

# BUTTE COUNTY OFFICE OF EDUCATION

## SUPERINTENDENT'S POLICY AND ADMINISTRATIVE REGULATIONS

### SP 5145.3

#### NON-DISCRIMINATION/HARASSMENT AND INTIMIDATION

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a BCOE school, 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.

The County Superintendent desires to ensure equal opportunities for all students in admission and access to the its educational programs, guidance and counseling programs, testing procedures, and other activities. Programs and activities shall be free from discrimination, including harassment, with respect to a student's actual or perceived sex, gender, ethnic group identification, race, national origin, religion, color, physical or mental disability, age, or sexual orientation.

The County Superintendent prohibits discrimination, intimidation, or harassment of any student by any employee, student, or other person in Butte County Office of Education. 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.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

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.

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.

Students who engage in discrimination or harassment in violation of law, Butte County Office of Education Superintendent's Policy or Administrative Regulations shall be subject to appropriate discipline, up to and including counseling, suspension, and/or expulsion. Any employee who permits or engages in harassment or prohibited discrimination shall be subject to disciplinary action, up to and including dismissal.

#### **Grievance Procedures**

The County Superintendent hereby designates the following position as Coordinator for Non-discrimination to handle complaints regarding discrimination and harassment and inquiries regarding non-discrimination policies:

Assistant Superintendent, Human Resources  
Butte County Office of Education  
1859 Bird Street  
Oroville, CA 95965  
(530)532-5650

Any student who feels that they have been subjected to discrimination or harassment should immediately contact the Coordinator, the principal, or any other staff member. Any student or school employee who observes an incident of discrimination or harassment should report the incident to the Coordinator or principal, whether or not the victim files a complaint.

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Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures.

The County Superintendent prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The County Superintendent or designee shall facilitate students' access to the educational program by publicizing the BCOE nondiscrimination policies and related complaint procedures to students, parents/guardians, and employees. In addition, the County Superintendent or designee shall prominently post the Superintendent Policy prohibiting discrimination, harassment, intimidation, and bullying and other required information on the BCOE web site in accordance with law and the accompanying administrative regulation.

The County Superintendent or designee shall provide training and/or 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 County Superintendent or designee shall regularly review the implementation of the BCOE nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in BCOE educational programs. The County Superintendent or designee shall report the findings and recommendations to the Board after each review.

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including retaliation, discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including retaliation, discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, Superintendent Policy, or Administrative Regulation 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](#). Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

### **Record Keeping**

The County Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to monitor, address, and prevent repetitive prohibited behavior in BCOE schools.

#### Legal Reference:

##### CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

##### 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

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## SUPERINTENDENT'S POLICY AND ADMINISTRATIVE REGULATIONS

49020-49023 Athletic programs

51500 Prohibited instruction or activity

51501 Prohibited means of instruction

60044 Prohibited instructional materials

PENAL CODE

422.55 definition of hate crime

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

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 1962, 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

**Approved: March, 2010**

**Revised: December, 2021**

**Revised: February, 2022**

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### AR 5145.3

#### REGULATION REGARDING NON-DISCRIMINATION/HARASSMENT AND INTIMIDATION

The Butte County Office of Education designates the individual(s) identified below as the employee(s) responsible for coordinating the effort to comply with applicable state and federal civil rights laws and to answer inquiries regarding the 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 alleging unlawful discrimination targeting a student, including discriminatory harassment, intimidation, or bullying, based on the 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, medical condition, sex, sexual orientation, gender, gender identity, gender expression, genetic information, or any other legally protected status 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:

Mikeial Williamson  
Assistant Superintendent, Human Resources  
1859 Bird Street  
Orville, CA 95965  
(530) 532-5650

#### Measures to Prevent Discrimination

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

1. Publicize the BCOE nondiscrimination policy and related complaint procedures, including the coordinator/compliance officer's contact information, to students, parents/guardians, employees, volunteers, and the general public by posting them in prominent locations and providing easy access to them through Butte County Office of Education supported communications
2. Post policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all references described in Education Code 234.6 as possible forums for social media, in a prominent location on the BCOE web site in a manner that is easily accessible to parents/guardians and students
2. Post the definition of sex discrimination and harassment as described in Education Code 230, including the rights set forth in Education Code 221.8, in a prominent location on the BCOE web site in a manner that is easily accessible to parents/guardians and students
3. Post in a prominent location on the Butte County Office of Education web site in a manner that is easily accessible to parents/guardians and student information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the following:
  - a. The name and contact information of the Title IX Coordinator, including the phone number and email address
  - b. The rights of students and the public and the responsibilities of the Butte County Office of Education under Title IX, including a list of rights as specified in Education Code 221.8 and web links to information about those rights and responsibilities located on the web sites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights (OCR)
  - c. A description of how to file a complaint of noncompliance under Title IX, which shall include:
    - i. An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred and how a complaint may be filed beyond the statute of limitations

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- ii. An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including web links to this information on the OCR's web site
  - iii. A web link to the OCR complaints form and the contact information for the office, including the phone number and email address for the office
- d. A link to the Title IX information included on the California Department of Education's (CDE) web site
5. Post a link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families. Such resources shall be posted in a prominent location on the web site in a manner that is easily accessible to parents/guardians and students.
6. Provide to students a handbook that contains age-appropriate information that clearly describes the nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the victim of any such behavior.
7. Annually notify all students and parents/guardians of the nondiscrimination policy, including its responsibility to provide a safe, nondiscriminatory school environment for all students. The notice shall inform students and parents/guardians that they may request to meet with the compliance officer to determine how best to accommodate or resolve concerns that may arise from the implementation of its nondiscrimination policies. The notice shall also inform all students and parents/guardians that, to the extent possible, the Butte County Office of Education will address any individual student's interests and concerns in private.
8. Ensure that students and parents/guardians, including those with limited English proficiency, are notified of how to access the relevant information provided in the Butte County Office of Education nondiscrimination policy and related complaint procedures, notices, and forms in a language they can understand.  
If 15 percent or more of students enrolled in a particular school speak a single primary language other than English, the policy, regulation, forms, and notices concerning nondiscrimination shall be translated into that language in accordance with Education Code 234.1 and 48985. In all other instances, the Butte County Office of Education shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.
9. Provide to students, employees, volunteers, and parents/guardians age-appropriate training and/or information regarding the nondiscrimination policy; what constitutes prohibited discrimination, including discriminatory harassment, intimidation, retaliation, 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 details of guidelines the Butte County Office of Education may use to provide a discrimination-free environment for all students.
10. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, against a student is required to intervene if it is safe to do so.
11. At the beginning of each school year, inform each principal or designee of the BCOE/school responsibility to provide appropriate assistance or resources to protect students from threatened or potentially discriminatory behavior and ensure their privacy rights.

### **Enforcement of Superintendent Policy**

The County 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
2. Providing training to students, staff, and parents/guardians about how to recognize unlawful discrimination, how to report it or file a complaint, and how to respond

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3. Disseminating and/or summarizing the policy and regulation regarding unlawful discrimination
4. Consistent with laws regarding the confidentiality of student and personnel records, communicating to students, parents/guardians, and the community the school's response plan to unlawful discrimination or harassment
5. Taking appropriate disciplinary action against students, employees, and anyone determined to have engaged in wrongdoing in violation of superintendent policy, including any student who is found to have filed a complaint of discrimination that the student knew was not true Process for Initiating and Responding to Complaints

Students who feel that they have been subjected to unlawful discrimination described above or in Superintendent Policy are strongly encouraged to immediately contact the compliance officer, principal, or any other staff member. In addition, students who observe any such incident are strongly encouraged to report the incident to the compliance officer or principal, whether or not the alleged victim files a complaint. Any school employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, or to whom such an incident is reported shall report the incident to the compliance officer or principal within a school day, whether or not the alleged victim files a complaint. Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so.

When a report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is made to or received by the principal or compliance officer, the principal or compliance officer shall notify the student or parent/guardian of the right to file a formal complaint in accordance with AR 1312.3 - Uniform Complaint Procedures or, for complaints of sexual harassment that meet the federal Title IX definition, AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Once notified verbally or in writing, the compliance officer shall begin the investigation and shall implement immediate measures necessary to stop the discrimination and ensure that all students have access to the educational program and a safe school environment. Any interim measures adopted to address unlawful discrimination shall, to the extent possible, not disadvantage the complainant or a student who is the victim of the alleged unlawful discrimination. Any report or complaint alleging unlawful discrimination by the principal, compliance officer, or any other person to whom a report would ordinarily be made or complaint filed shall instead be made to or filed with the Superintendent or designee who shall determine how the complaint will be investigated.

### **Issues Unique to Intersex, Nonbinary, Transgender and Gender-Nonconforming Students**

Gender identity of a student means the student's gender-related identity, appearance, or behavior as determined from the student's internal sense, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the student's physiology or assigned sex at birth.

Gender expression means a student's gender-related appearance and behavior, whether stereotypically associated with the student's assigned sex at birth.

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.

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

Intersex student means a student with natural bodily variations in anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with female and male bodies.

Nonbinary student means a student whose gender identity falls outside of the traditional conception of strictly either female or male, regardless of whether or not the student identifies as transgender, was born with intersex traits, uses gender-neutral pronouns, or uses agender, genderqueer, pangender, gender nonconforming, gender variant, or such other more specific term to describe their gender. Transgender student means a student whose gender identity is different from the gender assigned at birth.

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The Butte County Office of Education prohibits acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that are based on sex, gender identity, or gender expression, or that have the purpose or effect of producing a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment, regardless of whether the acts are sexual in nature. Examples of the types of conduct which are prohibited and which may constitute gender-based harassment include, but are not limited to:

1. Refusing to address a student by a name and the pronouns consistent with the student's gender identity
2. Disciplining or disparaging a student or excluding the student from participating in activities, for behavior or appearance that is consistent with the student's gender identity or that does not conform to stereotypical notions of masculinity or femininity, as applicable
3. Blocking a student's entry to the restroom that corresponds to the student's gender identity
4. Taunting a student because the student participates in an athletic activity more typically favored by a student of the other sex
5. Revealing a student's gender identity to individuals who do not have a legitimate need for the information, without the student's consent
6. Using gender-specific slurs
7. Physically assaulting a student motivated by hostility toward the student because of the student's gender, gender identity, or gender expression

The BCOE uniform complaint procedures (AR 1312.3) or Title IX sexual harassment procedures (AR 5145.71), as applicable, shall be used to report and resolve complaints alleging discrimination against intersex, nonbinary, 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 Butte County Office of Education 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 gender identity, discriminatory enforcement of a dress code, and other instances of gender-based harassment.

To ensure that intersex, nonbinary, transgender, and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Superintendent Policy, the Butte County Office of Education shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. **Right to privacy:** A student's intersex, nonbinary, transgender, or gender-nonconforming status is the student's private information. The Butte County Office of Education shall develop strategies to prevent unauthorized disclosure of students' private information. Such strategies may include, but are not limited to, collecting or maintaining information about student gender only when relevant to the educational program or activity, protecting or revealing a student's gender identity as necessary to protect the health or safety of the student, and keeping a student's unofficial record separate from the official record. Private student information shall only be disclosed to others with the student's prior written consent, except when the disclosure is otherwise required by law or when the Butte County Office of Education has compelling evidence that disclosure is necessary to preserve the student's physical or mental well-being. The Butte County Office of Education shall only allow disclosure of a student's personally identifiable information to employees with a legitimate educational interest as determined by the Associate Superintendent, or designee, pursuant to 34 CFR 99.31. Any employee to whom a student's intersex, nonbinary, transgender, or gender-nonconforming status is disclosed shall keep the student's information confidential. When disclosure of a student's gender identity is made to an employee by a student, the employee shall seek the student's permission to notify the compliance officer. If the student refuses to give permission, the employee shall



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keep the student's information confidential, unless the employee is required to disclose or report the student's information pursuant to this administrative regulation and shall inform the student that honoring the student's request may limit the school's ability to meet the student's needs related to the student's status as an intersex, nonbinary, transgender, or gender-nonconforming student. If the student permits the employee to notify the compliance officer, the employee shall do so within three school days.

As appropriate given the student's need for support, the compliance officer may discuss with the student any need to disclose the student's intersex, nonbinary, transgender, or gender-nonconformity status or gender identity or gender expression to the student's parents/guardians and/or others, including other students, teacher(s), or other adults on campus. The Butte County Office of Education shall offer available support services, such as counseling, to students who wish to inform their parents/guardians of their status and desire assistance in doing so.

2. **Determining a Student's Gender Identity:** The compliance officer shall accept the student's assertion of gender identity and begin to treat the student consistent with that gender identity unless personnel present a credible and supportable basis for believing that the student's assertion is for an improper purpose.
3. **Addressing a Student's Transition Needs:** The compliance officer shall arrange a meeting with the student and, if appropriate, the student's parents/guardians to identify and develop strategies for ensuring that the student's access to educational programs and activities is maintained. The meeting shall discuss the intersex, nonbinary, 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 compliance officer shall identify specific school site employee(s) to whom the student may report any problem related to the student's status as an intersex, nonbinary, transgender, or gender-nonconforming individual, so that prompt action can be taken to address it. Alternatively, if appropriate and desired by the student, the school may form a support team for the student that will meet periodically to assess whether the arrangements for the student are meeting the student's educational needs and providing equal access to programs and activities, educate appropriate staff about the student's transition, and serve as a resource to the student to better protect the student from gender-based discrimination.
4. **Accessibility to Sex-Segregated Facilities, Programs, and Activities:** When the school maintains sex-segregated facilities, such as restrooms, or offers sex-segregated programs and activities, such as physical education classes, students shall be permitted to access facilities and participate in programs and activities consistent with their gender identity. To address any student's privacy concerns in using sex-segregated facilities, the schools shall offer available options such as a gender-neutral or single-use restroom or changing area and/or a bathroom stall with a door. However, the school shall not require a student to utilize these options because the student is intersex, nonbinary, transgender, or gender-nonconforming. In addition, a student shall be permitted to participate in accordance with the student's gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. A student's right to participate in a sex-segregated activity in accordance with the student's gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.
5. **Student Records:** Upon each student's enrollment, the Butte County Office of Education is required to maintain a mandatory permanent student record (official record) that includes the student's gender and legal name.

A student's legal name as entered on the mandatory student record, required pursuant to 5 CCR 432, shall only be changed with proper documentation. A student's gender as entered on the student's official record



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required pursuant to 5 CCR 432 shall only be changed with written authorization of a parent/guardian having legal custody of the student. However, when proper documentation or authorization, as applicable, is not submitted with a request to change a student's legal name or gender, any change to the student's record shall be limited to the student's unofficial records such as attendance sheets, report cards, and school identification.

6. Names and Pronouns: If a student so chooses, BCOE personnel shall be required to address the student by a name and the pronoun(s) consistent with the student's gender identity, without the necessity of a court order or a change to the student's official record. However, inadvertent slips or honest mistakes by personnel in the use of the student's name and/or consistent pronouns will, in general, not constitute a violation of this administrative regulation or the accompanying policy.
7. Dress Code: A student has the right to dress in a manner consistent with the student's gender identity, subject to any dress code adopted on a school site.

### Legal References:

#### STATE

5 CCR 432 Student records

5 CCR 4600-4670 Uniform complaint procedures

5 CCR 4900-4965 Nondiscrimination in elementary and secondary education programs

Civ. Code 1714.1 Liability of parent or guardian for act of willful misconduct by a minor -

<https://simbli.eboardsolutions.com/SU/NSknepFduiYWusJFnU3r9Q==>

Ed. Code 200-262.4 Educational equity; prohibition of discrimination on the basis of sex -

<https://simbli.eboardsolutions.com/SU/ytTLslshoozWGUAAbNL6kKkgxQ==>

Ed. Code 48900.3 Suspension or expulsion for act of hate violence

Ed. Code 48900.4 Suspension or expulsion for threats or harassment

Ed. Code 48904 Liability of parent/guardian for willful student misconduct

Ed. Code 48907 Exercise of free expression; rules and regulations

Ed. Code 48950 Speech and other communication

Ed. Code 48985 Translation of notices

Ed. Code 49020-49023 Athletic programs

Ed. Code 49060-49079 Student records

Ed. code 49060-49079 Student records

Ed. Code 51500 Prohibited instruction or activity

Ed. Code 51501 Prohibited means of instruction

Ed. Code 60044 Prohibited instructional materials

Gov. Code 11135 Nondiscrimination in programs or activities funded by state

Pen. Code 422.55 Definition of hate crime

Pen. Code 422.6 Civil rights; crimes

#### FEDERAL

20 USC 1681-1688 Title IX of the Education Amendments of 1972

28 CFR 35.107 Nondiscrimination on basis of disability; complaints

29 USC 794 Rehabilitation Act of 1973, Section 504

34 CFR 100.3 Prohibition of discrimination on basis of race, color or national origin

34 CFR 104.7 Designation of responsible employee for Section 504

34 CFR 104.8 Notice

34 CFR 106.8 Designation of responsible employee for Title IX

34 CFR 106.9 Notification of nondiscrimination on basis of sex

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34 CFR 110.25 Prohibition of discrimination based on age

34 CFR 99.31 Disclosure of personally identifiable information

42 USC 12101-12213 Title II equal opportunity for individuals with disabilities

42 USC 2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended

42 USC 2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

42 USC 6101-6107 Age Discrimination Act of 1975

**Approved: December, 2021**

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