NONDISCRIMINATION/HARASSMENT

The County Board desires to ensure equal opportunities for all students in admission and access to LACOE’s educational programs, guidance and counseling programs, athletic programs, testing procedures, and other activities. LACOE programs and activities shall be free from discrimination, including harassment, with respect to a student's race, color, ancestry, national origin, ethnicity, ethnic group identification, citizenship and immigration status, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics. These terms are defined by state or federal statute.

(cf. 0410 - Nondiscrimination in LACOE Programs and Activities)
(cf. 5145.9 - Hate-Motivated Behavior)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6164.6 - Identification and Education Under Section 504)

The County Board prohibits discrimination, intimidation, or harassment or bullying of any student by any employee, student, or other person in LACOE. Prohibited harassment includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and 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 purpose or effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects the student's educational opportunities.

The Board also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

School staff and volunteers shall carefully guard against segregation, bias, and stereotyping in the delivery of services, including, but not limited to, instruction, guidance, and supervision. In Juvenile Court Schools, the County Office shall work with County Probation Department on practices and procedures for incarcerated students.

(cf. 5145.2 - Freedom of Speech/Expression)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)
(cf. 6164.2 - Guidance/Counseling Services)

The Principal or designee shall develop a plan to provide students with appropriate accommodations when necessary for their protection from threatened or potentially harassing or discriminatory behavior.
NONDISCRIMINATION/HARASSMENT (continued)

The Superintendent or designee shall facilitate students' access to the educational program by annual notifications publicizing LACOE’s nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. He/she 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 Superintendent or designee shall regularly review the implementation of LACOE’s nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the educational program. He/she shall report his/her findings and recommendations to the Board after each review.

Students who engage in discrimination or harassment in violation of law, County Board policy, or administrative regulation shall be subject to appropriate discipline, up to and including counseling, suspension, and/or involuntary release to student's district of residence. Any employee who permits or engages in prohibited discrimination, harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5131 - Conduct)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5131 - Conduct)
(cf. 5131.2 - Bullying)
(cf. 5137 - Positive School Climate)
(cf. 5145.9 - Hate-Motivated Behavior)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6164.6 - Identification and Education Under Section 504)
NONDISCRIMINATION/HARASSMENT (continued)

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
32261 Interagency School Safety Demonstration Act of 1985
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
EDUCATION CODE (continued)
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
UNITED STATES CODE, TITLE 42
2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
6101-6107 Age Discrimination Act of 1975
CODE OF FEDERAL REGULATIONS, TITLE 34
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
Nondiscrimination/Harassment (continued)

Management Resources:

CSBA PUBLICATIONS
- Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010
- Final Guidance Regarding Transgender Students, Privacy, and Facilities, March 2014
- Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES
- California Student Safety and Violence Prevention - Laws and Regulations, April 2004

FIRST AMENDMENT CENTER PUBLICATIONS
- Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS
- Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity, 2004

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
- Notice of Non-Discrimination, January 1999
- Dear Colleague Letter: Harassment and Bullying, October 2010

WEB SITES
- CSBA: http://www.csba.org
- California Safe Schools Coalition: http://www.casafeschools.org
- California Department of Education: http://www.cde.ca.gov
- First Amendment Center: http://www.firstamendment.org
- National School Boards Association: http://www.nsba.org
- U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr
NONDISCRIMINATION/HARASSMENT

General Provisions

1.  Definitions

   a.  LACOE participant: any individual involved in LACOE programs or activities. This includes employees, students, contractors, vendors, guests and volunteers.

   b.  LACOE staff member: any LACOE employee.

   c.  Principal or designee: supervisor or site administrator.

   d.  Complaint: a statement regarding how a LACOE program or activity is run or how a LACOE participant was treated while involved in a LACOE program or activity. A complaint alleges a violation of state or federal laws or regulations. Complaints point to specific misconduct, or behavior or practices that violate law.

      (1)  Examples of complaints based on discriminatory behavior:

         (a)  Sexual harassment, assault, battery

         (cf. LACOE - Sexual Harassment [Employees] 4018.15 (a), Student Sexual Harassment 7360.1, Abuse and Neglect Reporting 7360.4)

         (b)  Harassment: includes unwelcome verbal, visual or physical contact that, when directed at any person, would be considered inherently likely to provoke an extremely negative or intimidating reaction. Such contact includes, but is not limited to, those terms or actions widely recognized as negative or derogatory references to race, ethnicity, religion, gender, sexual orientation, disability and other characteristics uniquely a part of the individual or group. “Harassment” occurs when these words or conduct create a hostile or intimidating environment that prevents the target of harassment from being able to pursue educational goals or to participate fully in LACOE programs or activities.

         (c)  Denial of educational opportunities

         (d)  Abuse or neglect

         (cf. LACOE 7360.4)
NONDISCRIMINATION/HARASSMENT (continued)

(e) Inaccurate student records

(cf. LACOE 7210 - Student Records)

(2) In accordance with the Uniform Complaint Procedure, LACOE will assist in referring certain complaints to specified agencies.

2. The Director of the Division of Pupil Services is the designated coordinator for coordinating LACOE’s efforts to comply with 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 LACOE’s nondiscrimination policies. 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 complaints regarding unlawful discrimination, including discriminatory harassment, intimidation, or bullying, based on actual race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or any other legally protected 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: (Education Code 234.1; 5 CCR 4621)

Hector Murrieta, Chief Educational Programs Officer
Position Title

9300 Imperial Highway, Downey, CA 90242
Address

(562) 803-8301
Telephone Number

(cf. 1312.1 - Complaints Concerning LACOE Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

3. To prevent discrimination, harassment, intimidation, and bullying of students at LACOE schools programs 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:
AR 5145.3(c)

NONDISCRIMINATION/HARASSMENT (continued)

a. Provide to employees, volunteers, and parents/guardians training and information regarding LACOE'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)

b. Provide to students a handbook that contains age-appropriate information that clearly describes LACOE'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)

c. Annually notify all students and parents/guardians of LACOE'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. The notice shall inform students and parents/guardians that LACOE will not typically notify them of individual instances of transgender students participating in a program or activity.

(cf. 5145.6 - Parental Notifications)

d. Publicize LACOE's nondiscrimination policy and related complaint procedures to students, parents/guardians, employees, volunteers, and the general public and post them on LACOE's web site and other locations that are easily accessible to students. (Education Code 234.1)

(cf. 1113 - LACOE and School Web Sites)
(cf. 1114 - LACOE-Sponsored Social Media)

e. Each LACOE site shall provide notice of this Nondiscrimination Policy along with the name, title, address and phone number of the site administrator in charge of handling complaints and investigations and the Coordinator for Nondiscrimination
NONDISCRIMINATION/HARASSMENT (continued)

This notice shall also include a statement of policy, definitions and the potential disciplinary consequences of substantiated complaints. See below.

f. The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians 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.

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)

g. 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)

h. At the beginning of each school year, inform each principal or designee of LACOE’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.

i. At the beginning of each school year, inform each principal or designee 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.

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:

1. Removing vulgar or offending graffiti

(cf. 5131.5 - Vandalism and Graffiti)

2. Providing training to students, staff, and parents/guardians about how to recognize unlawful discrimination and how to respond

3. Disseminating and/or summarizing the district's policy and regulation regarding unlawful discrimination
NONDISCRIMINATION/HARASSMENT (continued)

4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to students, parents/guardians, and the community

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action against perpetrators and anyone determined to have engaged in wrongdoing, including any student who is found to have made a complaint of discrimination that he/she knew was not true

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Transgender and Gender-Nonconforming Students

*Gender identity* means a person's gender-related identity, appearance, or behavior, 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 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.

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

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

Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, gender identity, or gender expression, regardless of whether they are sexual in nature, where the act has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment are prohibited under state and federal law. Examples of types of conduct which are prohibited in the district and which may constitute gender-based harassment include, but are not limited to:
NONDISCRIMINATION/HARASSMENT (continued)

1. Refusing to address a student by a name and the pronouns consistent with his/her gender identity

2. Disciplining or disparaging a transgender student because his/her mannerisms, hairstyle, or style of dress correspond to his/her gender identity, or a non-transgender student because his/her mannerisms, hairstyle, or style of dress do not conform to stereotypes for his/her gender or are perceived as indicative of the other sex

3. Blocking a student's entry to the bathroom that corresponds to his/her gender identity because the student is transgender or gender-nonconforming

4. Taunting a student because he/she 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

6. Use of gender-specific slurs

7. Physical assault of a student motivated by hostility toward him/her because of his/her gender, gender identity, or gender expression

LACOE’s uniform complaint procedures (AR 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 Board policy, LACOE 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 his/her private information and LACOE will only disclose the information to others with the student's prior consent, except when the disclosure is otherwise required by law or is necessary to preserve the student's physical or mental well-being. Any LACOE employee to whom a student discloses his/her transgender or gender-nonconforming 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 he/she is required to disclose or report the student's information pursuant to law or LACOE policy, and shall inform the
student that it may be impossible to accommodate the student's needs related to his/her status as a transgender or gender-nonconforming student. If the student permits the employee to notify the Coordinator, the employee shall do so within three school days.

As appropriate, the Coordinator shall discuss with the student any need to disclose the student's transgender or gender-nonconformity status to his/her 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.

(cf. 1340 - Access to LACOE Records)
(cf. 3580 – LACOE Records)

2. Determining a Student's Gender Identity: The Coordinator shall accept the student's assertion unless LACOE 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 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 a Student's Transition Needs: The Coordinator shall arrange a meeting with the student and, if appropriate, his/her parents/guardians to identify potential issues, including transition-related issues, and to develop strategies for addressing them. 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 Coordinator shall identify specific school site employee(s) to whom the student may report any problem related to his/her status as a transgender or gender-nonconforming individual, so that prompt action could be taken to address it.

4. Accessibility to Sex-segregated Facilities, Programs, and Activities: LACOE may maintain sex-segregated facilities, such as restrooms and locker rooms, and sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs. A student shall be entitled to access facilities and participate in programs and activities consistent with his/her gender identity. In addition, a student shall be permitted to participate in accordance with his/her gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. However, a student's right to participate in a sex-segregated activity in accordance with his/her gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.
NONDISCRIMINATION/HARASSMENT (continued)

(cf. 6145 - Extracurricular and Cocurricular 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, his/her parents/guardians, LACOE shall use the student's preferred name and pronouns consistent with his/her gender identity on all other LACOE-related documents.

(cf. 5125 - Student Records)
(cf. 5125.1 - Release of Directory Information)

6. Names and Pronouns: If a student so chooses, LACOE personnel shall be required to address the student by a name and the pronouns consistent with his/her gender identity, without the necessity of a court order or a change to his/her official LACOE record. However, inadvertent slips or honest mistakes by LACOE 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 LACOE policy.

7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with his/her gender identity, subject to any dress code adopted on a school site.

(cf. 5132 - Dress Code)

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 target files a complaint.

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

When any report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is submitted to or received by the principal or compliance officer, he/she shall inform the student or parent/guardian of the right to file a formal complaint pursuant to the provisions in AR 1312.3 - Uniform Complaint Procedures. Any report of unlawful discrimination involving the principal, compliance officer, or any other person to whom the complaint would ordinarily be reported or filed shall instead be submitted to the Superintendent or designee. Even if the student chooses not to file a formal complaint, the principal or compliance officer shall implement immediate measures
Nondiscrimination/Harassment (continued)

necessary to stop the discrimination and to ensure all students have access to the educational program and a safe school environment.

Upon receiving a complaint of discrimination, the compliance officer shall immediately investigate the complaint in accordance with the district's uniform complaint procedures specified in AR 1312.3.

(cf. 5141.4 - Child Abuse Prevention and Reporting)