

# **Board Policy**

GCCS

## **Nondiscrimination/Harassment**

BP 5145.3

### **Students**

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within the Grizzly Challenge Charter School (GCCS) or program, 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 234.1).

The Governing Board is committed to providing a safe school environment that allows all students equal access to opportunities in academic and other educational support programs, services, and activities. Unlawful discrimination against a student in GCCS or any GCCS program or activity, including discriminatory harassment, intimidation, and bullying, is prohibited. Any form of retaliation against an individual who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination is also prohibited.

Unlawful discrimination may result from physical, verbal, nonverbal, or written conduct against a student based on a student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or the student's association with a person or group with one or more of these actual or perceived characteristics. Unlawful discrimination also occurs when the prohibited conduct 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.

The School shall ensure that all complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation, or bullying remains confidential, as appropriate. (EC Section 234.1(g))

In accordance with the law, all GCCS students shall be afforded the same rights, benefits and protections. When, as permitted by law, GCCS maintains sex-segregated facilities, such as restrooms and locker rooms, or offers sex-segregated programs and activities, such as physical education classes, students may choose to access facilities and participate in such programs and activities consistent with their gender identity. In addition, students may choose 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..

Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation may be filed in accordance with GCCS's uniform complaint procedures (UCP) pursuant to BP 1312.3 - Uniform Complaint Procedures. For complaints of sexual harassment, it is the responsibility of GCCS's Title IX Coordinator to determine whether the complaint should be addressed through UCP or, if the alleged conduct meets the federal definition of sexual harassment pursuant to 34 CFR 106.30, the complaint procedures established in 34 CFR 106.44-106.45. Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action shall be taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation in violation of law or GCCS policy or procedures 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.

### **Antidiscrimination Measures**

The Governing Board hereby incorporates by reference the policies, procedures, and measures implemented by the Principal to prevent or address unlawful discrimination in GCCS, and any GCCS programs or activities. GCCS nondiscrimination policies and practices shall be reviewed regularly, and action shall be taken to remove any identified barriers to student access to or participation in the educational program

#### *Legal Reference:*

##### *EDUCATION CODE*

200-262.4 Prohibition of discrimination  
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  
49060-49079 Student Records  
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

##### *GOVERNMENT CODE*

11135 Nondiscrimination in programs or activities funded by state

*PENAL CODE*

422.55 Definition of hate crime

422.6 Crimes, harassment

*CODE OF REGULATIONS, TITLE 5*

432 Student records

4600-4670 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 29*

794 Section 504 of Rehabilitation Act of 1973

*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

12101-12213 Equal opportunity for individuals with disabilities

*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

104.8 Notice

106.8 Designation of responsible employee and adoption of grievance procedures

106.9 Severability 110.25 Prohibition of discrimination based on age

*Management Resources:*

*CSBA PUBLICATIONS*

Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, March 2017

*CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS*

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

*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

*FIRST AMENDMENT CENTER PUBLICATIONS*

Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

*U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS*

Dear Colleague Letter: Title IX Coordinators, April 2015

Resolution Agreement Between the Arcadia Unified School District, U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, (2013) OCR 09-12-1020, DOJ 169-12C-70

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, Fact Sheet, August 2010

*U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATIONS*

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, August 2003

*WEB SITES*

U.S. Department of Justice, Civil Rights Division: <https://www.justice.gov/crt>

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

California Office of the Attorney General: <http://oag.ca.gov>

California Safe Schools Coalition: <http://www.casafeschools.org>

First Amendment Center: <http://www.firstamendmentcenter.org>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

**ADOPTED: 10/20**

**AMENDED: 11/22**