

# **Pacifica SD**

## **Administrative Regulation**

### **Nondiscrimination/Harassment**

AR 5145.3

#### **Students**

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)

Associate Superintendent  
375 Reina Del Mar Ave  
Pacifica, CA 94044  
(650) 738-6606

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 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 educational program, the Superintendent or designee shall implement the following measures:

1. Provide to employees, volunteers, and parents/guardians training and information regarding the district's nondiscrimination policy; what constitutes prohibited discrimination, harassment, intimidation, 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 guidelines for addressing issues related to transgender and gender-nonconforming students.

(cf. 1240 - Volunteer Assistance)  
(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)

2. Provide to students a handbook that contains age-appropriate information that clearly 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)

3. Annually notify all students and parents/guardians of the district's nondiscrimination policy and of the opportunity to inform the Coordinator whenever a student's participation in a sex-segregated school program or activity together with another student of the opposite biological

sex would be against the student's religious beliefs and/or practices or a violation of his/her right to privacy. In such a case, the Coordinator shall meet with the student and/or parent/guardian to determine how best to accommodate the student.

(cf. 5145.6 - Parental Notifications)

4. Publicize the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, employees, volunteers, and the general public and post them 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 against a student is required to intervene if it is safe to do so. (Education Code 234.1)

7. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate accommodation(s) to protect students' privacy rights and ensure their safety from threatened or potentially harassing, intimidating, or discriminatory behavior.

#### Process for Initiating and Responding to Complaints

Any student who feels that he/she has been subjected to discrimination, harassment, intimidation, or bullying 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.

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.

#### Transgender and Gender-Nonconforming Students

This regulation is meant to advise school site staff and administration regarding transgender and gender non-conforming students in order to ensure that all students have equal access to all

components of their educational program consistent with California law, while maintaining a safe learning environment for the entire district community.

The California Education Code states that "all pupils have the right to participate fully in the educational process, free from discrimination and harassment." Cal. Ed. Code Section 201(a). Section 220 of the Education Code provides that no person shall be subject to discrimination on the basis of gender, gender identity, or gender expression in any program or activity conducted by an educational institution that receives or benefits from state financial assistance. The Code 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 Cal. Ed. Code 201(b).

Section 221.5 of the Education Code states that the policy of the State of California is that "elementary and secondary school classes and courses, including nonacademic and elective classes and courses, be conducted, without regard to the sex of the pupil enrolled in these classes and courses," and that a "pupil shall be permitted to participate in sex-segregated school programs, activities, and facilities, including athletic teams and competitions, consistent with his or her gender identity, irrespective of the gender listed on the pupil's records."

The California Code of Regulations similarly provides that "No person shall be excluded from participation in or denied the benefits of any local agency's program or activity on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in any program or activity conducted by an 'educational institution' or any other 'local agency'...that receives or benefits from any state financial assistance." 5CCR Section 4900(a).

The California Code of Regulations defines "gender" as: "a person's actual sex or perceived sex and includes a person's perceived identity, appearance or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with a person's sex at birth." 5 CCR Section 4910(k).

The Pacifica School District requires that "all educational programs, activities, and employment practices shall be conducted without discrimination based on sex, sexual orientation, or gender identity and requires that students should treat all persons equally and respectfully and refrain from willful or negligent use of slurs against any person based on sex, sexual orientation, gender expression or gender identity.

Therefore, transgender and gender non-conforming students must be protected from discrimination and harassment in the public school system. Staff must respond appropriately to ensure that schools are free from any such discrimination or harassment.

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
 (cf. 5131 - Conduct)  
 (cf. 5131.2 - Bullying)  
 (cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

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

All students, including transgender and gender variant 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.

(cf. 5145.2 - Freedom of Speech/Expression)

Students shall have the right to be addressed by a name and pronoun corresponding to their gender identity that has been genuinely asserted. The determination whether a student genuinely asserts a particular gender identity should be made at the student's school site based on relevant factors such as (1) the student's medical history; (2) care or treatment of the gender-related identity; (3) consistent and uniform assertion of such an identity; or (4) any other evidence that the identity is sincerely held or part of the person's core identity. 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. This directive does not prohibit inadvertent slips or honest mistakes, but it does bar the intentional and persistent refusal to respect a student's gender identity.

The parent/legal guardian with legal custody of a child may request that their child be addressed in school under a name different from that appearing upon documentary proof of age records. This may be accomplished by writing in the preferred name in the appropriate space of the Student Registration/Emergency Form. The name shall be included in the District's Student Information System in order to inform teachers of the name and pronoun to use when addressing the student.

Parents/Guardians shall be aware that official school documents such as report cards and transcripts shall contain the student's legal name as it appears on proof of age documents. The District is required to maintain a mandatory permanent pupil record which includes the legal name of the pupil, as well as the pupil's gender. 5 Cal. Code Reg. 432(b)(1)(A), (D). The District shall change a student's official records to reflect a change in legal name or gender upon receipt of documentation that such legal name and/or gender have been changed pursuant to California legal requirements.

#### Restroom Accessibility

Schools may maintain separate restroom facilities for male and female students. However, students shall have access to the restroom that corresponds to their gender identity that has been genuinely asserted. Where available, a gender neutral bathroom may be used by any student who desires increased privacy, regardless of the underlying reason. The use of such a

gender neutral bathroom shall be a matter of choice for a student, and no student shall be compelled to use such bathroom. Administrators are encouraged to identify gender neutral

bathrooms, if any, on their campuses.

### Locker Room Accessibility

Schools may maintain separate locker room facilities for male and female students. However, students shall have access to the locker room facility that corresponds to their gender identity that is genuinely asserted. In locker rooms that involve undressing front of others, students who want to use the locker room corresponding to their gender identity that is genuinely asserted will be provided access in a manner that best meets the needs and privacy concerns of all students involved. Based on availability and appropriateness to address privacy concerns of all students involved, such access could include, but is not limited to: use of a private area in the public area (i.e., a bathroom stall with a door, an area separated by a curtain, a PE instructor's office in the locker room); a separate changing schedule (either utilizing the locker room before or after the other students); or use of a nearby private area (i.e., a nearby restroom, a nurse's office).

### Sports and Physical Education Classes

Transgender students shall be provided the same opportunities to participate in physical education as all other students. Generally, students should be permitted to participate in gender-segregated recreational gym class activities and sports in accordance with the student's gender identity that is genuinely asserted. Participation in competitive athletic activities and contact sports will be resolved on a case by case basis.

### Dress Codes

School sites can enforce dress codes that are adopted pursuant to Education Code 35291. Students shall have the right to dress in accordance with their gender identity that is genuinely asserted, within the constraints of the dress codes adopted at their school site.

### Gender Segregation in Other Areas

As a general rule, in any other circumstances where students are separated by gender in school activities (i.e., class discussions, field trips), students shall be permitted to participate in accordance with their gender identity that is genuinely asserted. Activities that may involve the need for accommodations to address student privacy concerns will be addressed on a case by case basis. In such circumstances, staff shall make a reasonable effort to provide an available modification to the activity that can address any such concerns.

### Complaints

Complaints alleging discrimination or harassment based a student's gender identity or gender expression are to be handled in accordance with the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Regulation    PACIFICA SCHOOL DISTRICT  
approved: April 9, 2014    Pacifica, California