

Note: Government Code [11138](#) mandates districts to adopt rules and regulations to ensure that district programs and activities are free from unlawful discrimination. 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, sex, sexual orientation, gender, gender identity, gender expression, religion, or any other characteristic contained in the definition of hate crimes in Penal Code [422.55](#). Government Code [11135](#) prohibits discrimination based on all the foregoing characteristics and on age, disability, and an individual's genetic information. 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](#)) prohibits discrimination on the basis of sex. 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.

Note: Education Code [260](#) and 5 CCR [4900-4965](#) require the Governing Board to monitor district compliance with these state and federal laws. The federal laws are enforced by the Office for Civil Rights of the U.S. Department of Education, and the California Department of Education may investigate complaints regarding discrimination pursuant to 5 CCR [4600-4687](#).

Note: Government Code [12940](#), as amended by AB 556 (Ch. 691, Statutes of 2013), prohibits employers from discriminating against employees and job applicants based on their military or veteran status. In addition, Government Code [12940](#) prohibits employers from discriminating against employees and job applicants based on genetic information, gender identity, and gender expression, and requires employers to reasonably accommodate employees' religious dress and grooming practices. For policy language addressing these prohibitions, see BP [4030](#) - Nondiscrimination in Employment.

The Governing Board is committed to providing equal opportunity for all individuals in education. District programs, activities, and practices shall be free from discrimination based on race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

(cf. [4030](#) - Nondiscrimination in Employment)

(cf. [4032](#) - Reasonable Accommodation)

(cf. [4033](#) - Lactation Accommodation)

(cf. [4119.11/4219.11/4319.11](#) - Sexual Harassment)

(cf. [4161.8/4261.8/4361.8](#) - Family Care and Medical Leave)

(cf. [5131.2](#) - Bullying)

(cf. [5145.3](#) - Nondiscrimination/Harassment)

(cf. [5145.7](#) - Sexual Harassment)

(cf. [5146](#) - Married/Pregnant/Parenting Students)

(cf. [6145.2](#) - Athletic Competition)

(cf. [6164.4](#) - Identification and Evaluation of Individuals for Special Education)

(cf. [6164.6](#) - Identification and Education Under Section 504)

(cf. [6178](#) - Career Technical Education)

(cf. [6200](#) - Adult Education)

Note: Pursuant to Education Code [221.5](#), as amended by AB 1266 (Ch. 85, Statutes of 2013), a district is required to permit a student 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 his/her gender as listed on his/her educational records. It should be noted that an attempt is currently in progress to qualify a referendum on AB 1266 for the November 2014 ballot. However, even as the eventual outcome is unknown as of this writing, the district still has an obligation under other existing state and federal laws to accommodate the needs of transgender and gender-nonconforming students; see BP/AR 5145.3 - Nondiscrimination/Harassment. Districts with questions about the rights of transgender and gender-nonconforming students should consult legal counsel as appropriate. For further information, see CSBA's policy brief Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students and its Interim Guidance Regarding Transgender Students, Privacy, and Facilities.

Annually, the Superintendent or designee shall review district programs and activities to ensure the removal of any barrier that may unlawfully prevent an individual or group in any of the protected categories stated above from accessing district programs and activities, including the use of facilities. He/she shall take prompt, reasonable actions to remove any identified barrier. The Superintendent or designee shall report his/her findings and recommendations to the Board after each review.

(cf. [1330](#) - Use of Facilities)

Note: Many nondiscrimination laws and regulations contain a notification requirement. For example, pursuant to 34 CFR [104.8](#) and [106.9](#), a district 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 bases of disability and sex in its educational programs or activities. 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 34 CFR [106.9](#), the Superintendent or designee shall notify students, parents/guardians, employees, employee organizations, applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination and related complaint procedures. Such notification shall be included in each announcement, bulletin, catalog, handbook, application form, or other materials distributed to these groups.

(cf. [1312.3](#) - Uniform Complaint Procedures)

(cf. [4031](#) - Complaints Concerning Discrimination in Employment)

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

(cf. [5145.6](#) - Parental Notifications)

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 districts 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 district'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.

Access for Individuals with Disabilities

Note: Pursuant to the ADA and its implementing regulations, 28 CFR [35.150](#) and [35.151](#), district 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 district need not make structural changes to existing facilities if other methods are effective and the district 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 U.S. Department of Justice.

Note: In addition, pursuant to 28 CFR [35.136](#), a district must permit an individual with a disability to be accompanied by a service animal on district premises when, without the animal's assistance, the individual with a disability will not be able to access or participate in a district program or activity. For language addressing this mandate, see AR [6163.2](#) - Animals at School. Districts with questions about compliance with the ADA should consult with legal counsel as appropriate.

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act and any implementing standards and/or regulations.

(cf. [6163.2](#) - Animals At School)

(cf. [7110](#) - Facilities Master Plan)

(cf. [7111](#) - Evaluating Existing Buildings)

Note: Pursuant to 28 CFR [35.130](#) and [35.160](#), the ADA requires districts 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 district 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 district need not provide them.

Note: In addition, Government Code [54953.2](#) requires that all Board meetings meet the protections of the ADA and implementing regulations (28 CFR [35.160](#) and [36.303](#)). In effect, the district 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.

The Superintendent or designee shall ensure that the district provides appropriate auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program, or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, notetakers, written materials, taped text, and Braille or large print materials.

(cf. [6020](#) - Parent Involvement)

Individuals with disabilities shall notify the Superintendent or principal if they have a disability that requires special assistance or services. Reasonable notification should be given prior to the school-sponsored function, program, or meeting.

(cf. [9320](#) - Meetings and Notices)

(cf. [9322](#) - Agenda/Meeting Materials)

Legal Reference:

EDUCATION CODE

[200-262.4](#) Prohibition of discrimination

[48985](#) Notices to parents in language other than English

[51007](#) Legislative intent: state policy

GOVERNMENT CODE

[11000](#) Definitions

[11135](#) Nondiscrimination in programs or activities funded by state

[11138](#) Rules and regulations

[12900-12996](#) Fair Employment and Housing Act

[54953.2](#) Brown Act compliance with Americans with Disabilities Act

PENAL CODE

[422.55](#) Definition of hate crime

[422.6](#) Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

[4600-4687](#) Uniform complaint procedures

[4900-4965](#) Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

[1400-1482](#) Individuals with Disabilities in Education Act

[1681-1688](#) Discrimination based on sex or blindness, Title IX

[2301-2415](#) Carl D. Perkins Vocational and Applied Technology Act

[6311](#) State plans

[6312](#) Local education agency plans

UNITED STATES CODE, TITLE 29

[794](#) Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

[2000d-2000d-7](#) Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2000h-6 Title IX

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

[35.101-35.190](#) Americans with Disabilities Act

[36.303](#) Auxiliary aids and services

CODE OF FEDERAL REGULATIONS, TITLE 34

[100.1-100.13](#) Nondiscrimination in federal programs, effectuating Title VI

[104.1-104.39](#) Section 504 of the Rehabilitation Act of 1973

[106.1-106.61](#) Discrimination on the basis of sex, effectuating Title IX, especially:

[106.9](#) Dissemination of policy

Management Resources:

CSBA PUBLICATIONS

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Interim Guidance Regarding Transgender Students, Privacy, and Facilities, September 27, 2013

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

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

Notice of Non-Discrimination, January 1999

Protecting Students from Harassment and Hate Crime, January 1999

Nondiscrimination in Employment Practices in Education, August 1991

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

2010 ADA Standards for Accessible Design, September 2010

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

California Safe Schools Coalition: <http://www.casafeschools.org>

Pacific ADA Center: <http://www.adapacific.org>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

U.S. Department of Justice, Civil Rights Division, Americans with Disabilities Act: <http://www.ada.gov>

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