

Where and how to file a complaint of discrimination harassment, intimidation and bullying

The *California Code of Regulations*, Title 5, Chapter 5.1, Section 4600, et seq. establishes Uniform Complaint Procedures to be followed for complaints of discrimination, harassment, intimidation and bullying. The regulations require:

- The local educational agency adopts policies and procedures consistent with California Code of Regulations, Title 5, sections 4600 – 4687.
- The district's complaint procedure should be published in the student handbook. If not, contact the district office and request a copy of the nondiscrimination policy and complaint procedures, (the policy and process should be similar to the information provided in this brochure.).
- The complaint must first be filed with the school district; follow the directions, steps and time lines in the district's complaint procedures; if there are questions about the procedures, ask for the name of the person responsible for handling discrimination, harassment, intimidation, and bullying complaints; contact the person for questions and clarification.
- The complaint must be written and can be filed by a student, parent, or interested parties or organizations; it must be filed within six months of the date of the alleged discrimination and/or harassment, or when knowledge was first acquired.
- The district has 60 days to complete an investigation into the allegations and prepare a final written report that is to be sent to the person(s) that filed the complaint; during this process, an opportunity to submit evidence is provided.
- If all the steps of the school district's complaint procedures have been followed and there is disagreement with the decision, an appeal to the State Superintendent of Public Instruction can be made; any appeal must be filed within 15 days of the school district's final decision on the complaint.

To file an appeal, write to:

California Department of Education
Sharon Felix-Rochon, Director
Office of Equal Opportunity
1430 N Street, Suite 4206
Sacramento, California 95814

- An appeal to the Department should be in writing and signed;
- Include a copy of the school district's final decision on the complaint,
- An appeal may also be filed with the Department if the school district fails to make a decision on the complaint within 60 days.

Suggestions for students, parents and others when filing a complaint of discrimination and/or harassment.

- Make sure the law applies to the situation that is of concern; some actions by the school district is just not fair, but may not be prohibited by the state law because it does not constitute discrimination based on the listed protected classes; also the action must also adversely affect the student,
- Explain why it is discrimination and/or harassment; provide as much specific documentation and information as possible,
- Explain what you would like to have happen as a result of the complaint; give your name, address and telephone numbers where you can be reached.

For additional information or concerns contact:

Sharon Felix-Rochon, Director
Office of Equal Opportunity
California Department of Education
1430 N Street, Suite 4206
916-445-9174
www.cde.ca.gov

This handout meets the requirements and expectations set forth in California *Education Code* Section 234.3.



California Department of Education

Prohibition of discrimination, harassment, intimidation and bullying in California Public Schools”

Office of Equal Opportunity

July 2012

The California Department of Education is committed to and expects school districts to create and maintain a non-discriminatory and safe learning environment.

What the law states:

California Education Code Section 200

It is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, equal rights and opportunities in the educational institutions of the state.

Penal Code Section 422.55.

"Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- Disability.
- Gender.
- Nationality.
- Race or ethnicity.
- Religion.
- Sexual orientation.
- Association with a person or group with one or more of these actual or perceived characteristics.

California Education Code Section 201.

Provides legislative declarations in support of the policy, such as:

- students in public schools are entitled to participate fully in the educational process free from discrimination, harassment, intimidation, and bullying,
- public schools are to take affirmative steps to combat racism, sexism, and other forms of bias,
- prevent and respond to acts of hate violence and bias-related incidents in an urgent manner,
- teach and inform students about their rights and rights of others in order to increase awareness and understanding in order to promote tolerance and sensitivity.

California Education Code Section 220.

Prohibits discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code

California Education Code Section 234

The Safe Place to Learn Act - It is the policy of the State of California to ensure that all local educational agencies continue to work to reduce discrimination, harassment, violence, intimidation, and bullying. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities.

Section 234.1 requires the following responsibilities of the local educational agencies:

Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics contained in Section 422.5 of the Penal Code and Section 220 of the Education Code and include a statement that the policy applies to all acts related to school activity or school attendance that occurs within a school under the jurisdiction of the superintendent of the school district. In addition, it is to state that school personnel are to take immediate steps to intervene, when safe to do so, if he or she witnesses an act of discrimination, harassment, intimidation, or bullying.

Adopt and implement a complaint process to receive, investigate, and resolve complaints of discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics contained in Section 422.55 of the Penal Code and Section 220 of the Education Code. The complaint process shall include, but not limited, to the following

- a. A timeline to investigate and resolve complaints of discrimination, harassment, intimidation or bullying that schools under the jurisdiction of the school district shall follow.
- b. An appeal process provided to the complainant should he or she disagrees with the resolution of a complaint.
- c. All forms developed relative to this process shall be translated pursuant to Section 48985 of the Education Code.

- post policies that prohibit discrimination, harassment, intimidation, and bullying in schools and offices, include staff lounges and rooms that hold student government meetings,
- publicize policies that prohibit discrimination, harassment, intimidation, and bullying to parents, students, employees, agents of the governing board, and the general public and the complaint procedures, and how to file a complaint. The information is to be translated according to Section 48985.
- maintain documentation of complaints and the resolution for a minimum of one review cycle
- protect complainants from retaliation, and ensure the identity of a complainant remains confidential.
- designate a responsible local educational agency officer for ensuring compliance with Chapter 5.3 (commencing with Section 4900 of Division 1, Title 5 of the *California Code of Regulations* and Chapter 2 (commencing with Section 200).