



# A MODEL CODE on Education and Dignity

## CHAPTER 4: FREEDOM FROM DISCRIMINATION

### 4.1 Right to Freedom from Discrimination

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#### Human Rights Goal

In order to protect all students' human right to an educational system that supports their full development, school systems must take steps to eliminate all forms of discrimination based on race, ethnicity, sex, gender identity, sexual orientation, language, national origin, religion, disability, economic or other status.<sup>294</sup> School systems must engage the students, parents and communities most impacted by discrimination in identifying solutions to ensure equitable access and outcomes in education. Schools must be culturally responsive and address the needs of all students.

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#### Recommended Language

- A. Discrimination consists of any distinction, exclusion, limitation or preference<sup>295</sup> based on race, national origin, ethnicity, language, sex, gender identity, sexual orientation, religion, disability, economic or other status which has the purpose or effect of limiting access to educational opportunities or services or which leads to discriminatory outcomes in education. Accordingly, discrimination may consist of either:**
1. Intentional policies based on such invidious distinctions; or
  2. Policies that are not intentionally or consciously discriminatory but nevertheless have a disparate, adverse impact on disadvantaged or stigmatized groups.
- B. States, districts and schools must eliminate discriminatory policies, practices and structures, as well as embedded effects of past discrimination, including by:**
1. Ensuring equitable distribution of resources to direct the necessary funding, staff and other support to address the educational disparities impacting traditionally marginalized groups;
  2. Ensuring representation of all communities served by a school system in their governance structures;
  3. Addressing language and other barriers to effective communication and learning;
  4. Partnering with social services and other public agencies and community-based organizations to support student, family and community needs;
  5. Eliminating the segregation and tracking of students based on distinctions such as gifted or non-gifted, levels of exposure to education, learning patterns or modes, disability, or other status;
  6. Ensuring that faculty and staff, who are identified as demonstrating discriminatory behavior, are trained and held accountable following those trainings with appropriate disciplinary measures; and
  7. Educating and informing those impacted by discriminatory policies and practices of the resources, tools, and processes that are available to protect and support them.
- C. Schools shall create a School Climate and Culture Leadership Team (see Section 3.7.a Model Policy on School-wide Positive Behavior Interventions and Supports), including educators, parents or guardians, students and administrative staff, to identify, design and implement strategies for preventing and eliminating discrimination and harassment in the school environment, including:**

1. Providing training and facilitating conversations among school staff about race, class, sexuality and other identities to examine biases and how they impact the school community including disproportionate application of discipline;
2. Working with teachers to recognize and end stereotyping, name-calling, labeling and separation of students within the classroom, and to better understand and respond to students' personalities and learning styles to create positive classroom environments;
3. Holding ongoing dialogues throughout the school year with students on cultural understanding and teaching differences; and
4. Engaging the support of parent or guardian, teacher and student organizations as well as third party organizations to monitor classrooms and provide feedback and offer best practices and advice

**D. States, districts and charter schools must remove all formal and/or informal practices that can lead to selective enrollment and discrimination in access to educational opportunities for different students, in particular, students of color, students with disabilities, English Language Learners, homeless students or students in temporary housing situations and other populations in need of specialized programs. States, districts and charter schools shall:**

1. Ensure that charter schools eliminate discriminatory enrollment or selection policies, practices and structures, which have the purpose or effect of limiting access to educational opportunities or services or which lead to discriminatory outcomes in education, based on race, national origin, ethnicity, language, sex, gender identity, sexual orientation, religion, disability or economic or other status.
2. Ensure that charters, by law and in practice, are not discriminating in enrollment policies and practices that result in students with disabilities, with behavioral needs, of certain racial/ethnic groups or who are English language learners being excluded from enrollment, including screening through formal or informal strategies, such as limited registration periods, required contracts, interviews, English-only outreach materials, identification documents, academic or special education documents or other means that diminish equal educational opportunities for all students.
3. Require that all applications to create charters include detailed plans for outreach and enrollment and registration procedures in order to ensure that they will not result in selectivity. Require charter authorizers to provide ongoing monitoring of these procedures and of student data to identify disparities that might indicate discriminatory practices.
4. Ensure equal access for all to the admissions process and prohibit policies that would create barriers or discrimination in the selection and placement of students.
5. Ensure that in all practices, including enrollment and disciplinary processes, charters comply with state and federal civil rights laws, including prohibitions on discrimination on the basis of race, sex or national origin.
6. Ensure that school discipline policies and practices are constructed, implemented and practiced in ways to avoid discriminatory and/or disproportionate impacts on students based on race, gender, special education status, LGBTQ+ status, homelessness or other characteristics and are consistent with civil rights laws and the federal school discipline guidance.
7. Require that charter schools by law should provide the resources, staff and supports necessary to serve students with special needs, including, but not limited to students with disabilities, English Language Learners, students with behavioral needs, students who receive free or reduced price lunch and homeless students or students in temporary housing situations.
8. Pushing out or turning away students because of special needs must be prohibited, and compliance monitored.

<sup>294</sup> U.N. Convention on the Rights of the Child art. 2; International Covenant on Civil and Political Rights art. II, ¶ 1.

<sup>295</sup> International Convention on the Elimination of Racial Discrimination art. I, ¶ 1.