limited based on race. OCR's guidance also provides that a school-sponsored program with emphasis on race, such as a student club, that is open to all students, typically would not violate Title VI solely because of its race-related theme.

Additionally, OCR's May 2023 Dear Colleague Letter, "Resource on Confronting Racial Discrimination in Student Discipline," published in conjunction with the U.S. Department of Justice (DOJ), states that a COE's responsibility

not to discriminate against students applies to any of its programs or activities, whether directly or through contractual or other arrangements.

In addition to the prohibitions to discrimination described above, Government Code 12940 provides protections for employees, job applicants, unpaid interns, and volunteers against unlawful discrimination and harassment on the basis of actual or perceived race, color, ancestry, national origin, age, religious creed, marital status, reproductive health decisionmaking, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, or gender expression.

This policy shall apply to all acts related to a school activity or school attendance and to all acts of the County Board of Education and the County Superintendent of Schools in enacting policies and procedures that govern the county office of education (COE).

The County Board is committed to providing equal opportunity for all individuals in COE programs and activities. COE programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual or group based on race; color; ancestry; nationality; national origin; immigration status; ethnic group identification; ethnicity; age; religion; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family or marital status; reproductive health decisionmaking; physical or mental disability; medical condition; sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; genetic information; veteran or military status; or political affiliation; a 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.

CSBA NOTE: Education Code 234.7 mandates that COEs adopt policy consistent with the California Attorney General's model policy contained in the Office of the Attorney General's publication, "Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues." That model policy includes statements regarding the equitable provision of services and a prohibition against the use of school resources or data for creating a registry based on specific characteristics. In addition, Government Code 8310.3 prohibits COEs from disclosing information about immigration status or religion to federal government authorities for use in the compilation of a registry for immigration enforcement or otherwise assisting in the creation of such a registry.

All individuals shall be treated equitably in the receipt of services in COE programs and activities. Personally identifiable information collected in the implementation of any COE program, including, but not limited to, student and family information for the free and reduced-price lunch program, transportation, or any other educational program, shall be used only for the purposes of that program, except when the County Board or, when applicable, the County Superintendent authorizes its use for another purpose in accordance with law. Resources and data collected by the COE shall not be used, directly or by others, to compile a list, registry, or database of individuals based on any of the categories identified above.

CSBA NOTE: Education Code 243, as added by AB 1078, clarifies when it is unlawful discrimination for the County Board to (1) refuse to approve the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library, or (2) prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library. The County Board may not refuse to approve such use on the basis that the material includes a study of the role and contributions of specified individuals or groups, unless the study of the role and contributions reflects adversely upon legally protected groups. Additionally, the County Board may not prohibit such use on the basis that the study of the role and contributions contain inclusive or diverse perspectives. Any County Board action to ban or censor a textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction on any of the bases described above may constitute unlawful discrimination under Education Code 220. In addition, pursuant to Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), the County Board is prohibited from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination pursuant to Education Code 220.

Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

For more information regarding instructional materials adoption see CSBA's publication, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," and corresponding Fact Sheet and Reference, and the California Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books."

COE programs and activities shall be free of any discriminatory use, selection, or rejection of textbooks, instructional materials, library books, or similar educational resources.

The use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library shall not be rejected or prohibited by the County Board or COE on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. (Education Code 243)

Additionally, the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library shall not be adopted by the County Board or COE if the use would subject a student to unlawful discrimination as specified in Education Code 220. (Education Code 244)

CSBA NOTE: Education Code 221.2-221.3, the California Racial Mascot Act, declare the use of racially derogatory or discriminatory school or athletic team names, mascots, or nicknames to be contrary to an equal education and specifically prohibit public schools from using the term "Redskins" as a school or athletic team name, mascot, or nickname. The following paragraph expands this prohibition to include any racially derogatory or discriminatory athletic team name, mascot, or nickname and may be revised to reflect local practice.

COE programs and activities shall be free of any racially derogatory or discriminatory school or athletic team names, mascots, or nicknames.

CSBA NOTE: Pursuant to Education Code 221.5, students must be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and to use facilities consistent with the student's gender identity, regardless of the gender as listed on the student's educational records.

Additionally, Title IX, 34 CFR 106.31, as amended by 89 Fed. Reg. 33474, provides that a COE (1) may not exclude a student from participation in, deny a student the benefits of, or otherwise subject a student to discrimination on the basis of sex in any education program or activity, (2) that in the limited circumstances in which different treatment or separation on the basis of sex is permitted, a COE may not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a student to more than de minimis harm, and (3) that preventing a student from participating in an education program or activity consistent with the student's gender identity would subject the student to more than de minimis harm on the basis of sex. In commentary accompanying the Final Rule, USDOE clarifies that Title IX protects students from sex discrimination, including sex-based harassment, when they access sex-separate facilities. This protection applies with equal force to all students, including transgender and nonbinary students, requiring COEs to provide access to sex-separate facilities, including bathrooms, in a manner that does not cause more than de minimis harm. USDOE intends to issue a separate final rule to address Title IX's application to sex-separate athletic teams which is governed by 34 CFR 106.41, rather than 34 CFR 106.31 as described above. See BP/E 5145.7 - Sex Discrimination and Sex-Based Harassment.

County boards with questions about the rights of transgender and gender-nonconforming students should consult CSBA's District and County Office of Education Legal Services or COE legal counsel as appropriate. For further information, see CSBA's, "Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools," and CSBA's Recently Asked Questions, "Parental and Student Rights in Relation to Transgender and Gender Nonconforming Students."

Annually, COE facilities, programs, and activities shall be reviewed to ensure the removal of any derogatory or discriminatory name, image, practice, or other barrier that may unlawfully prevent an individual or group in any of the protected categories stated above from accessing COE programs and activities, including the use of facilities. Prompt and reasonable actions shall be taken to remove any identified barrier.

CSBA NOTE: Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078, or Education Code 244, as added by SB 153, related to the use or prohibited use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library as described above, may be brought under the COE's uniform complaint procedures or may be filed directly with the Superintendent of Public Instruction (SPI). Complaints that are filed directly with the SPI are required to identify the basis for doing so, and present evidence that supports the basis for the direct filing. In such cases, the SPI may directly intervene without waiting for an investigation by the COE. See BP/E 1312.3 - Uniform Complaint Procedures.

Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, a COE with knowledge of alleged

conduct, which occurs in a COE program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the complaint process as specified in BP/E 1312.3 - Uniform Complaint Procedures, for students, it is unclear whether COEs would additionally be required to follow the procedures specified in BP/E 1312.3 - Uniform Complaint Procedures. Due to this uncertainty, it is recommended that COEs consult CSBA's District and County Office of Education Legal Services or COE legal counsel prior to utilizing such a complaint process for this purpose.

Except for allegations of sex discrimination or sex-based harassment, allegations of unlawful discrimination in COE programs and activities shall be investigated and resolved in accordance with law, County Board policy on uniform complaint procedures, and related County Superintendent-approved procedures. Complaints alleging sex discrimination, including sex-based harassment, shall be investigated and resolved in accordance with 34 CFR 106.44 and 106.45.

CSBA NOTE: Many nondiscrimination laws and regulations contain a notification requirement. For example, pursuant to 34 CFR 104.8 and 106.8, a COE 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 on the basis of disability or sex in its educational programs or activities. In addition, Education Code 221.61 requires COEs to post specified information relating to Title IX on their websites. To ensure consistent implementation of the laws, the same notification requirement should be adopted for all the protected categories as provided in the following paragraph.

Pursuant to 34 CFR 104.8 and 106.8, students, parents/guardians, applicants for admission, and the public shall be notified about the County Board's policy on nondiscrimination and related complaint procedures. Such notification shall be included in the annual parental notification distributed pursuant to Education Code 48980 and, as applicable, in announcements, bulletins, catalogs, handbooks, application forms, or other materials distributed by the COE. The notification shall also be posted on the COE's website and social media and in COE program sites and offices, including staff lounges, student government meeting rooms, and other prominent locations as appropriate.

CSBA NOTE: Education Code 234.7 requires the following notification. Information about the educational rights of all students is contained in the appendix of the Office of the Attorney General's publication, "Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues."

In addition, the annual parental notification shall inform parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, including information on educational rights issued by the California Attorney General. Alternatively, such information may be provided through any other cost-effective means determined by the County Superintendent or designee. (Education Code 234.7)

CSBA 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, 20 USC 6311 and 6312 require that COEs 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.

The County Board's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand. In addition, when 15 percent or more of a school's students speak a single primary language other than English, those materials shall be translated into that other language. (Education Code 48985; 20 USC 6312)

Access for Individuals with Disabilities

CSBA NOTE: Pursuant to the ADA and its implementing regulations, 28 CFR 35.150 and 35.151, COE 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. In achieving compliance, a COE need not make structural changes to existing facilities if other methods are effective and the COE can demonstrate that the structural change would result in a fundamental alteration in the nature of the activity or an undue financial or administrative burden. However, pursuant to 28 CFR 35.151, all newly constructed facilities must comply with the 2010 ADA Standards for Accessible Designs issued by the DOJ.

In addition, pursuant to 28 CFR 35.136, the COE must permit an individual with a disability to be accompanied by a service animal on COE premises when, without the animal's assistance, the individual with a disability will not be

able to access or participate in a COE program or activity. County boards with questions about compliance with the ADA should consult CSBA's District and County Office of Education Legal Services or COE legal counsel as appropriate.

COE programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act (ADA) and any implementing standards and/or regulations. When structural changes to existing COE facilities are needed to provide individuals with disabilities access to programs, services, activities, or facilities, a transition plan shall be developed that sets forth the steps for completing the changes.

CSBA NOTE: It is the responsibility of the County Superintendent to identify and make available to the public the name of the staff member designated as the ADA Coordinator.

The County Superintendent has designated the following ADA Coordinator to receive requests for accommodation and to receive and investigate complaints regarding access to COE facilities, programs, services and activities: (28 CFR 35.107)

Associate Superintendent
Napa County Office of Education
2121 Imola Avenue, Napa, CA 94559
(707) 253-6810
jmclure@napacoe.org

Administrator of Human Resources
Napa County Office of Education
2121 Imola Avenue, Napa, CA 94559
(707) 253-6810
jzikmund@napacoe.org

CSBA NOTE: Pursuant to 28 CFR 35.130 and 35.160, the ADA requires COEs 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 COE 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 COE need not provide them.

The requirement to provide services and aids extends to qualified individuals with speech, hearing, or vision disabilities who participate in Medi-Cal, and, in accordance with the Department of Health Care Services Policy and Procedure Letters No. 21-017R and No. 23-004, COEs are required to have a plan to meet these alternative format requirements.

In addition, Government Code 54953.2 requires that all County Board meetings meet the protections of the ADA and implementing regulations (28 CFR 35.160, 36.303). The County Board must ensure that such meetings are accessible to persons with disabilities and that, upon the request of any person with a disability, disability-related accommodations, such as auxiliary aids and services, are made available. Additionally, Government Code 54953 requires the County Board to maintain and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the ADA, and to resolve any doubt in favor of accessibility. See BB 9320 - Meetings and Notices and BB 9322 - Agenda/Meeting Materials.

OCR has interpreted the ADA and Section 504 of the Rehabilitation Act of 1973 to include the requirement that websites be accessible to individuals with disabilities. In April 2024, the DOJ published updated regulations which include specific technical standards to ensure that content available through a COE's web and mobile applications are accessible to individuals with disabilities by April 26, 2027. For more information on website accessibility, see OCR's June 2010 and May 2011 Dear Colleague Letters, and DOJ's April 2024, "Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments."

The COE shall ensure that COE's web and mobile applications comply with technical standards prescribed by law, and as necessary, shall provide appropriate auxiliary aids and services to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of COE services, programs, or activities. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, assistive technologies or other modifications to increase accessibility to COE websites, notetakers, written materials, taped text, and Braille or large-print materials.

Individuals with disabilities shall notify the ADA Coordinator if they have a disability that requires special assistance or services. Reasonable notification should be given prior to a COE and school-sponsored functions, programs, or meetings.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Federal References

	Description
20 USC 1400-1482	Individuals with Disabilities Education Act
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
20 USC 2301-2414	Strengthening Career and Technical Education for the 21st Century Act
20 USC 6311	State plan
20 USC 6312	Local educational agency plan
28 CFR 35.101-35.190	Americans with Disabilities Act
28 CFR 35.107	Designation of responsible employee and adoption of grievance procedures
28 CFR 35.136	Service animals
28 CFR 35.150-35.151	Program accessibility; facilities
28 CFR 35.160	Effective communications
28 CFR 36.303	Nondiscrimination on the basis of disability; public accommodations; auxiliary aids and services
29 USC 794	Rehabilitation Act of 1973, Section 504
34 CFR 100.1-100.13	Nondiscrimination in federal programs; effectuating Title VI
34 CFR 104.1-104.39	Section 504 of the Rehabilitation Act of 1973
34 CFR 106.1-106.82	Discrimination on the basis of sex; effectuating Title IX
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964

Management Resources References

	Description
CA Department of Health Care Services Publication	Policy and Procedures Letter No. 21-017R, December 2021
CA Department of Health Care Services Publication	Policy and Procedures Letter No. 23-004, February 2023
CA Office of the Attorney General Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024
CA Office of the Attorney General Publication	Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024
CSBA Publication	Parental and Student Rights in Relation to Transgender and Gender Nonconforming Students, Recently Asked Questions, August 2023
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022

Management Resources References

Federal Register

U.S. Department of Education Publication

U.S. DOE, Office for Civil Rights Publication

U.S. DOE, Office for Civil Rights Publication

U.S. DOE, Office for Civil Rights Publication

U.S. DOE, Office for Civil Rights Publication

U.S. DOE, Office for Civil Rights Publication

U.S. DOE, Office for Civil Rights Publication

U.S. DOE, Office for Civil Rights Publication

U.S. DOJ & DOE Civil Rights Joint Publication

U.S. DOJ, Civil Rights Division Publication

US Dept of Justice, Civil Rights Div. Publication

US Dept of Justice, Civil Rights Div. Publication

US Dept of Justice, Civil Rights Div. Publication

Website

Website

Website

Website

Website

Website

Website

Website

Website

Website

Website

World Wide Web Consortium Publication

Description

[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)

[Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023](#)

Dear Colleague Letter: Harassment and Bullying, October 2010

[Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics, May 2024](#)

[Dear Colleague Letter: Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023](#)

[Dear Colleague Letter: Frequently Asked Questions About the June 29, 2010, Dear Colleague Letter, May 26, 2011](#)

[Supporting Transgender Youth in School, June 2021](#)

[Dear Colleague Letter: Race and School Programming, August 2023](#)

[Dear Colleague Letter: Electronic Book Readers, June 29, 2010](#)

[Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023](#)

[Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments, April 2024](#)

[Accessibility of State and Local Government Websites to People with Disabilities, February 2020](#)

Guidance on Web Accessibility and the ADA, March 2022

[2010 ADA Standards for Accessible Design, September 2010](#)

[World Wide Web Consortium, Web Accessibility Initiative](#)

[California Civil Rights Department](#)

[CSBA District and County Office of Education Legal Services](#)

[U.S. Department of Justice, Civil Rights Division, Americans with Disabilities Act](#)

[U.S. Department of Education, Office for Civil Rights](#)

[Pacific ADA Center](#)

[CSBA](#)

[California Safe Schools Coalition](#)

[California Office of the Attorney General](#)

[California Department of Health Care Services](#)

[California Department of Education](#)

Web Content Accessibility Guidelines, December 2008

State References

5 CCR 4600-4670

5 CCR 4900-4965

Ed. Code 200-270

Ed. Code 48980

Ed. Code 48985

Ed. Code 51007

Description

Uniform complaint procedures

Nondiscrimination in elementary and secondary education programs

[Educational equity; prohibition of discrimination on the basis of sex](#)

Parent/Guardian notifications

Notices to parents in language other than English

Legislative intent; state policy

State References

Ed. Code 51204.5
 Ed. Code 51501
 Ed. Code 60010
 Ed. Code 60040-60052
 Gov. Code 11000
 Gov. Code 11135
 Gov. Code 12900-12996
 Gov. Code 54953
 Gov. Code 54953.2
 Gov. Code 8310.3
 Pen. Code 422.55
 Pen. Code 422.6

Description

Social sciences instruction; contributions of specified groups
 Nondiscriminatory subject matter
 Instructional materials; definition
 Requirements for instructional materials
 Definitions
[Unlawful discrimination](#)
 Fair Employment and Housing Act
 Meetings; Americans with Disabilities Act accessibility
 Brown Act compliance with Americans with Disabilities Act
 California Religious Freedom Act
 Definition of hate crime
 Crimes, harassment

Cross References

0430
 0430
 1312.3
 1312.3
 1312.3
 1312.4
 1312.4
 3555
 3555-E(1)
 5131.2
 5131.2
 5145.3
 5145.3
 5145.7
 5145.7
 6173
 6173
 6173
 6173.1
 6173.1
 9150
 9320
 9322

Description

[Comprehensive Local Plan For Special Education](#)
[Comprehensive Local Plan For Special Education](#)
[Uniform Complaint Procedures](#)
[Uniform Complaint Procedures](#)
[Uniform Complaint Procedures](#)
[Williams Uniform Complaint Procedures](#)
[Williams Uniform Complaint Procedures](#)
[Nutrition Program Compliance](#)
[Nutrition Program Compliance](#)
[Bullying](#)
[Bullying](#)
[Nondiscrimination/Harassment](#)
[Nondiscrimination/Harassment](#)
[Sex Discrimination and Sex-Based Harassment](#)
[Sex Discrimination and Sex-Based Harassment](#)
[Education For Homeless Children](#)
[Education For Homeless Children](#)
[Education For Homeless Children](#)
[Education For Foster Youth](#)
[Education For Foster Youth](#)
[Student Board Members](#)
[Meetings And Notices](#)
[Agenda/Meeting Materials](#)

County Board Policy 5145.3: Nondiscrimination/Harassment

Status: DRAFT

Original Adopted Date: 01/05/2021

CSBA NOTE: The following mandated policy for county offices of education (COEs) reflects various provisions of state and federal law which prohibit discrimination against students in educational programs and activities based on certain actual or perceived characteristics of an individual. Education Code 220 prohibits discrimination based on disability, race, nationality, immigration status, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55. Government Code 11135 prohibits discrimination based on most of the foregoing characteristics and on sex, color, ancestry, age, medical condition, marital status, and an individual's genetic information. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination based on race, color, or national origin; Title IX (20 USC 1681-1688; 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474) prohibits discrimination based on sex, sex stereotypes; sex characteristics; gender; gender identity; sexual orientation; pregnancy, childbirth, termination of pregnancy, or lactation; and parental marital and family status. The Age Discrimination Act of 1975 (42 USC 6101-6107) prohibits discrimination based on age; and Title II (42 USC 12101-12213) and Section 504 (29 USC 794) prohibit discrimination based on disability. For policy addressing student sex discrimination and sex-based harassment, see BP/E 5145.7 - Sex Discrimination and Sex-Based Harassment.

Education Code 234.1 mandates that a COE adopt policy prohibiting unlawful discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics listed above, which applies to all acts related to school activity or school attendance occurring within a COE school, and a process for receiving and investigating such complaints. The California Department of Education (CDE), through its Federal Program Monitoring process, reviews COEs' uniform complaint procedures (UCP) and other anti-discrimination policies and processes to ensure compliance with these requirements. In addition, the U.S. Department of Education's Office for Civil Rights (OCR) is responsible for the administrative enforcement of federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability, and age in programs and activities that receive federal financial assistance from the department, and requires the adoption of nondiscrimination policies and complaint procedures.

Education Code 234.1, as amended by AB 1078 (Ch. 229, Statutes of 2023), also requires that the COE's nondiscrimination policy include a statement that the policy applies to all acts of the County Board of Education and the County Superintendent of Schools in enacting policies and procedures that govern the COE.

Education Code 243, as added by AB 1078, clarifies when it is unlawful discrimination for the County Board to (1) refuse to approve the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library or (2) prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or resource in a school library. The County Board may not refuse to approve such use on the basis that the material includes a study of the role and contributions of specified individuals or groups, unless the study of the role and contributions reflects adversely upon legally protected groups. Additionally, the County Board may not prohibit such use on the basis that the study of the role and contributions contain inclusive or diverse perspectives. In addition, the County Board's action to ban or censor a textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction on any of the bases described above may also constitute unlawful discrimination pursuant to Education Code 220. And, pursuant to Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), the County Board is prohibited from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination pursuant to Education Code 220. For more information regarding instructional materials adoption, see BP/AR/E(1) 6161.1 - Selection and Evaluation of Instructional materials, CSBA's publication, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," and corresponding Fact Sheet and Reference, and the California Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books."

For those COEs in which the County Board of Education does not hire and supervise the County Superintendent of Schools, CSBA recommends that the County Board and the County Superintendent work together for the adoption of this policy, since some of the programs it covers are subject to the independent statutory authority of both the County Board and the County Superintendent and, even for those programs that are primarily within the County Board's authority, implementation by the County Superintendent is likely to be necessary. In addition to this policy, it is recommended that procedures be maintained in an accompanying administrative regulation or exhibit. See the accompanying exhibit for sample language.

OCR has clarified in several publications that conduct that occurs off campus may have an adverse effect on a student at school (e.g., create a "hostile environment" for the student). When that happens, the COE may have an obligation to investigate and to take steps to protect the student.

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a county office of education (COE) school or program, 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, and to all acts of the County Board of Education and the County Superintendent of Schools in enacting policies and procedures that govern the COE.

CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status.

The County Board desires to provide a welcoming, safe, and supportive school environment that allows all students equal access to and opportunities in the COE's academic, extracurricular, and other educational support programs, services, and activities. Unlawful discrimination against a student in any COE school or school activity, including discriminatory harassment, intimidation, and bullying, by anyone, based on any of the following is prohibited: the student's actual or perceived race; color; ancestry; nationality; national origin; immigration status; ethnic group identification; ethnicity; age; religion; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; parental, marital, and family status; physical or mental disability; medical condition; sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; or genetic information; or, association with a person or group with one or more of these actual or perceived characteristics.

CSBA NOTE: OCR's May 2024 Dear Colleague Letter, "Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics," which expands and clarifies the U.S. Department of Education's 2023, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Schools," provides that Title VI's protections from race, color, and national origin discrimination extends to students who experience discrimination based on actual or perceived (1) shared ancestry or ethnic characteristics, or (2) citizenship or residency in a country with a dominant religion or distinct religious identity. While Title VI does not protect individuals based solely on religious discrimination, it does apply to antisemitism and other forms of discrimination when based on shared ancestry or ethnic characteristics. The guidance includes clarifying examples regarding existing legal requirements under Title VI.

Additionally, OCR's November 2023 Dear Colleague Letter, "Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics," states that all students, including students who are or are perceived to be Jewish, Israeli, Muslim, Arab, or Palestinian, as well as students who come from, or are perceived to come from, all regions of the world, are entitled to a school environment free from discrimination based on race, color, or national origin. The Dear Colleague Letter provides that Title VI also protects students from discrimination which is based on (1) actual or perceived citizenship or residency in a country with a dominant religion or distinct religious identity, including Jewish, Muslim, Sikh, Hindu, Christian, and Buddhist students, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes, (2) a student's skin color, physical features, or style of dress that reflects both ethnic and religious traditions, and (3) where a student came from or is perceived to have come from. Discrimination based on a student's foreign accent, foreign name, or a student speaking a foreign language may also violate Title VI's prohibitions against discrimination.

OCR's August 2023 Dear Colleague Letter, "Race and School Programming," states that a COE may not separate students based on race, but may include group discussions or activities that focus on race as part of the curriculum, courses, or programs so long as access or participation is not permitted or limited based on race. OCR's guidance also provides that a school-sponsored program with emphasis on race, such as a student club, that is open to all students, typically would not violate Title VI solely because of its race-related theme.

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 occurs when 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.

CSBA NOTE: In addition to the types of prohibited student conduct described above, unlawful discrimination includes different treatment of students with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services. See BP 0410 -

Nondiscrimination in County Office Programs and Activities.

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 any COE school programs or activities or the provision or receipt of educational benefits or services.

CSBA NOTE: Unlawful discrimination may occur when disciplining students. OCR's guidance, "Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973," "Resource on Confronting Racial Discrimination in Student Discipline," and "Creating Inclusive and Nondiscriminatory School Environments for LGBTQI Students," address discrimination in the use of discipline based on disability, race, and gender expression.

Because unlawful discrimination could occur when disciplining students, including suspension and expulsion, discipline shall be enforced in a fair, consistent, and non-discriminatory manner.

The County Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates, participates, or refuses to participate in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

CSBA NOTE: Pursuant to Education Code 234.1 and 34 CFR 106.8, a COE is required to publicize its nondiscrimination policies to the school community. Additionally, Education Code 234.1, as amended by SB 153, and 234.6 require the COE to make readily accessible on its website its nondiscrimination, harassment, intimidation, bullying, sex-based harassment, suicide prevention, and other specified policies and information related to specified state and federal laws and resources. In addition, 34 CFR 104.8 requires COEs to take "continuing steps" to notify students, parents/guardians, applicants for admission, and employees that it does not discriminate on the basis of disability in its education programs or activities.

For further information regarding specific posting requirements, see "Measures to Prevent Discrimination" in the accompanying administrative regulation.

The COE shall facilitate students' access to the educational program by publicizing the COE's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the COE's policies prohibiting discrimination, harassment, intimidation, and bullying and other required information shall be posted on the COE's website in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation. (Education Code 234.1, 234.6; 34 CFR 106.8)

Training and/or information on the scope and use of the policy and complaint procedures shall be provided and other measures designed to increase the school community's understanding of the requirements of law related to discrimination shall be taken. The implementation of the district's nondiscrimination policies and practices shall regularly be reviewed and, as necessary, action to remove any identified barrier to student access to or participation in the district's educational program shall be taken. The findings and recommendations shall be reported to the County Board after each review.

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 taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

CSBA NOTE: Policies related to discrimination must be consistent with the First Amendment right to free speech. Education Code 48950 prohibits a COE from subjecting a high school student to disciplinary sanctions solely on the basis of speech or other communication that would be constitutionally protected if engaged in outside of campus. However, Education Code 48950 also specifies that the law does not prohibit discipline for harassment, threats, or intimidation unless constitutionally protected. Whether such speech might be entitled to constitutional protection would be determined on a case-by-case basis, with consideration for the specific words used and the circumstances involved. It is recommended that COEs should consult CSBA's District and County Office of Education Legal Services or COE legal counsel as necessary.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, County Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion 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.

CSBA NOTE: The following paragraph may be revised to reflect COE practice. Pursuant to Education Code 48900.5, as amended by AB 1165 (Ch. 22, Statutes of 2023), the COE is encouraged to have a student who has been suspended, or for whom other means of correction have been implemented pursuant to Education Code 48900.5 for an incident of racist bullying, harassment, or intimidation, as well as the victim, to engage in a restorative justice practice suitable to address the needs of both the victim and the perpetrator, in addition to the other measures specified in the following paragraph; see BP/AR 5131.2 - Bullying.

When a student has been suspended, or other means of correction have been implemented against the student for an incident of racist bullying, harassment, or intimidation, the principal or designee shall engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. The principal or designee shall also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and shall regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues. (Education Code 48900.5)

When appropriate based on the severity or pervasiveness of the bullying, the parents/guardians of victims and perpetrators shall be notified and law enforcement may be contacted.

CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, a COE with knowledge of alleged conduct, which occurs in a COE program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, is required to follow the Title IX grievance procedures when investigating and resolving the complaint. A complaint may also fall within the complaint process adopted by the COE pursuant to Education Code 234.1 for receiving and investigating complaints of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying that is consistent with the COE's UCP specified in 5 CCR 4600-4670. It is unclear whether COEs would additionally be required to follow the UCP when investigating and resolving such a complaint. Due to this uncertainty, it is recommended that COEs consult CSBA's District and County Office of Education Legal Services or COE legal counsel.

Allegations of unlawful discrimination in COE programs and activities shall be brought, investigated, and resolved in accordance with Board Policy 1312.3 - Uniform Complaint Procedures, when required by law. However, complaints alleging sex discrimination, including sex-based harassment, under Title IX shall be investigated and resolved in accordance with the procedures specified in 34 CFR 106.44 and 106.45 and Exhibit 1 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Record-Keeping

A record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be maintained to enable the COE to monitor, address, and prevent repetitive prohibited behavior in COE schools.

Antidiscrimination 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 COE schools, programs, and activities. COE 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.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Federal References

20 USC 1681-1688
28 CFR 35.107
29 USC 794
34 CFR 100.3
34 CFR 104.7
34 CFR 104.8

Description

Title IX of the Education Amendments of 1972; discrimination based on sex
Designation of responsible employee and adoption of grievance procedures
Rehabilitation Act of 1973, Section 504
Prohibition of discrimination on basis of race, color or national origin
Designation of responsible employee for Section 504
Notice

Federal References

	Description
34 CFR 106.30	Discrimination on the basis of sex; definitions
34 CFR 106.44-106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of responsible employee and adoption of grievance procedures
34 CFR 110.25	Prohibition of discrimination based on age
34 CFR 99.31	Disclosure of personally identifiable information
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975

Management Resources References

	Description
CA Office of the Attorney General Publication	Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024
CA Office of the Attorney General Publication	Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018
California Department of Education Publication	California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019
Court Decision	Flores v. Morgan Hill Unified School District (2003) 324 F.3d 1130
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
U.S. Department of Education Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023
U.S. Dept of Health & Human Services Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, August 2013
U.S. DOE Publication	Creating Inclusive and Nondiscriminatory School Environments for LGBTQ+ Students, June 2023
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics, May 2024
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Addressing Discrimination Against Jewish Students, May 2023

Management Resources References

U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOJ & DOE Civil Rights Joint Publication
Website
Website
Website
Website
Website
Website
Website
Website

Description

[Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973, July 2022](#)
[Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County, June 2021](#)
[Questions and Answers on the Title IX Regulations on Sexual Harassment, June 2022](#)
[Dear Colleague Letter: Race and School Programming, August 2023](#)
[Resolution Agreement Between the Arcadia USD, US Dept of Ed, OCR, & the US DOJ, CRD, \(2013\) OCR 09-12-1020, DOJ 169-12C-70](#)
[Dear Colleague Letter: Harassment and Bullying, October 2010](#)
[Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023](#)
[U.S Department of Justice, Civil Rights Division](#)
[U.S. Department of Education, Office for Civil Rights](#)
[First Amendment Center](#)
[CSBA](#)
[California Safe Schools Coalition](#)
[California Office of the Attorney General](#)
[California Interscholastic Federation](#)
[California Department of Education](#)

State References

5 CCR 432
5 CCR 4600-4670
5 CCR 4900-4965
Civ. Code 1714.1
Ed. Code 17585
Ed. Code 200-270
Ed. Code 33353
Ed. Code 35292.5
Ed. Code 48900.3
Ed. Code 48900.4
Ed. Code 48900.5
Ed. Code 48904
Ed. Code 48907
Ed. Code 48950
Ed. Code 48985
Ed. Code 49020-49023
Ed. Code 49060-49079
Ed. Code 51204.5
Ed. Code 51500

Description

Student records
Uniform complaint procedures
Nondiscrimination in elementary and secondary education programs
[Liability of parent or guardian for act of willful misconduct by a minor](#)
School modernization project; all-gender restroom
[Educational equity; prohibition of discrimination on the basis of sex](#)
California Interscholastic Federation; standardized incident form
School restrooms; all-gender restrooms
Suspension or expulsion for act of hate violence
Suspension or expulsion for threats or harassment
Suspension; other means of correction
Liability of parent/guardian for willful student misconduct
Students' exercise of free expression; rules and regulations
Freedom of speech and other communication
Notices to parents in language other than English
Athletic programs
Student records
Social sciences instruction; contributions of specified groups
Prohibited instruction or activity

State References

Ed. Code 51501
Ed. Code 60010
Ed. Code 60040-60052
Gov. Code 11135
Pen. Code 422.55
Pen. Code 422.6

Description

Nondiscriminatory subject matter
Instructional materials; definition
Requirements for instructional materials
[Unlawful discrimination](#)
Definition of hate crime
Crimes, harassment

Cross References

0410
1312.3
1312.3
1312.3
1312.4
1312.4
5111
5131.2
5131.2
5145.7
5145.7
5145.71
6173.1
6173.1

Description

[Nondiscrimination In County Office Programs And Activities](#)
[Uniform Complaint Procedures](#)
[Uniform Complaint Procedures](#)
[Uniform Complaint Procedures](#)
[Williams Uniform Complaint Procedures](#)
[Williams Uniform Complaint Procedures](#)
[Admission](#)
[Bullying](#)
[Bullying](#)
[Sex Discrimination and Sex-Based Harassment](#)
[Sex Discrimination and Sex-Based Harassment](#)
[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)
[Education For Foster Youth](#)
[Education For Foster Youth](#)

County Office Regulation 5145.3: Nondiscrimination/Harassment

Status: DRAFT

Original Adopted Date: 01/05/2021

CSBA NOTE: For those County Offices of Education (COE) in which the County Board of Education does not hire and supervise the County Superintendent of Schools, CSBA recommends that the County Board and the County Superintendent work together for the adoption of this regulation, since some of the programs it covers are subject to the independent statutory authority of both the County Board and the County Superintendent. The following regulation presents sample procedures recommended for use by the County Superintendent of Schools to complement and/or implement County Office of Education policy. It is recommended that any County Superintendent intending to adopt this sample regulation for use in the COE do so in cooperation with the County Board. This regulation may be revised to reflect local practice and may be adopted as a regulation or for the COE's use as a County Superintendent Policy.

CSBA NOTE: The following mandated administrative regulation provides measures that may be implemented to comply with state and federal laws and regulations prohibiting unlawful discrimination at school or in school-sponsored or school-related activities, including discriminatory harassment, intimidation, and bullying, of any 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, genetic information, or any other legally protected category or association with a person or group with one or more of these actual or perceived characteristics. 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Federal and state law also prohibit retaliation against those who engage in activity to protect civil rights.

5 CCR 4621 mandates each COE to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying. Additionally, 34 CFR 106.8 and other federal regulations mandate COEs that receive federal financial assistance to adopt procedures for the "prompt and equitable" resolution of student and employee discrimination complaints, including the designation of one or more responsible employees to ensure compliance with federal laws and regulations governing the COE's educational programs.

During the Federal Program Monitoring process, California Department of Education (CDE) staff will check to ensure that the COE's procedures list the specific title(s) of the employee(s) responsible for investigating complaints. The U.S. Department of Education's Office for Civil Rights (OCR) is the agency responsible for the administrative enforcement of federal antidiscrimination laws and regulations in programs and activities that receive federal financial assistance from the department. In reviewing discrimination policies and procedures, OCR will examine whether a COE has identified the employee(s) responsible for coordinating compliance with federal civil rights laws, including the investigation of complaints.

The following paragraph identifies the employee(s) designated to coordinate the COE's efforts to comply with state and federal civil rights laws as the same person designated to ensure COE compliance, and receive, investigate and resolve discrimination complaints under E 1312.3 - Uniform Complaint Procedures. The County Superintendent may modify the following paragraph to designate different employees to serve these functions. Note also that more than one employee may be designated to coordinate compliance and/or receive and investigate complaints, although each employee designated as a coordinator/compliance officer must be properly trained.

34 CFR 106.8 requires that the employee designated to coordinate COE responsibilities under Title IX be referred to as the Title IX Coordinator. If the COE has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over those responsibilities and ensure the COE's consistent compliance with its responsibilities under Title IX. It is recommended that the Title IX Coordinator be the same person designated below and in E 1312.3 - Uniform Complaint Procedures. See E 5145.7 - Sexual Discrimination and Sex-Based Harassment.

The County Superintendent of Schools designates the individual(s) identified below as the Compliance Officer(s). The employee(s) is responsible for coordinating the efforts of the County Office of Education (COE) to comply with applicable state and federal civil rights laws and to answer inquiries regarding the COE's nondiscrimination policies. The individual(s) shall also serve as the Compliance Officer(s) specified in the COE's Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination of a student, and the Title IX

Coordinator as the responsible employee to handle complaints alleging unlawful sex discrimination and sex-based harassment, as permitted by law. The Coordinator/Compliance Officer(s) may be contacted at: (Education Code 234.1; 5 CCR 4621)

Associate Superintendent
Napa County Office of Education
2121 Imola Avenue, Napa, CA 94559
(707) 253-6810
jmclure@napacoe.org

Administrator of Human Resources
Napa County Office of Education
2121 Imola Avenue, Napa, CA 94559
(707) 253-6810
jzikmund@napacoe.org

Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying, of COE students at school or in school activities and to ensure equal access of all students to the educational program, the County Superintendent or designee shall implement the following measures:

CSBA NOTE: As part of its responsibility to monitor the COE's compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, as amended by SB 153 (Ch. 38, Statutes of 2024), CDE is required to ensure that the COE prominently and conspicuously displays its nondiscrimination policies in all areas that are accessible to, and commonly frequented by, school site employees, students, and members of the public at each school site and COE office, including, but not limited to, in school office lobbies, staff lounges, student government meeting rooms, and on the COE's website.

In addition, federal regulations enforced by OCR require the COE to notify students, parents/guardians, and employees of its policies prohibiting discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.8 and 28 CFR 35.107), and age (34 CFR 110.25) and of related complaint procedures. For additional notification requirements specific to sex discrimination and sex-based harassment, see BP/E 5145.7 - Sex Discrimination and Sex-Based Harassment.

1. Publicize the COE's nondiscrimination policy and related complaint procedures, including the Compliance Officer's contact information, to students, parents/guardians, employees, volunteers, and the general public by posting them in prominent locations and providing easy access to them through COE-supported communications

CSBA NOTE: Education Code 234.1, as amended by SB 153, and 234.6 requires a COE to post its nondiscrimination policies on its website as specified in Items #2 and #3 below. In addition to the policies specified in Item #2 below, if the COE has a policy in regard to the prevention and response to hate violence, that policy must also be posted, and the following item should be modified accordingly.

2. Post the COE's policies and procedures prohibiting discrimination, harassment, student sex-based harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media, in a prominent location on the COE's website in a manner that is easily accessible to parents/guardians and students (Education Code 234.1, 234.6)
3. Post the definition of sex discrimination and harassment based on sex as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on the COE's website in a manner that is easily accessible to parents/guardians and students (Education Code 234.6)

CSBA NOTE: Education Code 221.61 requires COEs and public schools to post on their websites information related to Title IX (20 USC 1681-1688). Education Code 234.6 requires COEs to post the Title IX information required pursuant to 221.61 in a prominent location on the COE's website in a manner that is easily accessible to parents/guardians and students. Additionally, COEs are required to provide a link to the Title IX information included on CDE's website pursuant to Education Code 221.6, in the same manner. A comprehensive list of rights based on the federal regulations implementing Title IX can be found in Education Code 221.8.

4. Post in a prominent location on the COE's website in a manner that is easily accessible to parents/guardians and students information regarding Title IX prohibitions against discrimination based on a student's sex; sex characteristics; sexual orientation; gender; gender identity; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; and parental, marital, and family status, including the following: (Education Code 221.6, 221.61, 234.6)
 - a. The name and contact information of the COE's Title IX Coordinator, including the phone number and email address
 - b. The rights of students and the public and the responsibilities of the COE under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the websites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights (OCR)
 - c. A description of how to file a complaint of noncompliance under Title IX, which shall include:
 - i. An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred and how a complaint may be filed beyond the statute of limitations
 - ii. An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including web links to this information on OCR's website
 - iii. A web link to the OCR complaints form and the contact information for the office, including the phone number and email address for the office
 - d. A link to the Title IX information included on the California Department of Education's (CDE) website

CSBA NOTE: Item #5 is for COEs that participate in the California Interscholastic Federation (CIF). In order to track racial discrimination, harassment, or hazing that occurs at high school sporting games or events, Education Code 33353, as amended by AB 1327 (Ch. 366, Statutes of 2023), requires a COE that participates in CIF to post on its website, by April 1, 2025, a standardized incident form developed by CDE, including information on how to submit a completed incident form to the COE. The COE is required to submit information related to any completed standardized incident form to CDE, if requested.

5. By April 1, 2025, post CDE's standardized incident form to track racial discrimination, harassment, or hazing that occurs at high school sporting games or events, including information on how to submit a completed incident form to the COE (Education Code 33353)

CSBA NOTE: Pursuant to Title IX and its implementing regulation 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, COEs are required to provide a notice of nondiscrimination on the basis of sex, as specified below.

6. Post in a prominent location on the COE's website and include in each handbook, catalog, announcement, bulletin, and application form for students, parents/guardians or other authorized legal representative, and employees, the Title IX notice of nondiscrimination which includes the following: (34 CFR 106.8)
 - a. The COE does not discriminate on the basis of sex in any education program or activity that it operates
 - b. Inquiries about the application of Title IX may be referred to the COE's Title IX Coordinator and/or OCR
 - c. The name or title, office and email address, and telephone number of the COE's Title IX Coordinator
 - d. How to locate the COE's nondiscrimination policy and the COE's grievance procedures for Title IX complaints
 - e. How to report conduct that may constitute sex discrimination under Title IX
 - f. How to make a complaint of Title IX sex discrimination

If necessary due to the format or size of any publication specified above, the COE may include only the statement that the COE prohibits sex discrimination in any education program or activity that it operates, that individuals may report concerns or questions to the Title IX Coordinator, and the location

of the complete notice on the COE's website.

The COE shall not distribute a publication stating that the COE treats students, employees or applicants differently on the basis of sex, unless such treatment is permitted by Title IX.

7. Post a link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families (Education Code 234.5)

Such resources shall be posted in a prominent location on the COE's website in a manner that is easily accessible to parents/guardians and students. (Education Code 234.6)

8. Provide to students a handbook that contains age-appropriate information that clearly describes the COE'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
9. Annually notify all students and parents/guardians of the COE's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all students

The notice shall inform students and parents/guardians that they may request to meet with the Compliance Officer to determine how best to accommodate or resolve concerns that may arise from the COE's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the COE will address any individual student's interests and concerns in private.

CSBA NOTE: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires COEs to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, limited-English-proficient (LEP) parents/guardians must be notified in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's 2003, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on balancing four factors: (1) the number or proportion of LEP individuals likely to encounter or be served by the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient and costs. State law is more specific than federal law. Education Code 48985 requires translation of certain information and documents if 15 percent or more of K-12 students enrolled in the school speak a single primary language other than English.

10. Ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the COE'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 school speak a single primary language other than English, the COE'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 COE shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

11. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and/or information regarding the COE'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 details of guidelines the COE may use to provide a discrimination-free environment for all students.

CSBA NOTE: Item #12 applies to COEs that serve students in any of grades 7-12. Pursuant to Education Code 234.1, as amended by SB 153, a COE is required to provide certificated school employees serving students in any of grades 7-12 information on existing school and community resources related to the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) students, or related to the

support of students who may face bias or bullying as specified below.

12. Provide to certificated employees serving students in grades 7-12 information on existing school and community resources related to the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ+) students, or related to the support of students who may face bias or bullying on the basis of any of the actual or perceived characteristics in Penal Code 422.55, including immigration status; Education Code 220; and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation; or association with a person or group with one or more of these actual or perceived characteristics (Education Code 234.1)

CSBA NOTE: Item #13 applies to COEs that serve students in any of grades 7-12. Starting in the 2025-26 school year through the 2029-2030 school year, Education Code 218.3, as added by AB 5 (Ch. 220, Statutes of 2023), requires a COE serving students in any of grades 7-12 to provide at least one hour of training annually to all teachers and certificated employees serving students in grades 7-12 which incorporates CDE's online training curriculum to support LGBTQ cultural competency. The COE is required to maintain records documenting the date that each employee completed the training and the name of the entity that provided the training.

13. For the 2025-2026 school year through the 2029-2030 school year, provide annually to certificated employees serving students in grades 7-12 at least one hour of training to support LGBTQ+ cultural competency in accordance with Education Code 218.3
14. 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 to intervene if it is safe to do so (Education Code 234.1)

CSBA NOTE: Item #15 below may be revised to reflect local practice. In some situations, the COE may need to provide assistance to a student to protect the student from harassment or bullying. Each situation will need to be analyzed to determine the most appropriate course of action to meet the needs of the student, based on the circumstances involved.

15. At the beginning of each school year, inform each principal or designee of the COE's responsibility to provide appropriate assistance or resources to protect students from threatened or potentially discriminatory behavior and ensure their privacy rights

Process for Initiating and Responding to Complaints

CSBA NOTE: Education Code 234.1 requires that COEs adopt a process for receiving and investigating complaints of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying. Such a process, which is required to be consistent with the uniform complaint procedures (UCP) specified in 5 CCR 4600-4670, must include the following: (1) a requirement that school personnel who witness an act take immediate steps to intervene when safe to do so, (2) a timeline for investigating and resolving complaints, (3) an appeal process, and (4) translation of forms when required by Education Code 48985. In addition, federal regulations require COEs to adopt procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25).

Students who feel that they have been subjected to unlawful discrimination described above or in COE policy are strongly encouraged to immediately contact the Compliance Officer, Title IX Coordinator, principal, or any other staff member. In addition, students who observe any such incident are strongly encouraged to report the incident to the Compliance Officer, Title IX Coordinator, or principal, regardless of whether the alleged victim files a complaint.

CSBA NOTE: The following paragraph related to employee reporting of unlawful discrimination should be revised to reflect the COE's timeline.

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, Title IX Coordinator, or principal within one work day, regardless of whether the alleged victim files a complaint.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

CSBA NOTE: Though a formal complaint must be in writing pursuant to 5 CCR 4600, the COE's obligation to provide a safe school environment for its students overrides the need to comply with formalities. Thus, once the

COE receives notice of an incident, whether verbally or in writing, it is good practice to begin the investigation of the report and to take steps to stop any prohibited conduct and address any effect on students. The following paragraph reflects such practice.

Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, a COE with knowledge of alleged conduct, which occurs in a COE program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the scope of the UCP, it is unclear whether COEs would additionally be required to follow the UCP. Due to this uncertainty, COEs are advised to consult CSBA's District and County Office of Education Legal Services or COE legal counsel prior to utilizing the UCP for this purpose. For more information regarding the Title IX grievance procedures, see E(1) 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to, or received by, the principal, Compliance Officer, or Title IX Coordinator, the principal, Compliance Officer, or Title IX Coordinator shall notify the student or parent/guardian of the right to file a formal complaint in accordance with the COE's Uniform Complaint Procedures or, for complaints of sex discrimination, including sex-based harassment the right to initiate the Title IX grievance procedures as specified in Exhibit 1 5145.71-- Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures. Once notified verbally or in writing, the Compliance Officer or Title IX Coordinator shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment. Any interim measures adopted to address unlawful discrimination shall, to the extent possible, not disadvantage the complainant or a student who is the victim of the alleged unlawful discrimination.

Any report or complaint alleging unlawful discrimination involving the principal, Compliance Officer, Title IX Coordinator, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the County Superintendent or designee who shall determine how the complaint will be investigated.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Federal References

20 USC 1681-1688

28 CFR 35.107

29 USC 794

34 CFR 100.3

34 CFR 104.7

34 CFR 104.8

34 CFR 106.30

34 CFR 106.44-106.45

34 CFR 106.8

34 CFR 110.25

34 CFR 99.31

42 USC 12101-12213

42 USC 2000d-2000d-7

42 USC 2000h-2-2000h-6

42 USC 6101-6107

Description

Title IX of the Education Amendments of 1972; discrimination based on sex

Designation of responsible employee and adoption of grievance procedures

Rehabilitation Act of 1973, Section 504

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

Designation of responsible employee for Section 504

Notice

Discrimination on the basis of sex; definitions

Grievance process for formal complaints of sexual harassment

Designation of responsible employee and adoption of grievance procedures

Prohibition of discrimination based on age

Disclosure of personally identifiable information

Americans with Disabilities Act

Title VI and Title VII Civil Rights Act of 1964, as amended

Title IX of the Civil Rights Act of 1964

Age Discrimination Act of 1975

Management Resources References

CA Office of the Attorney General Publication

Description

[Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, January 2024](#)

Management Resources References

Description

CA Office of the Attorney General Publication	Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018
California Department of Education Publication	California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019
Court Decision	Flores v. Morgan Hill Unified School District (2003) 324 F.3d 1130
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
CSBA Publication	Reference: State Roles, Responsibilities, and Process for Instructional Materials Adoption, February 2024
CSBA Publication	Fact Sheet: Instructional Materials Adoption: Local governing board responsibilities, February 2024
CSBA Publication	Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, February 2024
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
U.S. Department of Education Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023
U.S. Dept of Health & Human Services Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, August 2013
U.S. DOE Publication	Creating Inclusive and Nondiscriminatory School Environments for LGBTQI+ Students, June 2023
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics, May 2024
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics, November 2023
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Addressing Discrimination Against Jewish Students, May 2023
U.S. DOE, Office for Civil Rights Publication	Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973, July 2022
U.S. DOE, Office for Civil Rights Publication	Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County, June 2021
U.S. DOE, Office for Civil Rights Publication	Questions and Answers on the Title IX Regulations on Sexual Harassment, June 2022
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Race and School Programming, August 2023
U.S. DOE, Office for Civil Rights Publication	Resolution Agreement Between the Arcadia USD, US Dept of Ed, OCR, & the US DOJ, CRD, (2013) OCR 09-12-1020, DOJ 169-12C-70
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Harassment and Bullying, October 2010
U.S. DOJ & DOE Civil Rights Joint Publication	Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023
Website	U.S Department of Justice, Civil Rights Division
Website	U.S. Department of Education, Office for Civil Rights

Management Resources References

Website
 Website
 Website
 Website
 Website
 Website

Description

[First Amendment Center](#)
[CSBA](#)
[California Safe Schools Coalition](#)
[California Office of the Attorney General](#)
[California Interscholastic Federation](#)
[California Department of Education](#)

State References

5 CCR 432
 5 CCR 4600-4670
 5 CCR 4900-4965
 Civ. Code 1714.1
 Ed. Code 17585
 Ed. Code 200-270
 Ed. Code 33353
 Ed. Code 35292.5
 Ed. Code 48900.3
 Ed. Code 48900.4
 Ed. Code 48900.5
 Ed. Code 48904
 Ed. Code 48907
 Ed. Code 48950
 Ed. Code 48985
 Ed. Code 49020-49023
 Ed. Code 49060-49079
 Ed. Code 51204.5
 Ed. Code 51500
 Ed. Code 51501
 Ed. Code 60010
 Ed. Code 60040-60052
 Gov. Code 11135
 Pen. Code 422.55
 Pen. Code 422.6

Description

Student records
 Uniform complaint procedures
 Nondiscrimination in elementary and secondary education programs
[Liability of parent or guardian for act of willful misconduct by a minor](#)
 School modernization project; all-gender restroom
[Educational equity; prohibition of discrimination on the basis of sex](#)
 California Interscholastic Federation; standardized incident form
 School restrooms; all-gender restrooms
 Suspension or expulsion for act of hate violence
 Suspension or expulsion for threats or harassment
 Suspension; other means of correction
 Liability of parent/guardian for willful student misconduct
 Students' exercise of free expression; rules and regulations
 Freedom of speech and other communication
 Notices to parents in language other than English
 Athletic programs
 Student records
 Social sciences instruction; contributions of specified groups
 Prohibited instruction or activity
 Nondiscriminatory subject matter
 Instructional materials; definition
 Requirements for instructional materials
[Unlawful discrimination](#)
 Definition of hate crime
 Crimes, harassment

Cross References

0410
 1312.3
 1312.3
 1312.3
 1312.4
 1312.4

Description

[Nondiscrimination In County Office Programs And Activities](#)
[Uniform Complaint Procedures](#)
[Uniform Complaint Procedures](#)
[Uniform Complaint Procedures](#)
[Williams Uniform Complaint Procedures](#)
[Williams Uniform Complaint Procedures](#)

Cross References

5111

5131.2

5131.2

5145.7

5145.7

5145.71

6173.1

6173.1

Description[Admission](#)[Bullying](#)[Bullying](#)[Sex Discrimination and Sex-Based Harassment](#)[Sex Discrimination and Sex-Based Harassment](#)[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)[Education For Foster Youth](#)[Education For Foster Youth](#)

County Board Policy 5145.7: Sex Discrimination and Sex-Based Harassment

Status: DRAFT

Original Adopted Date: 01/05/2021

CSBA NOTE: Education Code 231.5 and 34 CFR 106.8 mandate the county office of education (COE) to have written policies on sex discrimination and sex-based harassment. The following policy addresses sex discrimination and sex-based harassment against students in the school setting. As part of this mandate, the COE should also adopt a sex discrimination and sex-based harassment policy related to employees.

Moreover, this Board policy and the accompanying exhibit reflect the right of a transgender student to participate in sex-segregated educational programs and use facilities consistent with one's gender identity, as specified in Education Code 221.5 and 34 CFR 106.31, as amended by 89 Fed. Reg. 33474, and best practices based on existing state and federal law.

Both federal law, Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82), and state law (Education Code 220, 231.5), prohibit sex discrimination, including sex-based harassment and require COEs to establish procedures for the prompt and equitable resolution of sex discrimination, including sex-based harassment complaints. Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, a COE with knowledge of alleged conduct, which occurs in a COE program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the scope of the uniform complaint procedures (UCP) as specified in BP/E 1312.3 - Uniform Complaint Procedures, it is unclear whether COEs would additionally be required to follow the process specified in BP/E 1312.3 - Uniform Complaint Procedures. Due to this uncertainty, it is recommended that COEs consult CSBA's District and County Office of Education Legal Services or COE legal counsel prior to utilizing the UCP for this purpose. For more information regarding the Title IX grievance procedures, see E(1) 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status.

Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, a COE can be held liable for civil damages for sex discrimination, including sex-based harassment of students pursuant to Title IX if the COE has knowledge of conduct that reasonably may constitute sex-based harassment in its education program or activity and does not respond promptly and effectively.

In addition to filing a private civil lawsuit, an alleged victim of sex discrimination, including sex-based harassment, may file a complaint with the California Department of Education (CDE) and/or the U.S. Department of Education's Office for Civil Rights (OCR), the federal agency responsible for administrative enforcement of federal laws and regulations that prohibit discrimination in programs and activities that receive federal financial assistance from the U.S. Department of Education.

The county office of education (COE) is committed to maintaining a welcoming, safe, and supportive school environment that is free from discrimination and harassment. Sex discrimination, including sex-based harassment, as defined in the accompanying exhibit, targeted at any student, based on the student's actual or perceived sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy or lactation, including related medical conditions or recovery; and, parental, marital, and family status in a COE educational program, school, or school-sponsored or school-related activity is prohibited.

CSBA NOTE: COEs are required to prohibit retaliation when a right or privilege secured by Title IX is interfered with, including when a person reports possible sex discrimination, made a sex-discrimination complaint, or participated or refused to participate in any way in the COE's Title IX process. Pursuant to 34 CFR 106.71, as amended by 89 Fed. Reg. 33474, when the COE has information about conduct that reasonably may constitute retaliation under Title IX, including peer retaliation, the COE is required to respond to such conduct using the procedures used for other forms of sex discrimination as specified in 34 CFR 106.44 and 106.45; see AR/E(1) 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Pursuant to Education Code 220.1, as added by AB 1955 (Ch. 95, Statutes of 2024), a COE, including a County Board of Education member, may not retaliate or otherwise take adverse action against an employee, including by placing the employee on administrative leave, on the basis that the employee supported a student exercising rights

specified in Education Code 220.1, performed work in a manner consistent with the COE's legal obligations related to educational equity, or provided instruction to students consistent with current content standards, curriculum frameworks, instructional materials adopted by the state board, and state law.

Additionally, retaliatory behavior or action against any person who complains or testifies about conduct that reasonably may constitute sex discrimination, including sex-based harassment, reports such conduct, or otherwise participates or refuses to participate in the complaint process established for the purpose of this policy is prohibited. (Education Code 220.1; 34 CFR 106.71)

CSBA NOTE: The following two paragraphs relate to student and employee reporting of sex discrimination, including sex-based harassment. It is important to note that reporting to law enforcement and/or child protective services does not relieve a COE of its responsibility to investigate a complaint of sex discrimination, including sex-based harassment.

Students who feel that they are being or have experienced sex discrimination, including sex-based harassment, on school grounds or at a school-sponsored or school-related activity, or off-campus when the conduct has a continuing effect on campus, are strongly encouraged to immediately contact their teacher, the principal or program administrator, the COE's Title IX Coordinator, or any other available school employee.

CSBA NOTE: 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, requires a COE to respond promptly and effectively when it has knowledge of conduct that reasonably may constitute sex discrimination or sex-based harassment in its education program or activity. 34 CFR 106.44 further obligates a COE to require its Title IX Coordinator to monitor the COE's programs and activities for barriers to reporting information of such conduct and its employees to notify the Title IX Coordinator when they have such information.

The following paragraph should be revised to reflect the COE's timeline.

Any employee who receives a report or observes an incident of sex discrimination, including sex-based harassment, by or against a student in a COE education program or activity shall report the incident to the Title IX Coordinator within one workday.

Once notified of a complaint or allegation of sexual harassment, the Title IX Coordinator shall ensure that it is addressed through the COE's Title IX complaint procedures.

CSBA NOTE: Pursuant to 34 CFR 106.44, as amended by 89 Fed. Reg. 33474, when the Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination, including sex-based harassment, the Title IX Coordinator is required to offer and coordinate supportive measures to the complainant, and, if the COE has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to the respondent, as appropriate.

The Title IX Coordinator shall offer and coordinate supportive measures to be provided to the complainant and, if the COE has begun grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures to be provided to the respondent as deemed appropriate under the circumstances.

CSBA NOTE: 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, requires that all employees receive training related to their duties under Title IX promptly upon hire or change of position that alters their duties under Title IX, and annually thereafter. The training provided to all employees is required to include the COE's obligation to address sex discrimination, the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment, and the applicable notice and information requirements. 34 CFR 106.8, as amended 89 Fed. Reg. 33474, requires additional training for (1) investigators, decisionmakers, and other persons who are responsible for implementing the COE's grievance procedures or have the authority to modify or terminate supportive measures, (2) facilitators of an informal resolution process, and (3) Title IX Coordinators and designees.

All COE staff shall be trained regarding the COE's sex discrimination and sex-based harassment policy, and that all employees receive training related to their duties under Title IX as specified in Administrative Regulation 4119.11/4219.11/4319.11 - Sex Discrimination and Sex-Based Harassment. (34 CFR 106.8)

Instruction/Information

CSBA NOTE: Pursuant to Education Code 231.7, as added by AB 1071 (Ch. 65, Statutes of 2023), CDE is required to make available on its website (1) resources on abuse, including sexual, emotional, and physical abuse, and teen dating violence prevention for professional learning purposes, (2) information about local and national hotlines and services for youth experiencing teen dating violence, and (3) other relevant materials for parents/guardians, and other caretakers of students.

All COE students shall receive age-appropriate information on sex discrimination and sex-based harassment. Such

instruction and information shall include:

1. What acts and behavior constitute sex discrimination and sex-based harassment, including the fact that sex discrimination and sex-based harassment could occur between people of the same sex and could involve sexual violence
2. A clear message that students do not have to endure sex discrimination or sex-based harassment under any circumstance
3. Encouragement to report observed incidents of sex discrimination and sex-based harassment even when the alleged victim of the discrimination or harassment has not complained

CSBA NOTE: Where sex discrimination, or sex-based harassment or violence, occurs in the context of other possible rule violations, students may be reluctant to report such conduct. For example, a student who experiences sex-based harassment while away from school without permission may be reluctant to file a complaint if the student believes discipline will be imposed for the violation. As such, Item #4 below clarifies that any other rule violation will be addressed separately from the sex discrimination and/or sex-based harassment complaint in order to encourage students to report the harassment.

4. A clear message that student safety is the COE's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a sex discrimination or sex-based harassment incident will be addressed separately and will not affect the manner in which the sex discrimination or sex-based harassment complaint will be received, investigated, or resolved
5. A clear message that, regardless of a complainant's noncompliance with the writing, timeline, or other formal filing requirements, every sex discrimination and sex-based harassment allegation that involves a student, whether as the complainant, respondent, or victim of the discrimination or harassment, shall be investigated and action shall be taken to respond to harassment, prevent recurrence, and address any continuing effect on students
6. Information about the COE's procedures for investigating complaints and the person(s) to whom a report of sex discrimination and/or sex-based harassment should be made
7. Information about the rights of students and parents/guardians to file a civil or criminal complaint, as applicable, including the right to file a civil or criminal complaint while the COE investigation of a sex discrimination or sex-based harassment complaint continues
8. A clear message that, when needed, the COE will implement supportive measures to ensure a safe school environment for a student who is the complainant or victim of sex discrimination or sex-based harassment and/or other students during an investigation

Disciplinary Actions

CSBA NOTE: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sex-based harassment. Education Code 48915(c) requires a recommendation for expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code.

When there is an allegation of Title IX sex discrimination, including sex-based harassment, 34 CFR 106.45, as amended by 89 Fed. Reg. 33474, prohibits the COE from imposing any disciplinary sanctions against a respondent for the allegedly discriminatory behavior until the grievance procedures are completed.

Upon completion of an investigation of sex discrimination and/or sex-based harassment, any student found to have engaged in sex discrimination, and/or sex-based harassment or sexual violence in violation of this policy shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion pursuant to Education Code 48900.2, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

Record-Keeping

CSBA NOTE: Pursuant to 34 CFR 106.8, as amended by 89 Fed. Reg. 33474, the COE is required to keep the following records for at least seven years: (1) for each complaint of sex discrimination, including sex-based harassment, records documenting any informal resolution process implemented in accordance with 34 CFR 106.44 or grievance procedures implemented in accordance with 34 CFR 106.45, (2) for each notification the Title IX

Coordinator receives of information about conduct that may reasonably constitute sex discrimination under Title IX, actions taken to fulfill the COE's obligations as specified in 34 CFR 106.44, including supportive measures, and (3) all materials used to train COE employees; the Title IX Coordinator and designees; investigators, decisionmakers, and other persons who are responsible for implementing the COE's grievance procedures or have the authority to modify or terminate supportive measures; and any person who facilitates an informal resolution process.

Records shall be maintained in accordance with law, including in accordance with 34 CFR 106.8 as specified in Exhibit 1 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures, and COE policies and regulations, of all reported cases of sex-based harassment to enable the COE to monitor, address, and prevent repetitive harassing behavior in COE schools.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Federal References

	Description
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.71	Nondiscrimination on the basis of sex in education programs
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking
42 USC 1983	Civil action for deprivation of rights
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended

Management Resources References

	Description
California Department of Education Publication	California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019
Court Decision	Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Court Decision	Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Court Decision	Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Court Decision	Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Court Decision	Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Court Decision	Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
Federal Register	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896
U.S. DOE, Office for Civil Rights Publication	Sexual Harassment: It's Not Academic, September 2008
U.S. DOE, Office for Civil Rights Publication	Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

Management Resources References

U.S. DOE, Office for Civil Rights Publication

Website

Website

Website

Description

[Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016](#)

[U.S. Department of Education, Office for Civil Rights](#)

[CSBA](#)

[California Department of Education](#)

State References

5 CCR 432

5 CCR 4600-4670

5 CCR 4900-4965

Civ. Code 1714.1

Civ. Code 51.9

Ed. Code 200-270

Ed. Code 220.1

Ed. Code 220.3

Ed. Code 220.5

Ed. Code 35292.5

Ed. Code 48900

Ed. Code 48900

Ed. Code 48900.2

Ed. Code 48904

Ed. Code 48980

Ed. Code 49060-49079

Gov. Code 12950.1

Description

Student records

Uniform complaint procedures

Nondiscrimination in elementary and secondary education programs

[Liability of parent or guardian for act of willful misconduct by a minor](#)

[Liability for sexual harassment; business, service and professional relationships](#)

[Educational equity; prohibition of discrimination on the basis of sex](#)

Prohibition of retaliation related to educational equity

Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression

Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression

School restrooms; all-gender restrooms

Grounds for suspension or expulsion; definition of bullying

Grounds for suspension and expulsion

Additional grounds for suspension or expulsion; sexual harassment

Liability of parent/guardian for willful student misconduct

Parent/Guardian notifications

Student records

Sexual harassment training

Cross References

0410

1312.3

1312.3

1312.3

5131.2

5131.2

5145.3

5145.3

5145.71

Description

[Nondiscrimination In County Office Programs And Activities](#)

[Uniform Complaint Procedures](#)

[Uniform Complaint Procedures](#)

[Uniform Complaint Procedures](#)

[Bullying](#)

[Bullying](#)

[Nondiscrimination/Harassment](#)

[Nondiscrimination/Harassment](#)

[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)

County Office Regulation 5145.7: Sex Discrimination and Sex-Based Harassment

Status: DRAFT

Original Adopted Date: 01/05/2021

CSBA NOTE: The following exhibit presents a sample procedure recommended for use by the County Superintendent of Schools to complement and/or implement the accompanying County Board of Education sex discrimination and sex-based harassment policy. It is recommended that any County Superintendent intending to adopt this sample exhibit for use in the county office of education (COE) do so in cooperation with the County Board. This exhibit may be revised to reflect local practice and may be adopted for the COE's use as an Administrative Regulation, Superintendent Regulation, or COE regulation according to local practice.

Education Code 231.5 and Title IX of the Education Amendments of 1972 (20 USC 1681-1688; 34 CFR 106.1-106.82) prohibit discrimination based on sex, including sex-based harassment, and mandate that the COE adopt and publish complaint procedures. Also see E(1) and (2) 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

The COE does not discriminate on the basis of sex in any of its programs or activities and complies with Title IX of the Education Amendments of 1972 and its implementing regulations. Sex discrimination, including sex-based harassment, is prohibited in COE education programs and activities.

Definitions

CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that sex discrimination includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status. Those provisions further clarify that sex-based harassment includes harassment on the basis of a sex stereotype, sex characteristic, any of the other specified bases, and when sex-based harassment may create a hostile environment.

Sex discrimination includes treating a student differently with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services based on the student's sex; sex stereotypes; sex characteristics; sexual orientation; gender; gender identity; gender expression; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and recovery; parental, family, or marital status; or the student's association with a person or group with one or more of these actual or perceived characteristics.

Sex discrimination, including sex-based harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct and occurs when 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.

CSBA NOTE: Education Code 212.5 defines sexual harassment as any unwelcome sexual advance, request for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone in the educational setting. For purposes of suspension and expulsion, Education Code 48900.2 defines sexual harassment as conduct, when considered from the perspective of a reasonable person of the same gender as the victim, that is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment for the victim; see AR 5144.1 - Suspension and Expulsion/Due Process.

Pursuant to 34 CFR 106.2, as amended by 89 Fed. Reg. 33474, sex-based harassment includes (1) a COE employee, agent, or other individual authorized by the COE to provide an aid, benefit, or service under the COE's education program or activity explicitly or impliedly conditioning the provision of a COE aid, benefit, or service on an individual's participation in unwelcome sexual conduct, (2) "hostile environment harassment," defined as unwelcome sex-based conduct that, based on the totality of the circumstance, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the COE's education program or activity, or (3) sexual assault, dating violence, domestic violence, or stalking, as defined in 34 CFR 106.2.

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, or other bases specified above. Conduct will constitute sex-based harassment when it takes the form of: (34 CFR 106.2, 106.11)

1. Quid pro quo harassment: A COE employee, agent, or other individual authorized by the COE to provide an

aid, benefit, or service in the COE's education program or activity conditioning the provision of COE aid, benefit, or service on a student's participation in unwelcome sexual conduct

CSBA NOTE: Pursuant to 34 CFR 106.11, as amended by 89 Fed. Reg. 33474, Title IX grievance procedures are required for Title IX sex discrimination complaints, including sex-based harassment complaints, for conduct which occurs on or after August 1, 2024, under the COE's education program or activity, which includes conduct alleged to be contributing to a hostile environment that occurred outside the COE's education program or activity or outside the United States. Item #2 below reflects "hostile environment harassment" as defined by 34 CFR 106.2, as amended by 89 Fed. Reg. 33474.

2. Hostile environment harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the COE's education program or activity

Any prohibited conduct that occurs off campus or outside of school-related or school-sponsored programs or activities will be regarded as sex-based harassment in violation of COE policy if it has a continuing effect on a student's ability to participate in or benefit from COE educational programs or activities.

3. Sexual assault, dating violence, domestic violence, or stalking as defined in 34 CFR 106.2

Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The conduct 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
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any county office of education (COE) program or activity

Examples of Sex Discrimination and Sex-Based Harassment

CSBA NOTE: The following list contains common examples of sexual harassment from the U.S. Department of Education's Office for Civil Rights (OCR) January 2001, "Revised Sexual Harassment Guidance," which has been rescinded, and definitions specified in 5 CCR 4916. Some items on this list have been modified to make them applicable to sex-based harassment in general, not just sexual harassment.

Examples of types of conduct which are prohibited and which may constitute sex-based harassment under state and/or federal law, in accordance with the definitions above, include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sex-based slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sex-based jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sex-based rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body

8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion
12. Electronic communications containing comments, words, or images described above

Title IX Coordinator/Compliance Officer

CSBA NOTE: Pursuant to 34 CFR 106.8, COEs that receive federal financial assistance are mandated to designate an employee to ensure compliance with Title IX and its implementing regulations. If the COE has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over those responsibilities. The following paragraph specifies that the Title IX Coordinator will be the same person(s) designated to serve as the compliance officer(s) for the COE's uniform complaint procedures (UCP) adopted pursuant to 5 CCR 4600-4670. The COE may modify this regulation to designate different employees to serve these functions.

The County Superintendent of Schools designates the following individual(s) as the responsible employee(s) to coordinate the COE's efforts to comply with Title IX. The individual(s) shall also serve as the Compliance Officer(s) to oversee, investigate, and/or resolve sex discrimination, including sex-based harassment, complaints under the COE's uniform complaint procedures (UCP). The Title IX Coordinator(s) may be contacted at:

Associate Superintendent
 Napa County Office of Education
 2121 Imola Avenue, Napa, CA 94559
 (707) 253-6810
 jmclure@napacoe.org

Administrator of Human Resources
 Napa County Office of Education
 2121 Imola Avenue, Napa, CA 94559
 (707) 253-6810
 jzkmund@napacoe.org

Notifications

CSBA NOTE: As part of its responsibility to monitor COE compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, as amended by SB 153 (Ch. 38, Statutes of 2024), the California Department of Education (CDE) is required to ensure that the COE prominently and conspicuously displays its nondiscrimination policies in all areas that are accessible to, and commonly frequented by, school site employees, students, and members of the public at each school site and COE office, including, but not limited to, in school office lobbies, staff lounges, student government meeting rooms, and on the COE's website. Additionally, Title IX, and its implementing regulations, 34 CFR 106.1-106.82, as amended by 89 Fed. Reg. 33474, require the COE to provide notifications and take specified actions to prevent sex discrimination, including sex-based harassment. For more information regarding measures to prevent discrimination, see AR 5145.3 - Nondiscrimination/Harassment.

To prevent unlawful sex discrimination and sex-based harassment in COE programs and activities, the Superintendent or designee shall provide notifications and implement measures to prevent discrimination and harassment as specified in Administrative Regulation 5145.3 - Nondiscrimination/Harassment.

In addition to the measures to prevent discrimination specified in Administrative Regulation 5145.3 - Nondiscrimination/Harassment, a copy of the COE's sex discrimination and sex-based harassment policy and regulation shall:

1. Be displayed in a prominent location in the main administrative building or other area where notices of COE rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)

CSBA NOTE: Education Code 231.6 requires COEs serving students in grades 9-12 to create and display a

poster that notifies students of the COE's sexual harassment policy, as specified below. The COE may partner with local, state, or federal agencies, or nonprofit organizations, for the purposes of the design and content of the poster.

2. Be summarized on a poster which is prominently and conspicuously displayed in each bathroom and locker room at each school

The poster may be displayed in public areas that are accessible to and frequented by students, including, but not limited to, classrooms, hallways, gymnasiums, auditoriums, and cafeterias. The poster shall display the rules and procedures for reporting a charge of sexual harassment; the name, phone number, and email address of an appropriate school employee to contact to report sexual harassment; the rights of the reporting student, the complainant, and the respondent; and the responsibilities of the school. (Education Code 231.6)

3. Be provided as part of any orientation program conducted for new and continuing students at the time the student is enrolled or at the beginning of each quarter, semester, or summer session (Education Code 231.5)
4. Appear in any publication that sets forth the program/school's or COE's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

Reports and Complaints

CSBA NOTE: The following paragraph relates to student and employee reporting of sex discrimination, including sex-based harassment, and should be revised to reflect the COE's timeline.

A student or a student's parent(s)/guardian(s) who believes that the student has been subjected to sex discrimination, including sex-based harassment, in a COE program or activity or who has witnessed sex discrimination, including sex-based harassment, is strongly encouraged to report the incident to the COE's Title IX Coordinator, a teacher, the principal or program administrator, or any other available school employee. Within one workday of receiving such a report, the principal/program administrator or other school employee shall forward the report to the COE's Title IX Coordinator. Any school employee who observes sex discrimination or sex-based harassment shall, within one workday, report the observation to the Title IX Coordinator as specified in the accompanying board policy. The report shall be made regardless of whether the alleged victim files a formal complaint or requests confidentiality.

If the Title IX Coordinator determines a complaint of sex discrimination or sex-based harassment involves off-campus conduct and the conduct may create or contribute to the creation of a hostile school environment, the complaint shall be investigated and resolved in the same manner as if the prohibited conduct occurred at school.

Complaint Procedures

CSBA NOTE: Pursuant to 34 CFR 106.11 and 106.44, as amended by 89 Fed. Reg. 33474, a COE with knowledge of alleged conduct, which occurs in a COE program or activity on or after August 1, 2024, that reasonably may constitute sex discrimination under Title IX, including sex-based harassment, is required to follow Title IX grievance procedures when investigating and resolving a complaint based on the alleged conduct. As such a complaint may also fall within the scope of the UCP as specified in BP/E 1312.3 - Uniform Complaint Procedures, it is unclear whether COEs would additionally be required to follow the process specified in BP/E 1312.3 - Uniform Complaint Procedures. Due to this uncertainty, it is recommended that COEs consult CSBA's District and County Office of Education Legal Services or COE legal counsel prior to utilizing the UCP for this purpose. For more information regarding the Title IX grievance procedures, see E(1) 5145.71 - Sex Discrimination and Sex-Based Harassment Complaint Procedures.

All complaints and allegations of sex discrimination and sex-based harassment shall be investigated and resolved in accordance with 34 CFR 106.44 and 106.45 and Exhibit (1) 5145.71 - Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures.

Issues Unique to Intersex, Nonbinary, Transgender and Gender-Nonconforming Students

CSBA NOTE: The terms and definitions used below are consistent with California law, case law, and generally accepted terms within academia and in publications issued by state and federal agencies such as CDE and OCR, including provisions in the California Gender Recognition Act that recognize three gender options, female, male, and nonbinary, and define "nonbinary" and other related terms such as "intersex" and "transgender". In addition to consistency with the above, the definition of "gender identity" below is consistent with the Resolution Agreement between the Arcadia Unified School District, OCR, and the U.S. Department of Justice, Civil Rights Division, which defines "gender identity" as "one's internal sense of gender, which may be different from one's assigned sex, and which is consistently and uniformly asserted, or for which there is other evidence that the gender identity is

sincerely held as part of the student's core identity."

The following section is also consistent with OCR's fact sheet "Supporting Intersex Students: A Resource for Students, Families, and Educators," issued in October 2021 and CDE's "Update FLASH #158, Guidance for Changing a Student's Gender in CALPADS," which provides guidance on changing a student's gender and/or legal name on the student's mandatory permanent record.

Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense, regardless of whether that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

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.

Intersex student means a student with natural bodily variations in anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with female and male bodies.

Nonbinary student means a student whose gender identity falls outside of the traditional conception of strictly either female or male, regardless of whether the student identifies as transgender, was born with intersex traits, uses gender-neutral pronouns, or uses agender, genderqueer, pangender, gender nonconforming, gender variant, or such other more specific term to describe their gender.

Transgender student means a student whose gender identity is different from the gender assigned at birth.

CSBA NOTE: 34 CFR 106.2 and 106.10, as amended by 89 Fed. Reg. 33474, clarify that discrimination on the basis of sex for the purpose of Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; sexual orientation; gender identity; pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions or recovery; and parental, marital, and family status.

Starting in the 2025-26 school year through the 2029-2030 school year, Education Code 218.3, as added by AB 5 (Ch. 220, Statutes of 2023), requires a COE serving students in any of grades 7-12 to provide at least one hour of training annually to all teachers and certificated employees serving students in grades 7-12 which incorporates CDE's online training curriculum to support lesbian, gay bisexual, transgender, queer, and questioning (LGBTQ) cultural competency. The COE is required to maintain records documenting the date that each employee completed the training and the name of the entity that provided the training; see AR 5145.3 - Nondiscrimination/Harassment.

Pursuant to Education Code 219, as added by SB 857 (Ch. 228, Statutes of 2023), the State Superintendent of Public Instruction has established the LGBTQ Statewide Advisory Task Force (LGBTQ SAT) to identify the needs of LGBTQ students and to make recommendations to assist in implementing supportive policies and initiatives including (1) mental health and feelings of safety and support, (2) inclusive and safe access to school facilities, (3) inclusive instructional material and school curriculum, (4) prevention of, response to, and oversight of, bullying and harassment to determine the effectiveness of policies and programs, and (5) inclusive participation in school activities. For more information on the LGBTQ SAT, see CDE's website.

COEs with questions about the rights of transgender and gender-nonconforming students should consult CSBA's District and County Office of Education Legal Services or COE legal counsel. For more information on the rights of transgender students, see CSBA's, "Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools."

The COE prohibits acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, sex stereotypes, sex characteristics, sexual orientation, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment, regardless of whether the acts are sexual in nature. Examples of the types of conduct that are prohibited in the COE and which may constitute sex-based hostile environment harassment include, but are not limited to:

1. Refusing to address a student by a name and the pronouns consistent with the student's gender identity

2. Disciplining or disparaging a student or excluding the student from participating in activities, for behavior or appearance that is consistent with the student's gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable
3. Blocking a student's entry to the restroom that corresponds to the student's gender identity
4. Taunting a student because the student participates in an athletic activity more typically favored by a student of the other sex
5. Revealing a student's gender identity to individuals who do not have a legitimate need for the information, without the student's consent
6. Using gender-specific slurs
7. Assaulting a student because of the student's gender, sex characteristic, sexual orientation, gender identity, or gender expression

To ensure that intersex, nonbinary, transgender, and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and County Board policy, the COE shall address each situation on a case-by-case basis, in accordance with the following guidelines:

CSBA NOTE: Timelines included in Items #1-2 below may be modified to reflect COE practice.

Pursuant to state and federal law, a COE has the responsibility to ensure a safe, nondiscriminatory school environment for all students and equal access to the educational program for intersex, nonbinary, transgender, or gender non-conforming students. As part of its obligation, the COE must keep a student's private information, including a student's gender, gender identity, or gender expression, confidential. CDE's "School Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions," available on its website, references a transgender student's informational privacy right under Article I, Section I of the California Constitution as protecting the student's gender identity from disclosure. However, CDE specifies that, pursuant to 34 CFR 99.36, disclosure of such information to appropriate parties is permitted in connection with an emergency, as necessary to protect the health or safety of the student or other individuals.

Education Code 220.3 and 220.5, as added by AB 1955 (Ch. 95, Statutes of 2024), clarify that under existing law a COE, including a Governing Board member, may not require an employee or contractor to disclose any information related to a student's sexual orientation, gender identity, or gender expression to any other person, or enact or enforce any policy, rule, or administrative regulation that would require the same, without the student's consent unless otherwise required by state or federal law.

Therefore, a COE is required to take measures such as those specified in the following paragraph, to prevent unintentional release of students' private information and should contact CSBA's District and County Office of Education Legal Services or COE legal counsel before disclosing a student's gender identity without the student's consent.

1. Right to privacy: A student's intersex, nonbinary, transgender, or gender-nonconforming status is the student's private information

The COE shall develop strategies to prevent unauthorized disclosure of students' private information. Such strategies may include, but are not limited to, collecting or maintaining information about student gender only when relevant to the educational program or activity, protecting or revealing a student's gender identity as necessary to protect the health or safety of the student, and keeping a student's unofficial record separate from the official record.

The COE shall 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 COE has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. (Education Code 220.3, 220.5; 34 CFR 99.31, 99.36)

The COE shall only allow disclosure of a student's personally identifiable information to employees in accordance with law. Any COE employee to whom a student's intersex, nonbinary, transgender, or gender-nonconforming status is disclosed shall keep the student's information confidential. When disclosure of a

student's gender identity is made to a COE employee by a student, the employee shall seek the student's permission to notify the Compliance Officer. If the student refuses to give permission, the employee shall keep the student's information confidential, unless the employee is required to disclose or report the student's information pursuant to this exhibit, and shall inform the student that honoring the student's request may limit the COE's ability to meet the student's needs related to the student's status as an intersex, nonbinary, transgender, or gender-nonconforming student. If the student permits the employee to notify the Compliance Officer, the employee shall do so within three school days.

As appropriate given the student's need for support, the Compliance Officer may discuss with the student any need to disclose the student's intersex, nonbinary, transgender, or gender-nonconformity status or gender identity or gender expression to the student's parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The COE shall offer support services, such as counseling, to students who wish to inform their parents/guardians of their status and request assistance in doing so.

2. Determining a Student's Gender Identity: The Compliance Officer shall accept the student's assertion of gender identity and begin to treat the student consistent with that gender identity unless COE personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose
3. Addressing a Student's Transition Needs: The Compliance Officer shall arrange a meeting with the student and, if appropriate, the student's parents/guardians to identify and develop strategies for ensuring that the student's access to educational programs and activities is maintained

The meeting shall discuss the intersex, nonbinary, 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 Compliance Officer shall identify specific school site employee(s) to whom the student may report any problem related to the student's status as an intersex, nonbinary, transgender, or gender-nonconforming individual, so that prompt action can 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 arrangements for the student are meeting the student's 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.

CSBA NOTE: Pursuant to Education Code 221.5, a COE is required to permit a student to use facilities and participate in sex-segregated school programs and activities consistent with the student's gender identity, regardless of the gender listed on the student's educational records. Additionally, 34 CFR 106.31, as amended by 89 Fed. Reg. 33474, provides that a COE (1) may not exclude a student from participation in, deny a student the benefits of, or otherwise subject a student to discrimination on the basis of sex in any education program or activity, (2) that in the limited circumstances in which different treatment or separation on the basis of sex is permitted, a COE may not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a student to more than de minimis harm, and (3) that preventing a student from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex. In commentary accompanying the Final Rule, the U.S. Department of Education (USDOE) clarifies that Title IX protects students from sex discrimination, including sex-based harassment, when they access sex-separate facilities. This protection applies with equal force to all students, including transgender and nonbinary students, requiring COEs to provide access to sex-separate facilities, including bathrooms, in a manner that does not cause more than de minimis harm. USDOE intends to issue a separate final rule to address Title IX's application to sex-separate athletic teams which is governed by 34 CFR 106.41, rather than 34 CFR 106.31 as described above.

Beginning July 1, 2026, Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), requires each school maintaining any of grades 1-12 with more than one female student restroom and more than one male student restroom to provide and maintain at least one all-gender restroom for student use that meets the requirements of law.

For more information on the rights of transgender students, see CSBA's updated, "Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools."

4. Accessibility to Sex-Segregated Facilities, Programs, and Activities: When the COE maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as

physical education classes, intermural sports, and interscholastic athletic programs, students shall be permitted to access facilities and participate in programs and activities consistent with their gender identity

To address any student's privacy concerns in using sex-segregated facilities, the COE shall offer available options 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, or use of the locker room before or after the other students. However, the COE shall not require a student to utilize these options because the student is intersex, nonbinary, transgender, or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with the student's 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 the student's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

Beginning July 1, 2026, each school shall provide and maintain at least one all-gender restroom for student use that meets the requirements of Education Code 35292.5.

CSBA NOTE: Education Code 49062.5 and 49070 require COEs to update a former student's records to change the student's name and/or gender as specified below. See AR 5125 - Student Records. Pursuant to 5 CCR 432, a COE is required to maintain for each student a mandatory permanent student record that includes the student's legal name, sex, and other specified details. While 5 CCR 4910 refers to "sex" as the "biological condition or quality of being a female or male human being," it also defines "gender" to mean "sex," which includes "a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth." When responding to a request to change the gender or legal name of intersex, nonbinary, transgender, or gender non-conforming students, COEs should be mindful of laws prohibiting gender-based discrimination. In "Update FLASH #158, Guidance for Changing a Student's Gender in CALPADS," CDE distinguishes the process for updating a student's legal name from the process for updating a student's gender. According to CDE, a COE must receive formal documentation that a student's name has been legally changed before the student's recorded legal name may be changed in the student's mandatory permanent student record (official record). When documentation is not provided, CDE states the COE should nonetheless update all other school records (unofficial records such as attendance sheets, report cards, and school identification) to reflect the name change. On the other hand, to change a student's gender in the student's official records, CDE states that there is no specific requirement regarding formal documentation or process that a COE should review or require in determining the gender to be recorded in the official records. Pursuant to Education Code 49061, only a parent/guardian may authorize a change to a student's gender in the student's official record. The COE should consult CSBA's District and County Office of Education Legal Services or COE legal counsel in developing a policy in this regard.

5. Student Records: Upon each student's enrollment, the COE is required to maintain a mandatory permanent student record (official record) that includes the student's gender and legal name

A student's legal name as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed with proper documentation. A student's gender as entered on the student's official record required pursuant to 5 CCR 432 shall only be changed with written authorization of a parent/guardian having legal custody of the student. (Education Code 49061)

However, when proper documentation or authorization, as applicable, is not submitted with a request to change a student's legal name or gender, any change to the student's record shall be limited to the student's unofficial records such as attendance sheets, report cards, and school identification.

6. Names and Pronouns: If a student so chooses, COE personnel shall be required to address the student by a name and the pronoun(s) consistent with the student's gender identity, without the necessity of a court order or a change to the student's official COE record

However, inadvertent slips or honest mistakes by COE personnel in the use of the student's name and/or consistent pronouns will, in general, not constitute a violation of this Exhibit or the accompanying County Board policy.

7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with the student's gender identity, subject to any dress code adopted on a school site

policy.

Federal References

20 USC 1092
20 USC 1221
20 USC 1681-1688
34 CFR 106.1-106.71
34 CFR 106.1-106.82
34 CFR 99.1-99.67
34 USC 12291
42 USC 1983
42 USC 2000d-2000d-7
42 USC 2000e-2000e-17

Description

Definition of sexual assault
Application of laws
Title IX of the Education Amendments of 1972; discrimination based on sex
Nondiscrimination on the basis of sex in education programs
Nondiscrimination on the basis of sex in education programs
Family Educational Rights and Privacy
Definition of dating violence, domestic violence, and stalking
Civil action for deprivation of rights
Title VI, Civil Rights Act of 1964
Title VII, Civil Rights Act of 1964, as amended

Management Resources References

California Department of Education Publication

Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision

CSBA Publication

CSBA Publication

CSBA Publication

Federal Register

U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication

Website
Website
Website

Description

[California Longitudinal Pupil Achievement Data System \(CALPADS\) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019](#)

Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

[Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022](#)

[Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011](#)

[Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014](#)

[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)

[Sexual Harassment: It's Not Academic, September 2008](#)

[Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001](#)

[Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016](#)

[U.S. Department of Education, Office for Civil Rights](#)

[CSBA](#)

[California Department of Education](#)

State References

5 CCR 432
5 CCR 4600-4670

Description

Student records
Uniform complaint procedures

State References

5 CCR 4900-4965
 Civ. Code 1714.1
 Civ. Code 51.9
 Ed. Code 200-270
 Ed. Code 220.1
 Ed. Code 220.3
 Ed. Code 220.5
 Ed. Code 35292.5
 Ed. Code 48900
 Ed. Code 48900
 Ed. Code 48900.2
 Ed. Code 48904
 Ed. Code 48980
 Ed. Code 49060-49079
 Gov. Code 12950.1

Description

Nondiscrimination in elementary and secondary education programs
[Liability of parent or guardian for act of willful misconduct by a minor](#)
[Liability for sexual harassment; business, service and professional relationships](#)
[Educational equity; prohibition of discrimination on the basis of sex](#)
 Prohibition of retaliation related to educational equity
 Prohibition of disclosure of information related to student's sexual orientation, gender identity, or gender expression
 Prohibition of policies requiring disclosure of information related to student's sexual orientation, gender identity, or gender expression
 School restrooms; all-gender restrooms
 Grounds for suspension or expulsion; definition of bullying
 Grounds for suspension and expulsion
 Additional grounds for suspension or expulsion; sexual harassment
 Liability of parent/guardian for willful student misconduct
 Parent/Guardian notifications
 Student records
 Sexual harassment training

Cross References

0410
 1312.3
 1312.3
 1312.3
 5131.2
 5131.2
 5145.3
 5145.3
 5145.71

Description

[Nondiscrimination In County Office Programs And Activities](#)
[Uniform Complaint Procedures](#)
[Uniform Complaint Procedures](#)
[Uniform Complaint Procedures](#)
[Bullying](#)
[Bullying](#)
[Nondiscrimination/Harassment](#)
[Nondiscrimination/Harassment](#)
[Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures](#)

**County Office Regulation 5145.71: Title IX Sex Discrimination and Sex-Based Harassment
Complaint Procedures**

Status: DRAFT

Original Adopted Date: 01/05/2021

The County Office of Education (“COE”) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX of the Education Amendments of 1972 (“Title IX”) and its regulations.

The grievance procedures described in this regulation have been adopted by the COE to provide for the prompt and equitable resolution of allegations that a COE student, while participating in or attempting to participate in a COE education program or activity, was subjected to discrimination on the basis of sex, including but not limited to, sex-based harassment, retaliation, or other conduct prohibited by Title IX.

This regulation only applies to alleged incidents that occurred on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment that occurred prior to August 1, 2024, the procedures that applied at the time of the alleged incident should be used.

This regulation applies to any COE education program or activity, including but not limited to, events occurring on school property, during any school-related or school-sponsored activity, on school-sponsored transportation, and/or where the COE has disciplinary authority.

Allegations that an employee was subjected to conduct prohibited by Title IX shall be addressed using the grievance procedures in Administrative Regulation (“AR”) 4119.12, AR 4219.12, or AR 4319.12, as applicable.

Definitions

Complaint means an oral or written request to the COE that objectively can be understood as a request for the COE to investigate and make a determination about alleged discrimination under Title IX or its regulations. (34 CFR 106.02)

Complainant means: (1) a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the COE’s education program or activity at the time of the alleged sex discrimination. (34 CFR 106.02)

Party means a complainant or respondent. (34 CFR 106.02)

Peer retaliation means retaliation by a student against another student. (34 CFR 106.02)

Pregnancy or related conditions means: (1) pregnancy, childbirth, termination of pregnancy, or lactation; (2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions. (34 CFR 106.02)

Respondent means a person who is alleged to have violated the COE’s prohibition on sex discrimination. (34 CFR 106.02)

Retaliation means intimidation, threats, coercion, or discrimination against any person by the COE, a student, or an employee or other person authorized by the COE to provide aid, benefit, or service under the COE’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process, in grievance procedures, and in any other actions taken by the COE under 34 CFR 106.44 (f)(1). This provision does not limit the COE’s ability to require an employee to participate as a witness in, or otherwise assist with, a Title IX investigation or proceeding. (34 CFR 106.02)

Sex discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex-based harassment is a form of sex discrimination. (34 CFR 106.02, 106.10)

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is (34 CFR 106.02):

1. *Quid pro quo harassment*. An employee, agent, or other person authorized by the COE to provide an aid, benefit, or service under the COE's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

2. *Hostile environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the COE's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - i. The degree to which the conduct affected the complainant's ability to access the COE's education program or activity;

 - ii. The type, frequency, and duration of the conduct;

 - iii. The parties' ages, roles within the COE's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

 - iv. The location of the conduct and the context in which the conduct occurred; and

 - v. Other sex-based harassment in the COE's education program or activity; or

3. Sexual assault, dating violence, domestic violence, or stalking as defined in 34 CFR 106.2.

Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to (34 CFR 106.02):

1. Restore or preserve that party's access to the COE's education program or activity, including measures that are designed to protect the safety of the parties or the COE's educational environment; or

2. Provide support during the COE's grievance procedures or during an informal resolution process.

General Title IX Requirements

When implementing the COE's Title IX grievance procedures, the Title IX Coordinator shall ensure compliance with the following requirements (34 CFR 106.45, 106.44):

1. That Complainants and Respondents are treated equitably.

2. That the Title IX Coordinator, investigator, decisionmaker, appeal decisionmaker, and any facilitator of an informal resolution process do not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. Such persons shall also receive training in accordance with 34 CFR 106.8. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

3. That the Respondent is presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of these grievance procedures.

4. That discipline is not imposed on a Respondent for sex discrimination prohibited by Title IX or its regulations unless there is a determination at the conclusion of these grievance procedures that the Respondent engaged in prohibited sex discrimination.

5. That reasonable steps are taken to protect the privacy of the parties and witnesses during the grievance procedures. These steps shall not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses (subject to the COE's prohibition on peer retaliation); consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.

6. That all relevant and permissible evidence – including both inculpatory and exculpatory evidence – is objectively evaluated and that credibility determinations are not based on a person's status as a Complainant, Respondent, or witness.

7. That all evidence considered impermissible or privileged under 34 CFR 106.45(b) is excluded.

The COE prohibits retaliation against an individual for reporting suspected sex discrimination, making a Complaint, being a witness, or otherwise participating in a Title IX investigation or proceeding. Retaliation is illegal under federal and state nondiscrimination laws, prohibited by policy, and will result in disciplinary action.

The COE shall not disclose personally identifiable information obtained in the course of complying with Title IX regulations, except: (1) when the COE has obtained prior written consent from a person with the legal right to consent to the disclosure; (2) when the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue; (3) to carry out the purposes of the Title IX regulations, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the COE's education program or activity; (4) as required by federal law, federal regulations, or the terms and conditions of a federal award, including a grant award or other funding agreement; or (5) to the extent such disclosures are not otherwise in conflict with Title IX or its regulations, when required by state or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99. (34 CFR 106.44(j))

If either party is a student with a disability, the Title IX Coordinator or designee shall consult with one or more members, as appropriate, of the student's individualized education program ("IEP") or 504 team, to determine how to comply with the requirements of the Individuals with Disabilities Education Act ("IDEA") or Section 504 of the Rehabilitation Act of 1973.

Title IX Coordinator

The County Superintendent of Schools designates the following individual(s) as the responsible employee(s) to coordinate its efforts to comply with Title IX. The Title IX Coordinator(s) may be contacted at:

Associate Superintendent
Napa County Office of Education

2121 Imola Avenue Napa, CA 94559
(707) 253-6810
jmcclure@napacoe.org

Administrator of Human Resources
Napa County Office of Education
2121 Imola Avenue Napa, CA 94559
(707) 253-6810
jzikmund@napacoe.org

Duty to Report Prohibited Conduct

An employee shall notify the Title IX Coordinator within one (1) workday when the employee has information about conduct that reasonably may constitute sex discrimination, including but not limited to sex-based harassment, under Title IX or its regulations. (34 CFR 106.44(c))

Nothing in this regulation alters an employee's obligations to report suspected child abuse or neglect under mandated reporting laws.

Students who believe that they have, or another student has, been discriminated against or harassed on the basis of sex are strongly encouraged to report their concern promptly to the Title IX Coordinator or other staff.

The Title IX Coordinator shall monitor the COE's education programs and activities for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations and take steps reasonably calculated to address such barriers. (34 CFR 106.44(b))

When notified of conduct that reasonably may constitute sex discrimination under Title IX and its regulations, including but not limited to sex-based harassment, the Title IX coordinator shall (34 CFR 106.44(f)):

1. If applicable, immediately report any suspected child abuse in accordance with mandated reporting requirements;
2. Contact the Complainant and/or the individual who reported the conduct to provide information regarding the COE's grievance procedures and any informal resolution process, if available and appropriate; offer supportive measures as appropriate; and determine how they wish to proceed; and
3. If a Complaint is made, notify the Respondent of the grievance procedures and any informal resolution process, if available and appropriate, and coordinate supportive measures, as appropriate, for the Respondent.

Complaints

The following people have a right to make a Complaint of sex discrimination, including a Complaint of sex-based harassment, requesting that the COE investigate and make a determination about alleged discrimination under Title IX (34 CFR 106.45(a), 106.02):

1. A Complainant;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or

3. The COE's Title IX Coordinator or designee.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a Complaint (34 CFR 106.45(a)):

1. Any student or employee; or
2. Any person other than a student or employee who was participating or attempting to participate in a COE education program or activity at the time of the alleged sex discrimination.

In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination, shall determine whether to initiate a Complaint of sex discrimination. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors (34 CFR 106.44(f)):

1. The Complainant's request not to proceed with initiation of a Complaint;
2. The Complainant's reasonable safety concerns regarding initiation of a Complaint;
3. The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
4. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the Respondent is an employee of the COE;
6. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
8. Whether the COE could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the COE from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint. (34 CFR 106.44(f))

If the Title IX Coordinator initiates a Complaint, the Title IX Coordinator shall notify the Complainant of the Complaint prior to doing so, as well as provide other notices as required by the Title IX regulations at specific points

in the grievance procedures, and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures. (34 CFR 106.44(f))

Regardless of whether a Complaint is initiated, the Title IX Coordinator shall take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, if any, to ensure that sex discrimination does not continue or recur within the COE's education program or activity. (34 CFR 106.44(f))

Complaints of sex discrimination may be consolidated when they arise out of the same facts or circumstances, including Complaints against more than one Respondent, Complaints by more than one Complainant, or Complaints by one party against another party. (34 CFR 106.45(e))

Initial Evaluation

Upon receipt of a Complaint, the Title IX Coordinator or designee shall conduct a prompt initial evaluation to determine whether to dismiss or investigate a complaint, within the timeline specified in the section below titled "Timelines for Grievance Procedures."

The Title IX Coordinator or designee may dismiss a Complaint of sex discrimination if (34 CFR 106.45(d)):

1. The COE is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in a COE education program or activity and is not employed by the COE;
3. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
4. The Title IX Coordinator or designee determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, the Title IX Coordinator or designee shall make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the Title IX Coordinator or designee shall promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the Title IX Coordinator or designee shall also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing. (34 CFR 106.45(d))

The Title IX Coordinator or designee shall notify the Complainant that a dismissal may be appealed and shall provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the Title IX Coordinator or designee shall also notify the Respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases (34 CFR 106.45(d)):

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If the dismissal is appealed, the Title IX Coordinator or designee shall (34 CFR 106.45(d)):

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
2. Implement appeal procedures equally for the parties;
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
4. Ensure that the decisionmaker for the appeal has been trained consistent with 34 CFR 106.8;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result.

When a Complaint is dismissed, the Title IX Coordinator or designee shall, at a minimum, undertake the following: (1) offer supportive measures to the Complainant as appropriate; (2) if the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and (3) take other prompt and effective steps, as appropriate, to ensure that sex discrimination does not continue or recur within a COE education program or activity. (34 CFR 106.45(d))

If a Complaint is dismissed, the conduct may still be addressed pursuant to other board policies or COE regulations where applicable, including but not limited to BP/AR 1312.3 – Uniform Complaint Procedures.

If after an initial evaluation the Complaint is *not* dismissed, the Title IX Coordinator shall either initiate the COE's grievance procedures or, if available and appropriate and requested by all the parties, an informal resolution process as specified in the section below titled "Informal Resolution Process." (34 CFR 106.44(f))

Notice of Allegations

Upon initiation of the COE's Title IX grievance procedures, the Title IX Coordinator or designee shall notify the known parties in writing of the following (34 CFR 106.45(c)):

1. The COE's Title IX grievance procedures and any informal resolution process;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
3. A statement that retaliation is prohibited; and
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If a description of the evidence is provided, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, the Title IX Coordinator or designee decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, the Title IX Coordinator or designee shall notify the known parties of the additional allegations. (34 CFR 106.45(c))

Investigation Procedures

The Title IX Coordinator or designee shall designate an investigator and a decisionmaker to determine whether sex

discrimination occurred. The investigator may be the same person as the decisionmaker. Neither the investigator nor the decisionmaker may have a conflict of interest or bias and both shall have received training in accordance with 34 CFR 106.8.

The designated investigator shall conduct an investigation that is adequate, reliable, and impartial by (34 CFR 106.45(b), (f)):

1. Ensuring that the burden is on the COE's investigator – not on the parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
2. Ensuring that the parties have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.
3. Reviewing all evidence gathered through the investigation and determining what evidence is relevant and what evidence is impermissible regardless of relevance.
4. Excluding the following types of evidence as impermissible, including questions seeking such evidence:
 - a. Evidence that is protected under a privilege recognized by Federal or State law unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the COE obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
 - c. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.
5. Providing each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, by:
 - a. Providing an equal opportunity to access such evidence, or an accurate description of this evidence.

If the parties are provided with a description of the evidence, the designated investigator shall, upon the request of any party, provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence.

- b. Providing a reasonable opportunity to respond to the evidence or the accurate description of the evidence for a period of five (5) calendar days, unless such review period is voluntarily waived by both

parties.

- c. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Employees are required to participate as a witness in, or otherwise assist with, an investigation under this regulation.

The investigator shall complete the investigation within the timeline specified in the section below titled "Timelines for Grievance Procedures."

At the completion of the investigation, the investigator shall provide to the parties an evidence review period specified in the section below titled "Timelines for Grievance Procedures."

Written Decision

At the completion of the investigation, if the designated investigator is not the decisionmaker, the investigator shall provide all of the relevant and not otherwise impermissible evidence obtained in the investigation to the decisionmaker.

If credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination, the COE must ensure that the decisionmaker is able to question parties and witnesses to adequately assess credibility. Credibility determinations shall not be based on a person's status as a Complainant, Respondent, or witness. (34 CFR 106.45(b), (g))

The decisionmaker shall apply the preponderance of the evidence standard to make a determination as to whether sex discrimination occurred. If the decisionmaker is not persuaded under the preponderance of the evidence standard that sex discrimination occurred, the decisionmaker must not determine that sex discrimination occurred. (34 CFR 106.45(b), 106.45(h))

The COE shall notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal. (34 CFR 106.45(h))

The written decision shall be issued to the parties within the timeline specified in the section below titled "Timelines for Grievance Procedures."

Appeals

Either party may appeal the determination of a Complaint on one of the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; or
3. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

An appeal must be made in writing to the Title IX Coordinator within five (5) days of the issuance of the written determination and must state the basis for the appeal.

Upon receipt of an appeal, the Title IX Coordinator shall promptly notify the other party of the appeal, and that other party shall have five (5) calendar days to respond to the request for an appeal.

The Superintendent or designee shall designate an appeal decisionmaker to hear the appeal. The appeal decisionmaker shall not have a conflict of interest or bias and shall not have been previously involved in the grievance procedures, including any informal resolution process, for the Complaint.

An appeal decision shall be issued in writing to both parties within the timeline specified in the section below titled "Timelines for Grievance Procedures."

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

Timelines for Grievance Procedures

The COE's Title IX grievance procedures shall be completed within the following timelines, unless extended as specified below, or as otherwise permitted by law:

1. The Title IX Coordinator shall make an initial evaluation to determine whether to dismiss or investigate a Complaint within seven (7) calendar days of receipt of a Complaint;
2. The investigation shall be completed within sixty (60) calendar days from receipt of the Complaint;
3. If the COE offers an informal resolution process as provided under this regulation, and the parties voluntarily engage in such a process, the timelines otherwise provided in this regulation shall exclude the time spent in the informal resolution process;
4. At the completion of the investigation, the parties shall be provided with the evidence or an accurate description of the evidence, and a reasonable opportunity to respond to the evidence or the accurate description of the evidence, for a period of five (5) calendar days, unless such review period is voluntarily waived by both parties;
5. A written decision shall be sent to the parties within ten (10) calendar days of the completion of the evidence review period;
6. Any requests for an appeal shall be made within five (5) calendar days of the date the written decision is sent to the parties;
7. Any response from a party to the request for an appeal shall be submitted within five (5) calendar days after receiving notice of the appeal;
8. An appeal decision shall be issued within fifteen (15) calendar days of receipt of the request for an appeal.

Any timelines specified in this regulation may be subject to reasonable extensions on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. (34 CFR 106.45(b))

Supportive Measures

When notified of conduct that reasonably may constitute sex discrimination under Title IX, the Title IX Coordinator or designee shall offer and coordinate supportive measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to COE education programs or activities or provide support during the COE's Title IX grievance procedures or during an informal resolution process. Supportive measures may include: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment. (34 CFR 106.44(g))

If the Complainant or Respondent is a student with a disability, the Title IX Coordinator or designee shall consult with one or more members, as appropriate, of the student's IEP team or 504 team, if any, to determine how to comply with the requirements of the IDEA and/or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44(g))

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the COE's educational environment, or to provide support during the COE's grievance procedures or during any informal resolution process. A COE must not impose such measures for punitive or disciplinary reasons. (34 CFR 106.44(g))

A Complainant or Respondent shall be provided with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in 34 CFR 106.2. A Complainant or Respondent shall also be provided with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially. (34 CFR 106.44(g))

Upon the conclusion of the grievance procedures or any informal resolution process, the COE may continue with the supportive measures, or modify or terminate such measures, as appropriate. (34 CFR 106.44(g))

Information about any supportive measures shall not be disclosed to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception in 34 CFR 106.44 applies. (34 CFR 106.44(g))

Emergency Removal from School

Discipline shall not be imposed on a Respondent for sex discrimination prohibited by Title IX or its regulations unless there is a determination at the conclusion of these grievance procedures that the Respondent engaged in prohibited sex discrimination. However, the COE may remove a student Respondent from the COE's education program or activity on an emergency basis, provided that the COE undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. A student with a disability may only be removed from school on an emergency basis in accordance with the IDEA and/or Section 504 of the Rehabilitation Act of 1973. (34 CFR 106.44(h))

If a COE employee is the Respondent, the employee may be placed on administrative leave during the pendency of the grievance process where permitted by law and any applicable collective bargaining agreement.

Informal Resolution Process

At any time prior to determining whether sex discrimination occurred under these procedures, the COE may offer an informal resolution process to the parties if appropriate. However, the COE shall not offer an informal resolution process for allegations that an employee engaged in sex-based harassment of a student. (34 CFR 106.44(k))

The COE has discretion to determine whether it is appropriate to offer an informal resolution process to the parties when it receives information about conduct that reasonably may constitute sex discrimination or when a Complaint of sex discrimination is made, and may decline to offer informal resolution despite one or more of the parties' wishes.

Circumstances when the COE may decline to allow informal resolution include but are not limited to when the COE determines the alleged conduct would present a future risk of harm to others. (34 CFR 106.44(k))

The COE shall not require or pressure the parties to participate in an informal resolution process. The COE shall obtain the parties' voluntary consent to the informal resolution process and shall not require waiver of the right to an investigation and determination of a Complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right. (34 CFR 106.44(k))

The facilitator for the informal resolution process shall not be the same person as the investigator or the decisionmaker in the COE's grievance procedures. Any person designated by the COE to facilitate an informal resolution process shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. Any person facilitating informal resolution shall receive training under 34 CFR 106.8. (34 CFR 106.44(k))

Before initiation of an informal resolution process, the COE must provide to the parties notice that explains (34 CFR 106.44(k)):

1. The allegations;
2. The requirements of the informal resolution process;
3. That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the COE's grievance procedures;
4. That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
5. The potential terms that may be requested or offered in an informal resolution agreement (including notice that an informal resolution agreement is binding only on the parties), which could include but are not limited to:
 - a. Restrictions on contact; and
 - b. Restrictions on the Respondent's participation in one or more of the COE's programs or activities or attendance at specific events, including restrictions the COE could have imposed as remedies or disciplinary sanctions had the COE determined at the conclusion of the COE's grievance procedures that sex discrimination occurred.
6. What information the COE shall maintain and whether and how the COE could disclose such information for use in grievance procedures, if grievance procedures are initiated or resumed.

Any informal resolution agreement reached under this process shall not prevent or restrict the disclosure of factual information. (Civ. Proc. Code 1001)

If the COE provides the parties with an informal resolution process, the Title IX Coordinator must, to the extent necessary, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the COE's education program or activity. (34 CFR 106.44(k))

Remedies

If there is a determination that sex discrimination occurred, the Title IX Coordinator shall, as appropriate, coordinate the provision and implementation of remedies to a Complainant and other persons the COE identifies as having had equal access to the COE's education program or activity limited or denied by sex discrimination; coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the COE's education program or activity. (34 CFR 106.45(h))

If there is a determination that sex-based harassment occurred, the remedies that may be provided by the COE to the Complainant include but are not limited to counseling services, contact limitations between the parties, or adjustments to academic deadlines, classroom assignments, or course registrations.

Corrective/Disciplinary Actions

Actions that may be imposed on a student determined to be responsible for sex discrimination, including but not limited to, sex-based harassment include, but are not limited to:

1. Transfer from a class or school
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others
4. Positive behavior support
5. Referral of the student to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges
7. Involuntary transfer to another school within the COE
8. Restrictions on contact with another individual
9. For sex-based harassment, suspension where permitted and/or required under Education Code 48900 to 48915
10. For sex-based harassment, expulsion where permitted and/or required under Education Code 48900 to 48915

When an employee is found to have committed prohibited sex discrimination or retaliation, the COE shall take appropriate disciplinary action, up to and including dismissal.

The COE may not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the COE's grievance procedures that the Respondent engaged in prohibited sex discrimination. (34 CFR 106.45(h))

The COE shall not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the COE's determination of whether sex discrimination, including sex-based harassment, occurred. (34 CFR 106.45)

Recordkeeping

The Superintendent or designee shall maintain the following for at least a period of seven (7) years (34 CFR 106.8):

1. For each Complaint of sex discrimination, records documenting the informal resolution process (if any) or the grievance procedures and the resulting outcome;
2. For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations, records documenting the actions the COE took to meet its obligations under 34 CFR 106.44, including supportive measures offered and implemented; and
3. All materials used to provide training under 34 CFR 106.8. The COE shall make these training materials available upon request for inspection by members of the public.

For complaints containing allegations of childhood sexual assault within the meaning of Code of Civil Procedure 340.1, the Superintendent or designee shall also indefinitely maintain the following:

1. A record of the allegation(s);
2. A record of the investigation procedures followed;
3. A record of the written determination;
4. A record of the corrective action implemented, if any;
5. A record of any appeals and the outcome of the same; and
6. All training materials addressing the prohibition and investigation of childhood sexual assault.

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Federal References

	Description
20 USC 1092	Definition of sexual assault
20 USC 1221	Application of laws
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 99.1-99.67	Family Educational Rights and Privacy
34 USC 12291	Definition of dating violence, domestic violence, and stalking

Federal References

42 USC 1983
42 USC 2000d-2000d-7
42 USC 2000e-2000e-17

Description

Civil action for deprivation of rights
Title VI, Civil Rights Act of 1964
Title VII, Civil Rights Act of 1964, as amended

Management Resources References

Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
Court Decision
CSBA Publication
CSBA Publication
Federal Register
U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOE, Office for Civil Rights Publication
U.S. DOJ, FBI Publication
Website
Website
Website
Website
Website

Description

Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736
Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473
Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274
Flores v. Morgan Hill Unified School District (2003) 324 F.3d 1130
Donovan v. Poway Unified School District (2008) 167 Cal.App.4th 567
Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447
Davis v. Monroe County Board of Education, (1999) 526 U.S. 629
[Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011](#)
[Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014](#)
[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, April 29, 2024, Vol. 89, No. 83, pages 33474-33896](#)
[Sexual Harassment: It's Not Academic, September 2008](#)
[Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001](#)
[Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016](#)
[National Incident-Based Reporting System](#)
[U.S. Department of Justice, Federal Bureau of Investigation](#)
[CSBA District and County Office of Education Legal Services](#)
[U.S. Department of Education, Office for Civil Rights](#)
[CSBA](#)
[California Department of Education](#)

State References

5 CCR 4600-4670
5 CCR 4900-4965
Civ. Code 1714.1
Civ. Code 51.9
Ed. Code 200-270
Ed. Code 48900
Ed. Code 48900.2
Ed. Code 48985
Gov. Code 12950.1

Description

Uniform complaint procedures
Nondiscrimination in elementary and secondary education programs
[Liability of parent or guardian for act of willful misconduct by a minor](#)
[Liability for sexual harassment; business, service and professional relationships](#)
[Educational equity; prohibition of discrimination on the basis of sex](#)
Grounds for suspension and/or expulsion
Additional grounds for suspension or expulsion; sexual harassment
Notices to parents in language other than English
Sexual harassment training

Cross References

	Description
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4319.11	Sexual Harassment
4319.11	Sexual Harassment
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	Sex Discrimination and Sex-Based Harassment
5145.7	Sex Discrimination and Sex-Based Harassment
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Item # 8.C.

September 3, 2024

TITLE:

Review BB 9150 Students Board Members

HISTORY:

In order to enhance communication and collaboration between the County Board of Education and the student body, and to teach students the importance of civic involvement, the County Board supports the participation of high school students in county board governance.

The following sections address student board member selection if a petition is not received from a high school under the County Board's jurisdiction (Camille Creek):

If the student Board member position is established based on a petition received from the high school(s) under the County Board's jurisdiction, any student chosen shall be enrolled in a high school that is under the jurisdiction of the County Board. (Education Code 1000)

If the County Board does not receive a petition from the high school(s) under its jurisdiction, the County Board may select a student who is enrolled in a high school under the jurisdiction of a school district within the county to serve as a student Board member. (Education Code 1000)

CURRENT PROPOSAL:

Board review of BB 9150 Student Board Members

FUNDING SOURCE:

Not Applicable.

SPECIFIC RECOMMENDATION:

Board review of BB 9150 Student Board Members

Prepared by: Julie McClure

JM/es

August 28, 2024

Board Bylaw 9150: Student Board Members

Status: ADOPTED

Original Adopted Date: 03/07/2023 | **Last Revised Date:** 06/04/2024 | **Last Reviewed Date:** 06/04/2024

In order to enhance communication and collaboration between the County Board of Education and the student body, and to teach students the importance of civic involvement, the County Board supports the participation of high school students in county board governance.

Student Board members may, at the County Board's discretion, receive (1) elective course credit for service as a student Board member based on the number of equivalent daily instructional minutes for the student Board member's services provided and/or (2) monthly financial compensation as determined by the governing board. (Education Code 1000, 35120)

Student Board member(s) shall be entitled to be reimbursed for mileage to the same extent as other members of the County Board. (Education Code 1000)

A student Board member shall not be liable for any acts of the County Board. (Education Code 1000)

Petition

High school students may submit a petition to the County Board requesting the appointment of at least one student Board member. (Education Code 1000)

To qualify for Board consideration, the petition for student representation shall contain the signatures of at least 500 students or 10 percent of the number of students regularly enrolled in high schools that are under the jurisdiction of the county board, whichever is less. (Education Code 1000)

Within 60 days of receiving a student petition, or at the next regularly scheduled Board meeting if no meeting is held within those 60 days, the County Board shall order the inclusion of at least one student member on the County Board. (Education Code 1000)

Choosing or Selecting Student Board Members

Student Board members shall be nominated by students enrolled in the high school(s) within the county in accordance with procedures prescribed by the County Board. Student Board Members shall submit an application consisting of a statement of interest, letters of reference, parental permission, and demonstrated willingness to participate in required training/mentoring.

If the student Board member position is established based on a petition received from the high school(s) under the County Board's jurisdiction, any student chosen shall be enrolled in a high school that is under the jurisdiction of the County Board. (Education Code 1000)

If the County Board does not receive a petition from the high school(s) under its jurisdiction, the County Board may select a student who is enrolled in a high school under the jurisdiction of a school district within the county to serve as a student Board member. (Education Code 1000)

The term of student Board member(s) shall be one year, commencing on July 1. However, the County Board may adjust the term of a student Board member if a vacancy occurs or in order to provide more students an opportunity to serve on the County Board. (Education Code 1000)

Role and Responsibilities of Student Board Members

Student Board members shall not be considered members of a legislative body for purposes of the Brown Act. (Education Code 1000)

A student Board member shall not be counted in determining the vote required to carry any measure before the County Board or whether a quorum is in attendance at a County Board meeting.

Student Board member(s) shall have the right to attend all Board meetings except closed sessions. (Education Code 1000)

All materials presented to County Board members, except those related to closed sessions, shall be presented to student Board members at the same time they are presented to other County Board members. Student Board member(s) shall also be invited to attend staff briefings, or be provided with a separate staff briefing, within the same timeframe as the briefing of other County Board members. In addition, all materials given to County Board members between meetings, except for materials that pertain to closed session items, shall be distributed to student Board members. (Education Code 1000)

Student Board member(s) shall be recognized at Board meetings as full member(s), shall be seated with other members of the County Board, and shall be allowed to participate in questioning witnesses and discussing issues. (Education Code 1000)

Student Board member(s) shall be allowed to cast preferential votes on all matters except those subject to closed session discussion. Preferential voting means a formal expression of opinion that is recorded in the minutes and cast before the official vote of the County Board. Preferential votes shall not affect the final numerical outcome of a vote. (Education Code 1000)

Student Board member(s) may make motions that may be acted upon by the County Board, except on matters dealing with employer-employee relations pursuant to Government Code 3540-3549.3. (Education Code 1000)

Student Board members shall be appointed to subcommittees of the County Board in the same manner as other County Board members, and shall be made aware of the time commitment required to participate in subcommittee meetings and work and of the right to decline an appointment. The availability of all subcommittee members, including the availability of student Board members, may be considered when scheduling subcommittee meetings. (Education Code 1000)

Student Board members shall be invited to attend functions of the County Board, such as forums, meetings with students and parents/guardians, and other general assemblies. (Education Code 1000)

Student Board Member Training

The County Board may provide learning opportunities to student Board members through trainings, workshops, and conferences, such as those offered by the California School Boards Association and other organizations, to enhance their knowledge, understanding, and performance of leadership skills and their Board responsibilities.

The County Board may periodically provide information to student Board member candidates to give them an understanding of the position. Once chosen or appointed, incoming student Board members shall be provided an orientation designed to build their knowledge and an understanding of the responsibilities and expectations of the position.

Alternate Student Board Member

If the County Board determines that the student Board member's duties are not being fulfilled, the County Board may appoint another student to serve out the term of the student Board member. If an alternate student Board member is appointed, the County Board shall suspend the prior student Board member's rights and privileges related to service on the County Board. (Education Code 1000)

Elimination of Student Board Member Position

Once established, the student Board member position shall continue to exist until the County Board, by majority vote of all voting County Board members, approves a motion to eliminate the position. Such a motion shall be listed as a public agenda item for a County Board meeting prior to the motion being voted upon. (Education Code 1000)

NAPA COUNTY OFFICE OF EDUCATION
Barbara Nemko, Ph.D., Superintendent

Items: 8.D.
September 3, 2024

TITLE:

Mayacamas Charter Oversight Update

HISTORY:

NCOE is contracting with the Fiscal Crisis Management Assistance Team (FCMAT) to conduct oversight of MCMS for the 2024-25 fiscal year. FCMAT reports the following activities since the last report:

- A facility inspection was completed by FCMAT and Napa COE staff using the California Department of Education Facility Inspection Tool (FIT). An oversight [letter](#) addressing our findings was issued on 8/9/24. Overall, the facility is in “good” condition as measured by the FIT. The school had a few repairs to complete, which were addressed on 8/13/24. FCMAT verified that the repairs had been made on 8/22/24.
- An oversight [letter](#) was issued on 8/15/24 explaining that since the board approved a resolution on August 1 to “suspend operation” of Mayacamas Charter Middle School effective June 30, 2024, the Local Control Accountability Plan (LCAP) and budget for this school are moot. The letter directed the school to revise its LCAP and budget to reflect the current state of Mayacamas Countywide Middle School by December 15, 2024.
- FCMAT reviewed the school’s insurance policies and memoranda of coverage. FCMAT addressed a few updates that are needed in the oversight letter issued on 8/15/24. An updated evidence of coverage bond was requested and is due on 8/30/24.
- FCMAT verified that the school exceeds the instructional time required for middle schools on 8/23/24.

Upcoming planned activities include:

- Review the school’s Employee Handbook (MOU - II.D.1.f).
- Ensure the school is compliant with EC 44237 for employee background checks (MOU – II.D.1.f).
- Review the 2023-24 Unaudited Actuals (MOU - II.D.1.f).
- Fall instructional walkthrough and live student seat count.

All of FCMAT’s oversight letters are publicly available here <https://www.fcmat.org/fcmat-reports>.

FUNDING SOURCE:

General Fund.

SPECIFIC RECOMMENDATION:

Information.

Prepared by: Joshua Schultz
August 28, 2024