

# Administrative Regulation

AR 6145.2

## Athletic Competition

### Instruction

#### Nondiscrimination and Equivalent Opportunities in the Athletic Program

\*\*\*Note: The following section reflects pertinent provisions of federal and state law regarding nondiscrimination (Title IX, 20 USC 1681-1688; Education Code 200-262.4; 5 CCR 4900-4965). The Office of Civil Rights, U.S. Department of Education (USDOE), oversees complaints regarding violations of Title IX. Education Code 35179 grants the Governing Board general control over all aspects of the district's athletic program.\*\*\*

No person shall on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability be excluded from participation in, be denied the benefits of, be denied equivalent opportunity in, or otherwise be discriminated against in interscholastic, intramural, or club athletics. (5 CCR 4920)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

The Superintendent or designee may provide single-sex teams where selection for the teams is based on competitive skills. (34 CFR 106.41; 5 CCR 4921)

When a school provides only one team in a particular sport for members of one sex, but provides no team in the same sport for members of the other sex, and athletic opportunities in the total program for that sex have been previously limited, members of the excluded sex shall be allowed to try out and compete with the team. The same standards for eligibility shall be applied to every student trying out for a team, regardless of sex, sexual orientation, or other protected group status. (5 CCR 4921)

\*\*\*Note: 5 CCR 4922, as reflected in items #1-11 below, lists factors that districts must consider when determining whether equivalent opportunities are being provided. The California Interscholastic Federation's (CIF) A Guide to Equity (Equity Handbook) provides suggested actions that districts can take for each of the factors to help the district meet its equivalence goals. Some of these suggested actions include conducting a yearly interest survey of the student activity body, tracking equipment purchases, monitoring booster club groups, reviewing practice and facility schedules, and meeting with school newspaper and yearbook advisers. \*\*\*

When determining whether equivalent opportunities are available to both sexes in athletic programs, the Superintendent or designee shall consider, among other factors: (5 CCR 4922)

1. Whether the selection of sports and levels of competition offered effectively accommodate the interests and abilities of both genders

\*\*\*Note: Education Code 230 provides the following three-part test to determine if a district has effectively accommodated the interests and abilities of both sexes in athletics. This test is the same three-part test that has been used by the USDOE for helping to determine equivalent opportunities under Title IX.\*\*\*

To help ensure that the district's athletic program effectively accommodates the interests and abilities of both sexes in athletics, the district shall use the following criteria:  
(Education Code 230)

a. Whether the interscholastic-level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments

b. When the members of one sex have been and are underrepresented among interscholastic athletes, whether the district can show a history and a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the members of that sex

c. When the members of one sex are underrepresented among interscholastic athletes and the district cannot show a history and a continuing practice of program expansion as required in item #b above, whether the district can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program

2. The provision and maintenance of equipment and supplies

3. Scheduling of games and practice times, selection of the season for a sport, and location of the games and practices

4. Travel and per diem allowances

5. Opportunities to receive coaching and academic tutoring

6. Assignment and compensation of coaches and tutors

7. Provision of locker rooms and practice and competitive facilities

8. Provision of medical and training facilities and services

9. Provision of housing and dining facilities and services

10. Publicity

\*\*\*Note: 5 CCR 4922 clarifies that unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams shall not by itself constitute a failure to provide equivalent opportunities. However, the provision of necessary funding for teams of both sexes is a factor in the determination, as specified below.\*\*\*

## 11. Provision of necessary funds

### Parental Notifications

\*\*\*Note: Education Code 33353 requires the CIF to provide information to students and parents/guardians about complaint procedures for discrimination complaints arising from interscholastic athletic activities. Education Code 33354 allows a complainant to file a discrimination complaint directly with the California Department of Education (CDE).\*\*\*

\*\*\*Note: The following **optional** section lists notices that the district may send to parents/guardians of students participating in interscholastic athletics. This section should be revised to reflect district practice. \*\*\*

Before a student participates in interscholastic athletic activities, the Superintendent or designee shall send a notice to the student's parents/guardians which:

1. Contains information about the procedures for filing a discrimination complaint that arises out of an interscholastic athletic activity, including the name of the district's Title IX Coordinator

(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 5145.3 - Nondiscrimination/Harassment)

\*\*\*Note: Education Code 270 requires the CDE to post on its web site an "Athletes' Bill of Rights," a list of student rights based on Title IX.\*\*\*

2. Includes a copy of the Athletes' Bill of Rights pursuant to Education Code 271

\*\*\*Note: In Kahn v. East Side Union High School District, the California Supreme Court analyzed the liability of a coach for an injury to a member of a high school diving team. The court acknowledged that some risk of injury is inherent in sports and part of a coach's job is to "push" a student athlete to advance his/her skill level and to undertake more difficult tasks. According to the court, a coach could be found liable only when he/she intentionally injures the student or engages in conduct that is so reckless that it is outside of the ordinary activity involved in teaching or coaching the sport.\*\*\*

\*\*\*Note: The district may or may not wish to seek a waiver of liability for accidents or injuries resulting from participation in athletic activities. Whether a liability waiver is legally effective is likely to be determined on a case-by-case basis, and it is questionable whether a student's right to participate in extracurricular activities could be made

contingent upon the submission of a waiver. Legal counsel should be consulted when addressing the complex issues related to liability waivers.\*\*\*

3. Explains that there is an element of risk associated with all athletic competitions and that the district cannot guarantee that students will not be injured, despite a commitment to provide for every participant's health and welfare

(cf. 3530 - Risk Management/Insurance)

\*\*\*Note: As added by AB 2684 (Ch. 108, Statutes of 2006), Education Code 32221.5 requires the district to provide each student participating on a school athletic team information about insurance protection. See AR 5143 - Insurance for specific language that must be contained in this statement. \*\*\*

4. Provides information about insurance protection pursuant to Education Code 32221.5

(cf. 5143 - Insurance)

5. Requests parental permission for the student to participate in the program and, if appropriate, be transported by the district to and from competitions

(cf. 3541.1 - Transportation for School-Related Trips)

\*\*\*Note: Pursuant to Education Code 48900, a student may be subject to suspension or expulsion if he/she engages, or attempts to engage, in hazing. \*\*\*

6. States the Governing Board's expectation that students adhere strictly to all safety rules, regulations, and instructions, as well as rules and guidelines related to conduct and sportsmanship

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

7. Includes a copy of the local California Interscholastic Federation (CIF) league rules

\*\*\*Note: As required by Education Code 49033, a CIF bylaw requires any student participating in athletics and his/her parent/guardian to sign a statement that the student will not use steroids or dietary supplements banned by the U.S. Anti-Doping Agency as well as the substance synephrine, unless the student has a written prescription from a licensed health care practitioner to treat a medical condition. See BP/AR/E 5131.63 - Steroids.\*\*\*

8. Includes information about the CIF bylaw and district policy requiring any student athlete and his/her parent/guardian to sign a statement that the student will not use

steroids or dietary supplements banned by the U.S. Anti-Doping Agency

(cf. 5131.63 - Steroids)

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