

ADMINISTRATIVE REGULATION

Placentia-Yorba Linda Unified School District

Students

5145.3 - AR

NONDISCRIMINATION/HARASSMENT

A. Purpose and Scope

To provide procedures and guidelines for the implementation of district policy regarding unlawful discrimination/harassment of students.

B. General

The district designates the individual(s) identified below as the employee(s) responsible for coordinating the district's efforts to comply with applicable state and federal civil rights laws, including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975, and to answer inquiries regarding the district's nondiscrimination policies. Unless otherwise designated on a case-by-case basis for individual complaints, generally the individual(s) shall also serve as the compliance officer(s) specified in AR 1312.3, Uniform Complaint Procedures, as the responsible employee to handle formal UCP complaints alleging unlawful discrimination against a student, including discriminatory harassment, intimidation, or bullying, based on the student's race, color, ancestry, nationality, national origin, ethnic group identification, ethnicity, age, religion, marital or parental status, pregnancy, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity or expression, genetic information, or immigration status; 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. The coordinator/compliance officer(s) may be contacted at:

1. Employee complaints

- Rick Lopez, Assistant Superintendent, Human Resources (714) 985-8408
rlopez@pylusd.org

2. Title IX Sexual Harassment and any other discrimination complaints

- Gina Aguilar, Director, High School Education (714) 985-8656
gaguilar@pylusd.org

Complainants may also refer Title IX inquiries to the US Department of Education Office for Civil Rights.

3. Americans with Disabilities Act or Section 504 complaints

- Richard McAlindin, Assistant Superintendent, Executive Services (714) 985-8727
rmcalindin@pylusd.org

4. Bullying, intimidation complaints not on the basis of a protected class

- Melissa Samson, Administrator, Student Services (714) 985-8671
msamson@pylusd.org

C. Procedures

1. Measures to Prevent Discrimination

To prevent unlawful discrimination, including discriminatory harassment, intimidation, retaliation, 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:

- A. Publicize the district's nondiscrimination policy and related complaint procedures, including the coordinator/compliance officer's contact information, to students, parents/guardians, employees, volunteers, and the general public, posting them on the district's website and other prominent locations and providing easy access to them through district-supported social media, when available.
- B. Post the district's policies and procedures prohibiting discrimination, harassment, student sexual 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 district's website in a manner that is easily accessible to parents/guardians and students.
- C. Post the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on the district's website in a manner that is easily accessible to parents/guardians and students.
- D. Post in a prominent location on the district 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, gender, gender identity, pregnancy, and parental status, including the following:
 1. The name and contact information of the district's Title IX coordinator, including the phone number and email address
 2. The rights of students and the public and the responsibilities of the district 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)
 3. A description of how to file a complaint alleging sexual harassment. If the complaint meets the definition of sexual harassment under Title IX, it will be processed in accordance with AR 5145.7. All other complaints of sexual harassment shall be filed in accordance with AR 1312.3 - Uniform Complaint Procedures, which shall include:
 - a. 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
 - b. 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 the OCR's website
 - c. 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
- E. A link to the Title IX information included on the California Department of Education's (CDE) website

- F. 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. Such resources shall be posted in a prominent location on the district's website in a manner that is easily accessible to parents/guardians and students.
- G. 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.
- H. Annually notify all students and parents/guardians of the district's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all students, including transgender and gender-nonconforming 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 district's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the district will address any individual student's interests and concerns privately, with the goal of ensuring confidentiality to the extent possible.
- I. The Superintendent or designee shall ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the district'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 district school speak a single primary language other than English, the district'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 district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

- J. Provide to students and employees age-appropriate training and information regarding the district'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 district may use to provide a discrimination-free environment for all district students, including transgender and gender-nonconforming students.
 - K. 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.
 - L. At the beginning of each school year, inform each principal and any potential designees of the district's responsibility to provide appropriate assistance or resources to protect students' privacy rights and ensure their safety from threatened or potentially discriminatory behavior.
2. Enforcement of District Policy

The Superintendent or designee shall take appropriate actions to reinforce BP 5145.3, Nondiscrimination/Harassment. As needed, these actions may include any of the following:

- a. Removing graffiti with discriminatory or harassing language or depictions.

- b. Providing training to students, staff, and parents/guardians about how to recognize unlawful discrimination, how to report it or file a complaint, and how to respond.
- c. Disseminating and/or summarizing the district's policy and regulation regarding unlawful discrimination.
- d. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to students, parents/guardians, and the community.
- e. Taking appropriate disciplinary action against students, employees, and anyone determined to have engaged in wrongdoing in violation of district policy, including any student who is found to have filed a complaint of discrimination that he/she knew was not true.

3. Process for Initiating and Responding to Complaints

- a. Any student who feels that he/she has been subjected to unlawful discrimination described above or in district policy is strongly encouraged to immediately contact the principal or any other staff member. In addition, any student who observes any such incident is strongly encouraged to report the incident to the principal, whether or not the alleged victim files a complaint.
- b. 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 principal within two school days, whether or not the alleged victim files a complaint.
- c. 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.
- d. When a verbal report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the principal, he/she shall make a note of the report. Once notified verbally or in writing, the principal shall begin an informal 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. The principal shall provide a written response/summary of the investigation to the complainant within ten (10) school days and also notify the complainant of the opportunity to file a formal complaint with the compliance officer, if they deem necessary.
- e. Any report or complaint alleging unlawful discrimination by the principal, compliance officer, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the Superintendent or designee who shall determine how the complaint will be investigated.

4. Transgender and Gender-Nonconforming Students

- a. Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

- b. Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth.
- c. 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.
- d. Gender-nonconforming student means a student whose gender expression differs from stereotypical expectations.
- e. Transgender student means a student whose gender identity is different from the gender assigned at birth.
- f. Regardless of whether they are sexual in nature, acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, 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 are prohibited. Examples of types of conduct which are prohibited in the district and which may constitute gender-based 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 bathroom 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 transgender status to individuals who do not have a legitimate need for the information, without the student's consent
 - 6. Use of gender-specific slurs
 - 7. Physical assault of a student motivated by hostility toward the student because of the student's gender, gender identity, or gender expression.
- g. If complaints alleging gender discrimination against transgender and gender-nonconforming students meet the Title IX definition of sexual harassment, the complaint will be processed utilizing the Title IX procedures. All other complaints will be processed and resolved utilizing the district's uniform complaint procedures (AR 1312.3).
- h. Examples of bases for complaints include, but are not limited to, the above list, as well as improper rejection by the district of a student's asserted gender identity, denial of access to facilities that correspond with a student's gender identity, improper disclosure of a student's transgender status, discriminatory enforcement of a dress code, and other instances of gender-based harassment.

- i. To ensure that transgender and gender-nonconforming 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:** A student's transgender or gender-nonconforming status is the student's private information and the district 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 district has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. The district shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by the district pursuant to 34 CFR 99.31. Any district employee to whom a student's transgender or gender-nonconforming status is disclosed shall keep the student's information confidential and shall disclose this information only if necessary, consistent with the law.

As appropriate given the student's need for support, the district employee may discuss with the student any need to disclose the student's 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 district shall offer support services, such as counseling, to students who wish to inform their parents/guardians of their status and desire assistance in doing so.

2. **Determining a Student's Gender Identity:** District staff shall accept the student's assertion of gender identity and begin to treat the student consistent with their gender identity unless district 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:** Upon request from the student, the principal or a trusted school site employee 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 education programs and activities is maintained. The meeting shall address the 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, staff at the meeting shall identify specific school site employee(s) to whom the student may report any problem related to the student's status as a transgender or gender-nonconforming individual, so that prompt action could 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 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.
4. **Accessibility to Sex-Segregated Facilities, Programs, and Activities:** When the district 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 district 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,

access to a staff member's office, or use of the locker room before or after the other students. However, the district shall not require a student to utilize these options because the student is transgender or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with their gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. During sex education and HIV/AIDS prevention classes, male and female students may also be separated as deemed appropriate and consistent with these regulations. In addition, students may be grouped by ability during physical education when assessed by objective standards of individual performance without regard to gender as long as all students are involved in the same physical activity or conceptual learning experience. 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.

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 their gender identity on all other district-related documents. Such preferred name may be added to the student's record and official documents as permitted by law.
6. Names and/or Pronouns: If a student so chooses, district personnel shall be required to address the student by a name and/or the pronouns consistent with the student's gender identity, without the necessity of a court order or a change to the student's official district record. However, inadvertent slips or honest mistakes by district personnel in the use of the student's name and/or consistent pronouns shall not constitute a violation of this administrative regulation or the accompanying district policy.
7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with their gender identity, subject to any dress code adopted on a school site.

D. Reports Required

1. Written summary of principal investigation
2. Written district decision

E. Responsible Administrative Unit

1. Local building administration
2. Assistant Superintendent - Educational Services

F. Approved by:

Dr. Linda Adamson
Assistant Superintendent

Date 8/16/22

Dr. Michael D. Matthews
Superintendent

Date 8/16/22