

NONDISCRIMINATION/HARASSMENT & TRANSGENDER REGULATION

California Education Code (Ed Code) Section 220 and District policy require that all programs, activities, and employment practices should be conducted without discrimination based on actual or perceived sex, sexual orientation, or gender identity and expression. Ed Code Section 220 further provides that public schools have an affirmative obligation to combat sexism and other forms of bias, and a responsibility to provide equal educational opportunity to all pupils. Both state and federal law as well as District policies protect transgender students from discrimination.

This regulation provides approaches to specific situations and/or circumstances when the protections and/or the safety of transgender students may arise and provides actions necessary to ensure the safe and respectful treatment of all students, with the aim of minimizing social stigmatization, and maximizing opportunities for social integration so that all students have an equal opportunity to attend school, be engaged, and achieve academic success, and of setting a tone that allows students to feel safe to report harassment.

The guidelines provided in this regulation do not anticipate every situation that might occur with respect to transgender students, and the needs of each transgender student must be assessed on a case-by-case basis.

The following position is designated Coordinator for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying and to answer inquiries regarding the District's nondiscrimination policies: (Education Code 234.1; 5 CCR 4621)

Director, Student Services
1936 Carlotta Drive, Wing D
Concord, CA 94519
(925) 682-8000, extension 4069

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

Any student who feels subjected to discrimination, harassment, intimidation, or bullying based on the student's actual race, color, ancestry, nationality, national origin, ethnicity, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information; or the perception of one or more such characteristics; or association with a person or group with one or more of these actual or perceived characteristics should immediately contact the Coordinator, the principal, or any other staff member. In addition, any student who observes any such incident should report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Any school employee who observes an incident of discrimination, harassment, intimidation, or bullying or to whom such an incident is reported shall immediately report the incident to the Coordinator or principal, whether or not the victim files a complaint.

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Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with the District's uniform complaint procedures specified in AR 1312.3. (Uniform Complaint Procedures)

To prevent discrimination, harassment, intimidation, and bullying of students at District schools or in school activities and to ensure equal access of all students to the District's academic and other educational programs, as well as District services, facilities, and activities, and to protect privacy and support enrollment and attendance, the Superintendent or designee shall implement the following measures:

1. Provide to students a handbook that contains age-appropriate information that clearly states that discrimination, harassment, intimidation, and bullying based on sexual orientation, gender identity, and gender expression are unacceptable conduct and will not be tolerated, and that describes the District's nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the victim of any such behavior. (Education Code 234.1)
2. Ensure that students receive age-appropriate information and education related to sexual orientation, gender identity, and gender expression. In addition, the Superintendent shall designate qualified individuals to provide appropriate training and educational programs on the issue of harassment, discrimination, intimidation, or bullying based on sexual orientation, gender identity, and gender expression.
3. Annually notify all students and parents/guardians of the District's nondiscrimination policy and of the opportunity of a transgender or a cisgender student to inform the Coordinator of concerns regarding privacy issues, facility use, or participation in District programs and services.
4. Publicize the District's nondiscrimination policy and related complaint procedures to students, parents/guardians, employees, volunteers, and the general public and post them in all schools and offices, including staff lounges and pupil government meeting rooms, and on the District's web site and other locations that are easily accessible to students. (Education Code 234.1)

(cf. 1113 – District and School Web Sites)

(cf. 1114 – District-Sponsored Social Media)

5. When 15 percent or more of a school's students speak a single primary language other than English, translate the nondiscrimination policy, related complaint procedures, and all forms for use in the complaint process into that other language. (Education Code 234.1, 48985)
6. At the beginning of each school year, inform school employees that any employee who witnesses any act of discrimination, harassment, intimidation, or bullying is required to take immediate steps to intervene when it is safe to do so. (Education Code 234.1)

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7. At the beginning of each school year, provide staff with information and staff development as needed to ensure they understand the right of all students to a safe environment, the law and District expectations regarding accommodations for transgender students.

Definitions -- The following definitions are not meant to label a student, but are intended as functional descriptors. Students might or might not use the terms to describe themselves.

“Gender identity” means a person’s understanding, interests, outlook, and feelings about whether one is female or male, or both, or neither, regardless of the person’s physiology or assigned sex at birth. Therefore, gender identity is established regardless of gender-related identity, appearance, or behavior even when it is different from that traditionally associated with a person’s physiology or assigned sex at birth.

“Gender expression” means a person’s characteristics and behaviors such as appearance, dress, hairstyle, mannerisms, speech patterns, activities, and social interactions that are perceived as masculine, feminine, both, neither, or androgynous. Therefore, a person’s gender expression means gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth. (Education Code 210.7)

“Transgender student” means a student whose gender identity is different from that traditionally associated with the assigned sex at birth.

“Cisgender student” means a student whose gender identity is the same as that traditionally associated with the assigned sex at birth.

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

1. Right to privacy: Transgender status is the private information of the student and the District will only disclose the information to others with the student’s prior written consent, except when the disclosure is otherwise required by law or is necessary to preserve the student’s physical or mental well-being. Any District employee to whom a student discloses transgender status shall seek the student’s permission to notify the Coordinator for Nondiscrimination. 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 law or District policy, and shall inform the student that it may not be possible to accommodate the student’s needs related to the student’s his/her status as a transgender student. If the student permits the employee to notify the Coordinator, the employee shall do so within three school days.

School personnel should not disclose a student’s actual or perceived sexual orientation, gender identity, or gender expression to others, including, but limited to, other students,

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parents, and/or other school personnel, unless the employee is required to disclose or report the student's information pursuant to law or District policy.

School personnel must be mindful of the confidentiality and privacy rights of students when contacting parents/legal guardians so as to not reveal, imply, or refer to a student's actual or perceived sexual orientation, gender identity, or gender expression.

To ensure confidentiality, whenever discussing a particular issue such as conduct, discipline, grades, attendance, health, or any other school related matter, school personnel should focus on the conduct or particular issue, and not on any assumptions regarding the student's actual or perceived sexual orientation, gender identity, or gender expression.

All students, including transgender students, have the right to openly discuss and express their sexual orientation, gender identity, and gender expression and to decide when, with whom, and how much to share private information.

As appropriate, the Coordinator shall discuss with the student any need to disclose the student's transgender status to the student's parents/guardians and/or others, including other adults on campus. Any decision to disclose the student's status to others shall be based on the student's best interest.

(cf. 1340 – Access to District Records)

(cf. 3580 – District Records)

2. Determining a Student's Gender Identity: The Coordinator shall accept the student's assertion unless District personnel present a credible basis for believing that the student's assertion is for an improper purpose. In such a case, the Coordinator, shall document the purported improper purpose and, within seven school days of receiving notification of the student's assertion, shall provide a written response to the student, and, if appropriate, to his/her parents/guardians.
3. Addressing Students' Needs: Upon notification of a student's transgender status the Coordinator shall arrange a meeting with the student and, if appropriate, the student's parent(s)/guardian(s) to identify areas of concern to the student and potential issues, and to develop strategies for addressing them. The meeting shall discuss the 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 programs, services, or activities, including, but not limited to, sports and other competitive endeavors. In addition, the Coordinator shall identify specific school site employee(s) to whom the student may report any problem related to status as a transgender individual, so that prompt action can be taken to address it.
4. Accessibility to Sex-segregated Facilities, Programs, and Activities: The District may maintain sex-segregated facilities, such as restrooms and locker rooms, and sex-segregated programs and activities, such as physical education classes, intramural sports, and interscholastic athletic programs. A student shall be entitled to access facilities and

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participate in programs and activities consistent with the student's gender identity. 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, (e.g. class discussions, field trips, etc.). However, the right to participate in a sex-segregated activity in accordance with a student's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity. Where available, a "gender-neutral" restroom or changing area may be offered to any student who desires increased privacy, regardless of the underlying issue. Students entitled to use facilities consistent with their gender identity shall not be required to use an alternative arrangement. Any alternate arrangement should be used only at the request of the student, and, if applicable, in a manner that keeps the student's gender identity confidential.

(cf. 6145 – Extracurricular and Co-curricular Activities)

(cf. 6145.2 – Athletic Competition)

(cf. 6153 – School-Sponsored Trips)

(cf. 7110 – Facilities Master Plan)

5. Student Records: A student's legal name or gender as entered on the mandatory student record required pursuant to 5.CCR 432 shall only be changed pursuant to a court order. However, at the written request of a student or, if appropriate, the student's parents/guardians, the District shall use the student's preferred name and pronouns consistent with the student's his/her gender identity on all other District-related documents.

(cf. 5125 – Student Records)

(cf. 5125.1 – Release of Directory Information)

6. Names and Pronouns: A student is to be addressed by a name and pronoun that corresponds to the gender identity that the student asserts at school.

Students may request to be addressed by their "preferred name" (and preferred pronoun) that corresponds to their gender identity without obtaining a court order or without changing their official records

The parent/legal guardian with legal custody of a child may also request that their child be addressed by the student's "preferred name" (and preferred pronoun) that corresponds to the student's gender identity without obtaining a court order or without changing the student's official records.

The requested name shall be included in the [SIS system] in addition to the student's legal name, in order to inform teachers of the name and pronoun to use when addressing the student

It is strongly suggested that school personnel privately ask transgender students how they want to be addressed in communications to the home or at conferences with the student's parents/legal guardians.

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For initial communications with a student’s parent/legal guardian, school personnel should use the student’s legal name.

While inadvertent slips or honest mistakes in the use of the “preferred” names or pronouns may occur, the intentional and persistent refusal to respect a student’s gender identity is discriminatory and may lead to discipline.

7. Uniforms/Dress Code: Students have the right to dress in a manner consistent with their gender identity, subject to any dress code adopted on a school site.

(cf. 5132 – Dress Code)

This policy is intended to supplement, and not replace, state and federal laws prohibiting sexual harassment. Complaint under those laws shall be processed through the procedures established by appropriate state and/or federal agencies.

Regulation
approved:

MT. DIABLO UNIFIED SCHOOL DISTRICT
Concord, California