**Santa Ana Unified School District**

**ADMINISTRATIVE REGULATION NO:** **5145.3**

SUBJECT: **Nondiscrimination-Harassment**

 CATEGORY: Students M/YYYY

RESPONSIBLE OFFICE(S): Educational Services/Human Resources

REVIEWED:  1/2017

**SCOPE:**

The Board of Education desires to provide a safe school environment that allows all students equal access and opportunities in the District’s academic and other educational support programs, services, and activities. The Board prohibits, at any District school or school activity, unlawful discrimination, harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sexual orientation, gender, -, or gender expression; 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.

**PROCEDURES AND GENERAL INFORMATION:**

The following position(s) are designated Coordinators for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying and to answer inquiries regarding the District's nondiscrimination policies: (Education Code 234.1; 5 CCR 4621)

Associate Superintendent, Human Resources

1601 East Chestnut Avenue

Santa Ana, Ca 92701

Executive Director, Pupil Support Services

Director, School Climate

Santa Ana Unified School District

1629 S. Center Str.

Santa Ana, CA 92704

714-433-3484

Additionally, the Principal or administrative designee at each District school is designated Site Coordinator for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying and to answer inquiries regarding the District's nondiscrimination policies.

Each Site Coordinator for Nondiscrimination shall confer with the District Coordinator for Nondiscrimination to ensure the District’s nondiscrimination policies are administered as intended and complaints regarding discrimination, harassment, intimidation, or bullying are processed according to District policy and administrative regulations. In addition, it is recommended that support staff member such as school psychologist, school counselor, teacher or TOSA be included in trainings or support roles.

To prevent discrimination, harassment, intimidation, and bullying of students at District schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent or designee shall implement the following measures:

* + 1. Each year several opportunities will be provided for employees, and parents/guardians training and information regarding the District'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 sexual orientation, transgender and gender-nonconforming students, including training and resources on implicit/explicit bias, SWPBIS, and trauma sensitive, restorative justice practices .
		2. Annually notify all students and parents/guardians of the District's nondiscrimination policy and how to access options for support. ~~and of the opportunity to inform the Administrative designee 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.~~  The Site Coordinator (Administrative designee) shall meet with the student and/or parent/guardian to determine how best to accommodate the student when concerns arise.
		3. Publicize the District's nondiscrimination policy and related complaint procedures to students, parents/guardians, employees, ~~volunteers,~~ and the general public and post them on the District's web site and other locations that are easily accessible to students. (Education Code 234.1)
		4. 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)
		5. Inform school employees that any employees witnessing any act of discrimination, harassment, intimidation, or bullying against a student that are required to intervene if it is safe to do so. (Education Code 234.1) Employees will also receive training on how to intervene and materials to support students and connect students to appropriate information and resources.
		6. Several opportunities will be provided each year to inform each principal or designee of the district'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.

# **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 Site Coordinator (admin designee), the principal, or any other support staff members. In addition, any student who observes any such incident should report the incident to the Site Coordinator or principal, whether or not the victim files a complaint.

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

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Site Coordinator shall immediately investigate the complaint in accordance with the District's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures.

**Definitions:**

 **Sexual orientation refers to the nature of sexual attraction of an individual towards another person usually defined as lesbian, gay, bisexual, heterosexual, or asexual.**

**Gender identity is how each person identitfies in regards to gender, whether or not it matches the gender they were assigned at birth.**

**Gender expression** means a person's gender-related appearance and behavior, (Education Code 210.7)

**Transgender student** means a student whose gender identity is different from the gender assigned at birth.

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

To ensure that lesbian, gay, bisexual, transgender and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Board policy, the District shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. **Right to privacy:** Lesbian, gay, bisexual, transgender student's or gender-nonconforming status is his/her private information and the District 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 District employee to whom a student discloses his/her transgender or gender-nonconforming status shall seek the student's permission to notify the Site 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 District 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 Site Coordinator, the employee shall do so within three school days.

As appropriate, the Site Coordinator shall discuss with the student any need to disclose the student's lesbian, gay, bisexual, 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.

1. **Determining a Student's Gender Identity:** The Site Coordinator shall accept the student's assertion unless District personnel present a credible basis for believing that the student's assertion is for an improper purpose. In such a case, the Site 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.

1. **Addressing a Student's Transition Needs:**
2. The Site 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 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.
3. In addition, the Site 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. Recommended transition plans and resources to support LGBT students will be posted on the School District and Pupil Support Services website.
5. **Accessibility to Sex-segregated Facilities, Programs, and Activities:** ~~The District 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.~~
6. **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, the District shall use the student's preferred name and pronouns consistent with his/her gender identity on all other District-related documents.~~
7. **Student Informational System (SIS) and Student Identity**: Upon student request ~~When a student so chooses~~, District personnel will ensure that the student’s gender identity and preferred name be entered into the Show/Hide function of the Student Informational System. The Show/Hide function will allow the student’s chosen identity to be indicated

on ID cards, Google accounts, attendance rosters, and other school documents or day to day school activities without changing legal name/status. Student will be addressed by school personnel by the name and gender listed is SIS. In order to support confidentiality and a student’s right to privacy, only enrollment personnel, health services and Pupil Support Services will have access to the birth name and gender information.

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~~. However, inadvertent slips or honest mistakes by District personnel shall not constitute a violation of this regulation.~~

**IMPLEMENTATION GUIDELINES AND ASSOCIATED DOCUMENTS:**

**District Policies and Procedures:**

**Legal Reference:**

**District Policies and Procedures:**

 AR 5145.3 - Nondiscrimination/Harassment-Students

**Legal Reference:**

**Education Code**

200-262.4 Prohibition of discrimination

 Suspension or expulsion for act of hate violence

 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

**California Government Code**

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

**Other Regulatory Authority**

**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

**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

Draft 12/2/16

**Education Code**

XXXXX Title of Education Code Regulation

**California Government Code**

XXXXX Title of California Government Code

**Other Regulatory Authority**

XXXXX Title of Other Regulatory Authority