

State of California ~ Department of Justice

OFFICE of the ATTORNEY GENERAL

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CHAPTER 6 - EDUCATION

State Laws

The right to a public education in California is a fundamental right fully guaranteed and protected by the California Constitution.⁽⁹⁶⁾ Recognizing the central role that education plays in our society, the California Legislature has enacted numerous laws designed to promote equality in educational opportunities and to safeguard students against discriminatory practices in public schools providing educational services.

For example, public school teachers are prohibited from giving instruction, and school districts are prohibited from sponsoring any activity which adversely reflects upon persons because of their race, sex, color, creed, handicap, national origin, or ancestry.⁽⁹⁷⁾ Instructional material used in public schools must not include matter which is discriminatory on the basis of race, sex, color, creed, handicap, national origin or ancestry.⁽⁹⁸⁾ Scholarships, loans and grants must be awarded in a nondiscriminatory manner.⁽⁹⁹⁾ Discrimination based upon sex is also prohibited in athletic programs provided by public schools or supported by public funds.⁽¹⁰⁰⁾ Also, the general prohibition against discrimination by any program receiving state funds applies to public schools.⁽¹⁰¹⁾

The legislative prohibitions against discrimination in education cover all aspects of the educational process, including teaching, course materials, financing, extracurricular activities and other matters. Violations of any of these laws should be brought to the attention of the governing body of the school, college, or university.

The following miscellaneous California statutory provisions prohibit unlawful discrimination in education:

1. **Business and Professions Code section 1000-8**⁽¹⁰²⁾ prohibits chiropractic schools from denying admission to blind persons solely on the basis of their blindness, and further provides that blind persons shall not be denied admission into any examination for a state license.
2. **Business and Professions Code section 4992.6** prohibits denying blind persons admission to training in social work or denying a license to a clinical social worker on the basis of blindness.
3. **Education Code section 200et seq.** is a comprehensive statutory scheme which prohibits sex, ethnic group identification, race, national origin, religion, and mental or physical disability discrimination in education. Section 200 et seq. also bars discrimination of any basis that is contained in the prohibition of hate crimes under Penal Code section 422.6, subdivision (a). The provisions of this law are applicable to all educational institutions located in California which receive or benefit from state financial assistance or enroll students who receive state financial aid. Therefore, many private educational institutions are subject to the requirements of this legislation. Pursuant to this legislation, any form of sexual harassment or other sex discrimination in any academic, athletic, extracurricular, research or financial aid program or activity is prohibited. Furthermore, any sexual harassment or other sex discrimination in educational institutions against students or nonstudents is prohibited. This prohibition of sexual harassment and discrimination extends to both academic and nonacademic personnel in employment as well.
 - a. **Education Code section 221.5** prohibits class enrollment in public schools based on sex. In addition, career guidance and counseling based upon sexual stereotypes are also forbidden.
 - b. **Education Code section 221.7** provides that no public funds shall be used in connection with any athletic program conducted under the auspices of a school district governing board or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities.
 - c. **Education Code section 220** prohibits discrimination based on sex, ethnic group identification, race, national origin, religion, color, mental or physical disability in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

- d. **Education Code section 224.5** establishes a gender equity train-the trainer grant program for the award of grants to school districts and county offices of education of up to \$130,000 per year for the purpose of training K-12 teachers to enhance the self-image of female pupils in subjects such as math, science and technology.
 - e. **Education Code section 231.5** requires each educational institution to have a written policy on sexual harassment and provides that such policy be disseminated to students, faculty and staff.
 - f. **Education Code section 233** provides that the State Board of Education shall adopt policies, guidelines and curricula toward creating a school environment free from discriminatory attitudes, practices, and acts of hate violence. It further requires the State Board of Education to revise the school curriculum to include human relations education, with an aim to fostering an appreciation of the diversity of California's population and discouraging the development of discriminatory attitudes and practices.
 - g. **Education Code section 233.5** provides that each teacher shall endeavor to impress upon the minds of pupils the principles of moral justice free from discriminatory attitudes, practices, events or activities in order to prevent acts of hate violence.
 - h. **Education Code section 233.8** requires the State Department of Education, subject to available funding, to provide training to school district personnel in identifying and determining hate violence on school campuses. Pupils and teachers may participate in a grant program focused on fostering ethnic sensitivity, overcoming racism and prejudice, and countering hatred and intolerance, subject to available funding.
 - i. **Education Code section 235** prohibits racial, sex or ethnic discrimination in any aspect of the operation of alternative schools, charter schools, or the Demonstration Scholarship Program.
 - j. **Education Code sections 250-253** require educational institutions to submit assurances of compliance reports and to conduct compliance reviews pursuant to receipt of state financial assistance or state student financial aid.
 - k. **Education Code sections 260, 261, and 262.3** along with Education Code sections 66292-66292.2 provide for remedies for discrimination and harassment which occur in educational institutions. These include freedom from discrimination, procedures for filing discrimination complaints, appeals and civil law remedies.
4. **Education Code section 13000** et seq. enacted the California Civil Liberties Public Education Act. This Act sponsors public educational activities and the development of educational materials to ensure that the events surrounding the exclusion, forced removal, and internment of civilians and permanent resident aliens of Japanese ancestry during World War II will be remembered, and so that the causes and circumstance of this and similar events may be illuminated and understood.
 5. **Education Code section 32228** provides that public schools should have access to supplemental resources to combat bias on the bases contained in Government Code section 12926 of the Fair Employment and Housing Act, and to prevent and respond to acts of hate violence.
 6. **Education Code section 32228.1** requires school districts that receive funds under the School Safety and Violence Prevention Act to certify that funds will be used for one or more of a variety of purposes, including, but not limited to, preventing and responding to acts of hate violence and bias-related incidents.
 7. **Education Code section 35351** Prohibits a public school from requiring a student to attend a particular school because of his race, creed, or color.
 8. **Education Code section 44253.3** adds course work in human relations to the curriculum for a certificate to provide certain services to limited-English-proficient pupils.
 9. **Education Code section 51500** prohibits teachers and school districts from instructing or sponsoring any activity which reflects adversely upon persons because of their race, sex, color, creed, heredity, national origin, or ancestry.
 10. **Education Code sections 51501 and 60044** prohibit the State Board of Education and local school boards from adopting any instructional material for use in schools which contains any matter reflecting adversely upon persons because of their race, color, creed, national origin, ancestry, sex, handicap, or occupation.
 11. **Education Code section 56000et seq.** mandates the provision of free appropriate public education, including special education facilities and classes, to persons with exceptional needs.

12. **Education Code 66252** California's postsecondary educational institutions have an affirmative obligation to combat racism, sexism, harassment and other forms of bias, and a responsibility to provide equal educational opportunity.
13. **Education Code section 66607** states that California State Universities and Colleges are to remain free from political and sectarian influences, and are not to deny admission on account of sex.
14. **Education Code section 66030** provides that it is the responsibility of the governing boards of institutions of higher education to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, in accordance with state and federal law.
15. **Education Code section 72011** states that community colleges must provide their services and classes without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.
16. **Education Code section 72012** requires compliance by community colleges with the nondiscrimination provisions of Education Code sections 221.5, 221.7 and 66016.
17. **Education Code section 72014** states that funds under the control of a community college district shall not be used toward payment to any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin.
18. **Education Code sections 89240** states that it is the intent of the Legislature that opportunities for participation in athletics in the California State University system be provided on as nearly an equal basis as practicable to male and female students, along with comparable incentives, encouragement, and allocation of funds.
19. **Government Code section 12940**, subdivision (j), imposes personal liability on an employee who engages in unlawful harassment in employment pursuant to the Fair Employment and Housing Act.
20. **Labor Code section 3095** states that discrimination on the basis of race, religious creed, color, national origin, ancestry, or sex in any recruitment or apprenticeship program constitutes a misdemeanor.
21. **Penal Code sections 628, 628.1, 628.2, and 628.5** require the Department of Education to report on hate-motivated incidents and hate crimes which take place in public schools.

Federal Laws

Title IV of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, 42 U.S.C. section 2000c et seq., also provide protection against discrimination in education on the basis of race, sex, color, religion, or national origin. Title IV and Title IX are applicable to public schools. The term "public schools" includes any elementary, secondary, or higher educational institution which receives federal financial assistance.

The Office for Civil Rights (OCR) enforces five federal statutes that prohibit discrimination in programs and activities that receive federal financial assistance from the Department of Education. Discrimination on the basis of race, color, and national origin is prohibited by Title VI of the Civil Rights Act of 1964; sex discrimination is prohibited by Title IX of the Education Amendments of 1972, 42 U.S.C. § 2000c et seq; discrimination on the basis of disability is prohibited by Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990; and age discrimination is prohibited by the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107). Furthermore, any private institution receiving federal funds must provide equal educational opportunities, pursuant to the Civil Rights Restoration Act of 1987, 20 U.S.C. § 1681 et seq.

The civil rights laws enforced by OCR extend to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive federal financial assistance from the U.S. Department of Education. Programs and activities that receive these federal funds must be operated in a non-discriminatory manner. Such programs or activities may include, but are not limited to: admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing, and employment.

Who may file?

Anyone who believes that an educational institution that receives federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, disability, or age may file a complaint. The person or organization filing the complaint need not be a victim of the alleged discrimination, but may complain on behalf of another person or group.

Those who wish to file a formal complaint with OCR should do so in writing within 180 days of the alleged discrimination with the following information in a letter or on the Discrimination Complaint Form available from OCR enforcement offices:

Your name and address (a telephone number where you may be reached during business hours is helpful, but not required).

A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required).

The name and location of the institution that committed the alleged discriminatory act(s) and a description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, or age).

For further information, the OCR office for California is located at:

U.S. Department of Education
Office for Civil Rights
Old Federal Building
50 United Nations Plaza, Room 239
San Francisco, CA 94102-4102
Telephone: (415) 556-4275
FAX: (415) 437-7783; TDD: (415) 437-7786
Email: OCR_SanFrancisco@ed.gov

The OCR national headquarters is located at:

U.S. Department of Education
Office for Civil Rights
Customer Service Team
Mary E. Switzer Building
330 C Street, S.W.
Washington, DC 20202
Telephone: (800) 421-3481
FAX: (202) 205-9862; TDD: (877) 521-2172
Email: OCR@ed.gov
Website: <http://www.ed.gov/about/offices/list/ocr/index.html>

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Footnotes

96. *Serrano v. Priest* (1971) 5 Cal.3d 584. [Back to link 96](#)
97. Education Code section 51500. [Back to link 97](#)
98. Education Code section 51501. [Back to link 98](#)
99. Education Code section 35316. [Back to link 99](#)
100. Education Code sections 41, 49023, and 66016. [Back to link 100](#)
101. Government Code section 11135 et seq. [Back to link 101](#)
102. Business and Professions Code section 1000-8 (West) (Stats. 1971, ch. 1755, § 7) was enacted pursuant to voter initiative and is an uncodified statute. West provides the code section number for ease of reference. [Back to link 102](#)