

Nondiscrimination/Harassment

The Solano County Office of Education (SCOE) desires to provide a safe school environment that allows all students equal access and opportunities in its academic and other educational support programs, services, and activities. SCOE prohibits, at any school site or activity, unlawful discrimination, harassment, intimidation, and bullying of any student by anyone based on the student's actual or perceived race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, immigration status, age, religion, marital, parental, family, or pregnancy status, veteran status, medical condition, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression, or association with a person or group with one or more of these actual or perceived characteristics.

This policy shall apply to all acts related to school activity or to school attendance occurring within SCOE's programs, and 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. (Education Code section 234.1)

Unlawful discrimination, including harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also includes the creation of a hostile environment through prohibited conduct that 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.

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

SCOE 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 or participates 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.

Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities, or privileges.

Students who engage in unlawful discrimination, including harassment, intimidation, bullying, or retaliation in violation of law and SCOE's policies and administrative regulations, 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 harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

SCOE hereby designates the following position(s) as Compliance Officer(s) for Nondiscrimination responsible for coordinating SCOE'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 SCOE's nondiscrimination policies. The individual(s) in this position shall also serve as the Compliance Officer(s) specified in SCOE Policy 1312.3 – Uniform Complaint Procedures as the employee responsible to handle complaints alleging unlawful discrimination targeting a student, including harassment, intimidation, or bullying, based on the student's actual or perceived race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, immigration status, age, religion, marital,

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parental, or family status, pregnancy, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or any other legally protected status or association with a person or group with one or more of these actual or perceived characteristics. The Compliance Officer(s) may be contacted at: (Education Code §234.1; 5 CCR 4621)

Name: Manolo Garcia

Title or Position: Associate Superintendent – Human Resources and Educator Effectiveness

Work Address: 5100 Business Center Drive, Fairfield, CA 94534-1658

Telephone Number: (707) 399-4400

Email: complianceofficer@solanocoe.net

The Compliance Officer(s) shall facilitate students' access to the educational program by publicizing SCOE's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. S/he shall provide training and information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination.

The Compliance Officer(s) shall regularly review the implementation of SCOE's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to, or participation in, SCOE's educational program. The Compliance Officer(s) shall report their findings and recommendations to the County Superintendent 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 harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Record-Keeping

The Compliance Officer(s) for Nondiscrimination listed above shall maintain a record of all reported cases of unlawful discrimination, including harassment, intimidation, or bullying, to enable SCOE to monitor, address, and prevent repetitive prohibited behavior in its schools and programs.

Measures to Prevent Discrimination

To prevent unlawful discrimination, including harassment, intimidation, bullying, and retaliation of students in SCOE's programs or school-related activities, and to ensure equal access of all students to the educational programs, the Compliance Officer(s) shall implement the following measures:

1. Publicize SCOE'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 on SCOE's website and other prominent locations and providing easy access to them through SCOE-supported social media, when available. (Education Code §234.1)
2. Post in a prominent and conspicuous location on SCOE's website information regarding Title IX sexual harassment complaint procedure, including the following: (Education Code §221.61)
 - a. The name and contact information of SCOE's Title IX Coordinator, including the phone number and email address

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- b. A description of how to file a complaint of noncompliance with Title IX in accordance with SCOE Policy 1312.3 - Uniform Complaint Procedures, which shall include:
 - 1) 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
 - 2) 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
 - 3) A web link to the OCR complaint form and the contact information for the office, including the phone number and email address for the office
3. School sites with grades 9 through 12, shall have posters prominently and conspicuously displayed in each bathroom, locker room and other public areas commonly frequented by pupils.
 - a. The poster shall be no smaller than 8.5 by 11 inches and use at least 12-point font.
 - b. The poster shall be displayed in English and any primary language spoken by 15 percent or more of the pupils enrolled at the school site (Education Code 48985)
 - c. Poster shall display, at a minimum, the following:
 1. Rules and procedures for reporting a charge of sexual harassment
 2. The name and contact information of SCOE's Title IX Coordinator, including the phone number and email address
 3. The rights of the reporting pupil, the complainant, and the respondent, and the responsibilities of the schoolsite in accordance with the applicable written policy on sexual harassment (Education Code section 231.6)
4. Provide to students a handbook that contains age-appropriate information that clearly describes SCOE'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)
5. Annually notify all students and parents/guardians of SCOE's nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory learning 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 SCOE's implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, SCOE will address any individual student's interests and concerns in private.
6. The Compliance Officer(s) shall ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in SCOE'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 program speak a single primary language other than English, SCOE's policy, regulation, forms, and notices concerning nondiscrimination shall be translated into that language. In all other instances, SCOE shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency. (Education Code §§234.1, 48985)
7. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and information regarding SCOE's nondiscrimination policy; what constitutes prohibited discrimination, including harassment, intimidation, bullying, or retaliation; how and to whom a report of an incident should be made; and how to guard against segregating or stereotyping

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students when providing instruction, guidance, supervision, or other services to them. Such training and information shall include guidelines SCOE may use to provide a discrimination-free environment for all its students, including transgender and gender- nonconforming students.

8. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, including harassment, intimidation, or bullying against a student is required to intervene if it is safe to do so. (Education Code §234.1)
9. At the beginning of each school year, inform each principal or designee of SCOE's responsibility to provide appropriate assistance or resources to protect students' privacy rights and ensure their safety from threatened or potentially discriminatory behavior.

Enforcement of Policy

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

1. Removing vulgar or offending graffiti
2. 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
3. Disseminating and/or summarizing SCOE's policy and regulation regarding unlawful discrimination
4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating SCOE's response to students, parents/guardians, and the community
5. Taking appropriate disciplinary action against students, employees, and anyone determined to have engaged in wrongdoing in violation of SCOE's policy, including any student who is found to have filed a complaint of discrimination that s/he knew was not true

Process for Initiating and Responding to Complaints

Any student who feels that they have been or are being subjected to unlawful discrimination as described above or in SCOE's policy is strongly encouraged to immediately contact the Compliance Officer(s), principal, or any other staff member. Additionally, any student who observes any such incident is strongly encouraged to report the incident to the Compliance Officer(s), principal, or any school employee, whether or not the alleged victim files a complaint.

Any SCOE employee who observes an incident of unlawful discrimination, including harassment, intimidation, bullying, or retaliation, or to whom such an incident is reported, shall report the incident to the Compliance Officer(s) or principal within one school day, whether or not the alleged victim files a complaint.

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

Any SCOE employee who permits unlawful discrimination, including harassment, intimidation, bullying, or retaliation, may be subject to disciplinary action if s/he fails to report an observed incident, whether or not the alleged victim complains.

If the alleged harasser is the Compliance Officer(s), the student or employee may report the complaint or his/her observation of the incident to the County Superintendent or designee who shall

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investigate the complaint.

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Compliance Officer(s) shall immediately investigate the complaint in accordance with SCOE's Uniform Complaint Procedures specified in Policy 1312.3 and in a way that ensures the privacy of all parties concerned. In no case shall the student be required to resolve the complaint directly with the offending person.

When a verbal report of unlawful discrimination, including harassment, intimidation, bullying, or retaliation, is made to, or received by, the principal or Compliance Officer(s), they shall make a note of the report and encourage the student or parent/guardian to file the complaint in writing, pursuant to the provisions in SCOE Policy 1312.3 - Uniform Complaint Procedures.

Once notified verbally or in writing, the principal or Compliance Officer(s) 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.

If the Compliance Officer(s) finds that harassment has occurred, they shall take prompt, appropriate action to end the harassment and address its effects on the victim. The Compliance Officer(s) shall also advise the victim of any other remedies that may be available. The Compliance Officer(s) shall file a report with the County Superintendent or designee and refer the matter to law enforcement where required.

Except as otherwise specifically provided in other SCOE policies, these procedures shall be used to investigate and resolve only the complaints specified in this policy which allege that SCOE has violated federal or state laws or regulations governing educational programs.

Step 1: Filing of Complaint

Complaints filed under the UCP may be filed directly with the Compliance Officer or with any site administrator not designated as a Compliance Officer. If a site administrator not designated as a Compliance Officer receives a UCP complaint, s/he shall immediately present the complaint to the Compliance Officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, SCOE staff shall assist him/her in the filing of the complaint. (5 CCR 4600) All complaints shall be filed in accordance with the following rules, as applicable:

1. A complaint alleging unlawful discrimination (such as harassment, intimidation, or bullying) may be filed only by a person who alleges that s/he personally suffered the unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to any of these unlawful acts. The complaint shall be initiated no later than six months from the date when the alleged unlawful discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to ninety (90) days by the County Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (Education Code §234.1; 5 CCR 4630)
2. When a complaint alleging unlawful discrimination (such as harassment, intimidation, or bullying) is filed anonymously, the Compliance Officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

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3. When the complainant or alleged victim of unlawful discrimination (such as harassment, intimidation, or bullying) requests confidentiality, the Compliance Officer shall inform them that the request may limit SCOE's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, SCOE shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Step 2: Mediation

Within three (3) business days after the Compliance Officer receives the complaint, they may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the Compliance Officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as harassment, intimidation, or bullying) the Compliance Officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The Compliance Officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the Compliance Officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend SCOE's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, SCOE shall take only the actions agreed to through the mediation. If mediation is unsuccessful, SCOE shall then continue with subsequent steps specified in this policy. (5 CCR 4631)

Step 3: Investigation of Complaint

Within ten (10) business days after the Compliance Officer receives the complaint, or an attempt to mediate the complaint has been unsuccessful, the Compliance Officer shall begin an investigation into the complaint.

Within one (1) business day of initiating the investigation, the Compliance Officer shall provide the complainant and/or his/her representative with the opportunity to present the information contained in the complaint to the Compliance Officer and notify the complainant and/or his/her representative of the opportunity to present the Compliance Officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

The Compliance Officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. S/he shall individually interview all available witnesses with information pertinent to the complaint and may visit any reasonably accessible location where the relevant actions are alleged to have taken place.

To investigate a complaint alleging retaliation or unlawful discrimination (such as harassment, intimidation, or bullying), the Compliance Officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

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A complainant's refusal to provide SCOE's investigator with documents or other evidence related to the allegations in the complaint, failure, or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide SCOE's investigator with documents or other evidence related to the allegations in the complaint, failure, or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

In accordance with law, SCOE shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. SCOE's failure or refusal to cooperate in the investigation may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

The Compliance Officer shall apply a "preponderance of the evidence" standard in determining the veracity of the factual allegations in a complaint. This standard is met if the allegation is more likely to be true than not.

Step 4: Report of Findings

Unless extended by written agreement with the complainant, the Compliance Officer shall prepare and send to the complainant, and respondent if there is one, a written report of SCOE's investigation and decision, as described in Step #5 below, within sixty (60) calendar days of receiving the complaint. (5 CCR 4631)

Step 5: Final Written Decision

SCOE's decision on how it will resolve the complaint shall be in writing and sent to the complainant and respondent. (5 CCR 4631)

In consultation with SCOE's legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, if the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as harassment, intimidation, and bullying), notice of SCOE's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

The decision shall be written in English and, when required by Education Code §48985, in the complainant's primary language. If the complaint involves a limited-English-proficient student or parent/guardian and the student involved attends a school at which 15% or more of the students speak a single primary language other than English, then the decision shall also be translated into that language. In all other instances, SCOE shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

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For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
 - a. Statements made by any witnesses
 - b. The relative credibility of the individuals involved
 - c. How the complaining individual reacted to the incident
 - d. Any documentary or other evidence relating to the alleged conduct
 - e. Past instances of similar conduct by any alleged offenders
 - f. Past false allegations made by the complainant
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination (such as harassment, intimidation, or bullying), the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. How the misconduct affected one or more students' education
 - b. The type, frequency, and duration of the misconduct
 - c. The relationship between the alleged victim(s) and offender(s)
 - d. The number of persons engaged in the conduct and at whom the conduct was directed
 - e. The size of the school, location of the incidents, and context in which they occurred
 - f. Other incidents at the school involving different individuals
5. Corrective action(s), if any are warranted, including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code §49013 and 5 CCR 4600

For complaints of unlawful discrimination (such as harassment, intimidation, or bullying), the decision may, as required by law, include:

- a. The corrective actions imposed on the respondent
 - b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent
 - c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence
6. Notice of the complainant's and respondent's right to appeal SCOE's decision to the CDE within fifteen (15) calendar days and procedures to be followed for initiating such an appeal

The decision may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

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For complaints alleging unlawful discrimination based on state law (such as harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of SCOE's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, sixty (60) calendar days after the filing of an appeal with the CDE. (Education Code §262.3)
2. The 60-day moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights, at www.ed.gov/ocr within one-hundred-eighty (180) days of the alleged discrimination.

Corrective Actions

When a complaint is found to have merit, the Compliance Officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or program environment may include, but are not limited to, actions to reinforce or update SCOE's policies; training for faculty, staff, and students; or school climate surveys.

For complaints involving retaliation or unlawful discrimination (such as harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling
2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation
9. Determination of whether any past actions of the victim that resulted in discipline were related to the treatment the victim received and described in the complaint

For complaints involving retaliation or unlawful discrimination (such as harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team

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6. Denial of participation in extracurricular or co-curricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination (such as harassment, intimidation, or bullying), SCOE shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

SCOE may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as harassment, intimidation, or bullying), that SCOE does not tolerate it, and how to report and respond to it.

Appeals to the California Department of Education

Any complainant who is dissatisfied with SCOE's final written decision may file an appeal in writing to the CDE within fifteen (15) calendar days of receiving SCOE's decision. (Education Code §§222, 48853, 48853.5, 49013, 49069.5, 51223, 51225.1, 51225.2, 51228.3, 52075; 5 CCR 4632)

When a respondent in any complaint alleging unlawful discrimination (such as harassment, intimidation, and bullying) is dissatisfied with the district's final written decision, he/she, in the same manner as the complainant, may file an appeal with the CDE.

When appealing to the CDE, the complainant or respondent must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of SCOE's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant or respondent has appealed SCOE's decision, the County Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the written decision
3. A summary of the nature and extent of the investigation conducted by SCOE, if not covered by the decision
4. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of SCOE's uniform complaint procedures (UCP)
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by SCOE when one of the conditions listed in 5 CCR 4650 exists, including cases in which SCOE has not taken action within sixty (60) calendar days of the date the complaint was filed with SCOE.

Complaint issues that are not subject to SCOE's complaint procedures and not under the jurisdiction of the CDE include, but are not limited to, allegations of child abuse, health and safety complaints related to a child development program, employment discrimination complaints, and allegations of fraud. (5 CCR 4611)

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Civil Law Remedies

A complainant may pursue any civil law remedies outside of SCOE's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

For complaints alleging discrimination, harassment, intimidation, or bullying based on state law, a complainant shall wait until sixty (60) calendar days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies, provided SCOE has appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law.

Effects of Unlawful Discrimination, Harassment, Intimidation, or Bullying

SCOE recognizes that unlawful discrimination, harassment, intimidation, or bullying can cause embarrassment, feelings of powerlessness, loss of self-confidence, reduced ability to perform schoolwork, and increased absenteeism or tardiness. SCOE is committed to providing an educational environment free of unlawful discrimination, harassment, intimidation, or bullying. SCOE maintains a strict policy prohibiting discrimination, harassment, intimidation, or bullying due to any basis protected by federal, state, or local law or ordinance or regulation.

To promote an environment free of unlawful discrimination, harassment, intimidation, or bullying, the principal or designee shall take appropriate actions such as removing vulgar or offending graffiti, establishing site rules, and providing staff in-service or student instruction and counseling. Teachers shall discuss this policy with their students in age-appropriate ways and shall assure them that they need not endure any form of unlawful discrimination, harassment, intimidation, or bullying.

Transgender and Gender-Nonconforming Students

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

Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth. (Education Code §210.7)

Gender transition refers to the process in which a person changes from living and identifying as the sex assigned to the person at birth to living and identifying as the sex that corresponds to the person's gender identity.

Gender-nonconforming means a person whose gender expression differs from stereotypical expectations.

Transgender means a person whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.

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 the types of conduct which are prohibited, and which may constitute gender-based harassment, include but are not limited to:

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1. Refusing to address a student by a name and the pronouns consistent with his/her gender identity
2. Disciplining or disparaging a student or excluding them from participating in activities for behavior or appearance that is consistent with their 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 their gender identity
4. Taunting a student because they participate 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 them because of their gender, gender identity, or gender expression

SCOE's uniform complaint procedures (Policy 1312.3) shall be used to report and resolve complaints alleging discrimination against transgender and gender-nonconforming students.

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.

To ensure that transgender and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and SCOE's Policies, SCOE 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 their private information, and SCOE 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 SCOE has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. In any case, SCOE shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by SCOE pursuant to 34 FR 99.31. Any SCOE employee to whom a student's 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 SCOE employee by a student, the employee shall seek the student's permission to notify the Compliance Officer(s). If the student refuses to give permission, the employee shall keep the student's information confidential, unless they are required to disclose or report the student's information pursuant to law or SCOE policy, and shall inform the student that honoring the student's request may limit SCOE's ability to meet the student's needs related to their status as a transgender or gender-nonconforming student. If the student permits the employee to notify the Compliance Officer(s), the employee shall do so within three school days.

As appropriate, given the student's need for support, the Compliance Officer(s) may discuss with the student any need to disclose the student's transgender or gender-nonconformity status or gender identity or gender expression to their parents/guardians and/or others, including other students, teacher(s), or other adults on campus. Any decision to disclose the student's status to others shall be based on the student's best interest. SCOE shall offer support services, such

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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:** The Compliance Officer(s) shall accept the student's assertion of their gender identity and begin to treat the student consistent with their gender identity unless SCOE personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose. In such a case, the Compliance Officer(s) shall document the 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 their parents/guardians.
3. **Addressing a Student's Transition Needs:** The Compliance Officer(s) shall arrange a meeting with the student and, if appropriate, their parents/guardians to identify and develop strategies for ensuring that the student's access to education programs and activities is maintained. The meeting shall discuss 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, the Compliance Officer(s) shall identify specific school site employee(s) to whom the student may report any problem related to their 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 their 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 SCOE 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, SCOE 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, SCOE shall not require a student to utilize these options because they are 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. A student's right to participate in a sex-segregated activity in accordance with their 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, their parents/guardians, SCOE shall use the student's preferred name and pronouns consistent with his/her gender identity on all other SCOE-related documents. Such preferred name may be added to the student's record and official documents as permitted by law.
6. **Names and Pronouns:** If a student so chooses, SCOE personnel shall be required to address the student by a name and the pronouns consistent with their gender identity, without the necessity of a court order or a change to their official school record. However, inadvertent slips or honest

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mistakes by SCOE personnel in the use of the student's name and/or consistent pronouns will, in general, not constitute a violation of this policy and administrative regulation.

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.

Legal Reference:

EDUCATION CODE

- 200-262.4 Prohibition of discrimination on the basis of sex, especially:
- 48900.3 Suspension or expulsion for act of hate violence
- 48900.4 Suspension or expulsion for threats or harassment
- 48904 Liability of parent/guardian for willful student misconduct
- 48907 Student exercise of free expression
- 48950 Freedom of speech
- 48985 Translation of notices
- 49020-49023 Athletic programs
- 51500 Prohibited instruction or activity
- 51501 Prohibited means of instruction
- 60044 Prohibited instructional materials

CIVIL CODE

- 1714.1 Liability of parents/guardians for willful misconduct of minor

PENAL CODE

- 422.55 Definition of hate crime
- 422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

- 432 Student record
- 4600-4687 Uniform complaint procedures
- 4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

- 1681-1688 Title IX of the Education Amendments of 1972
- 12101-12213 Title II equal opportunity for individuals with disabilities

UNITED STATES CODE, TITLE 29

- 794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

- 2000d-2000e-17 Title VI & VII Civil Rights Act of 1964 as amended
- 2000h-2-2000h-6 Title IX, 1972 Education Act Amendments
- 6101-6107 Age Discrimination Act of 1975

CODE OF FEDERAL REGULATIONS, TITLE 28

- 35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

- 99.31 Disclosure of personally identifiable information
- 100.3 Prohibition of discrimination on basis of race, color, or national origin
- 104.7 Designation of responsible employee for Section 504
- 106.8 Designation of responsible employee for Title IX
- 106.9 Notification of nondiscrimination on basis of sex

COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Policy Cross-Reference:

0410 Nondiscrimination in District Programs and Activities
1113 Website
1114 Social Media
1240 Volunteer Assistance
1312.1 Complaints Concerning District Employees
1312.3 Uniform Complaint Procedures
1330 Use of Facilities
1340 Access to Records
3580 Records
4112.6 Personnel Files
4118 Suspension/Disciplinary Action
4119.1 Civil and Legal Rights
4119.21 Professional Standards
4119.23 Unauthorized Release of Confidential/Privileged Information
4131 Staff Development
5020 Parent Rights and Responsibilities
5125 Student Records
5125.1 Release of Directory Information
5131 Conduct
5131.2 Bullying
5131.5 Vandalism and Graffiti
5132 Dress Code
5137 Positive School Climate
5141.4 Child or Dependent Adult Abuse Reporting
5144 Discipline
5144.1 Suspension and Expulsion/Due Process
5144.2 Suspension and Expulsion/Due Process: Students with Disabilities
5145.2 Freedom of Speech/Expression
5145.6 Parental Notifications
5145.7 Sexual Harassment
5145.71 Title IX Sexual Harassment Complaint Procedures
5145.9 Hate-Motivated Behavior
6142.1 Sexual Health and HIV/AIDS Prevention Instruction
6145 Extracurricular and Co-Curricular Activities
6153 School-sponsored Trips
6159.4 Behavioral Interventions for Special Education Students
6164.6 Identification and Education Under Section 504
7110 Facilities Master Plan