



CALIFORNIA DEPARTMENT OF EDUCATION

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California Department of Education Education Equity UCP Office Decision of Appeal

Case Matter No.	2026-0259
Appellant:	[REDACTED]
Local Educational Agency (LEA):	Berkeley Unified School District
Date Appeal Received by the CDE:	July 1, 2026
Subject of Appeal:	Discrimination based on nationality, race, ethnicity, or religion
Decision of Appeal Issued:	August 13, 2026

APPEAL PROCEDURES AND DETERMINATION

The California Department of Education (CDE) reviewed the original complaint, the LEA's Investigation Report (IR), the appeal, the investigation file from the LEA, and the LEA's complaint procedures. This appeal is limited to allegations that occurred within six months before the filing of the complaint. Title 5, California Code of Regulations (5 CCR), Section 4630(b).

The CDE finds below that the appeal has merit. Corrective actions are assigned below.

The applicable law pertinent to this appeal, the scope of the CDE's jurisdiction on appeal, as well as the applicable appellate review procedures are set forth in the Uniform Complaint Procedures (UCP) pursuant to 5 CCR, Section 4600 *et. seq.* as referenced in Appendix A.

SUMMARY OF COMPLAINT AND APPEAL

In a complaint filed with the LEA on April 15, 2026, the Appellant alleged that one of the classrooms utilized by [REDACTED] ("Student") had four posters related to the Israeli-Palestinian conflict that represented a one-sided view of the conflict. The Appellant alleged that these posters discriminated against people who are Jewish. The Appellant, [REDACTED] wrote that the posters make her "feel extremely uncomfortable" and make her feel that she should hide the fact that she is Jewish. The Appellant included photos of the four posters which read:

- "STOP Israeli/US Genocide in Palestine!"
- "STANDING WITH MUSLIMS AGAINST ISLAMOPHOBIA & Racism"
- "BERKELEY EDUCATORS FOR PALESTINE"

- “Stop the Bombing FREE FREE PALESTINE”

In the LEA IR dated June 26, 2026, the LEA concluded that the posters, while providing a one-sided approach, do not by themselves constitute discrimination or harassment based on religion, ancestry, national origin, or another protected characteristic. In an appeal received by the CDE on July 1, 2026, the Appellant appeals on the basis that the IR lacks material findings of fact necessary to reach its conclusions, the legal conclusions are inconsistent with applicable law, and the IR’s corrective actions are not sufficient. The Appellant impliedly also appeals on the basis that the IR’s finding that there was not discrimination is inconsistent with law.

LEA’S FINDINGS OF FACT

The LEA’s key findings of fact, as relevant to the issues on appeal, are summarized as follows:

1. Room 202 at Berkeley Independent Study (BIS) is a shared instructional space used by multiple teachers during the 2025-2026 school year.
2. Multiple posters displayed in the classroom convey messaging, including:
 - a. “STOP Israeli/US Genocide in Palestine!”
 - b. “STANDING WITH MUSLIMS AGAINST ISLAMOPHOBIA & Racism”
 - c. “BERKELEY EDUCATORS FOR PALESTINE”
 - d. “Stop the Bombing FREE FREE PALESTINE”
3. All posters at issue were displayed on classroom walls and were visible within the instructional space.
4. On teacher admitted to posting the “STOP Israeli/US Genocide in Palestine!” poster. He did not comment on the display or discuss the display with students. He also did not use the display as part of his instruction.
5. It is unclear who is responsible for the other three posters in question as none of the teachers who shared Room 202 admitted to hanging the other posters. It is possible that a teacher from a prior year hung up these posters.
6. The “Standing with Muslims Against Islamophobia and Racism” sign reasonably conveyed an anti-discrimination message that is consistent with the LEA’s obligation to maintain a learning environment that is free from discrimination and harassment based on religion, race or ethnicity, nationality, and related protected characteristics.
7. Additional posters addressing the Holocaust, including two featuring Pastor Martin Niemoller’s quote also reasonably conveyed an anti-discrimination message and presented reminders of Jewish historical events. One such poster is displayed adjacent to the sign reading “Standing with Muslims Against Islamophobia and Racism.”

8. The posters collectively presented one perspective related to the Israeli-Palestinian conflict without comparable context, instructional framing, or alternative viewpoints, which could potentially create an imbalanced classroom environment.
9. There is insufficient evidence that any student or staff expressed concern or discomfort or otherwise felt targeted by the displayed materials based on their religion, ancestry, or other protected characteristics.

CDE'S DETERMINATION AS TO LEA'S FINDINGS OF FACT

Pursuant to 5 CCR Section 4633(d)(2) and (3), the CDE reviewed the investigation file provided by the LEA under 5 CCR Section 4633(a) to determine whether:

- The LEA IR includes material findings of fact necessary to reach a conclusion of law on the subject of the appeal; and
- The material findings of fact in the LEA IR are supported by substantial evidence.

The CDE finds that the IR includes material findings of fact necessary to reach a conclusion of law on the subject of the appeal, and that the material findings of fact in the LEA IR are supported by substantial evidence.

LEA'S CONCLUSIONS OF LAW

The District concluded the following:

1. The presence of materials addressing current events or global issues, even if one-sided, does not, by itself, constitute discrimination or harassment based on religion, ancestry, national origin, or another protected characteristic. However, the LEA IR found that "because the conflict is closely connected to protected identities, there is some evidence that the materials, without additional context, could be perceived as targeting students associated with Jewish, Israeli, Muslim, Palestinian, Arab, or related identities." Further the LEA found that the presentation of "a single perspective on a controversial geopolitical issue may reasonably be interpreted as communicating or endorsing that viewpoint to students." Finally, the LEA also admitted that there were not "alternative materials or instructional framing that would provide balance or assist students in distinguishing fact from opinion."

CDE's DETERMINATION AS TO LEA'S CONCLUSION OF LAW

The CDE finds that the LEA's conclusion of law is not consistent with law. 5 CCR 4633(d)(4). Education Code 51500 prohibits activities or instruction that promote a discriminatory bias based on a protected characteristic. Viewed in their entirety, the posters in the classroom environment (1) convey a pro-Palestinian/Muslim message with no corresponding expression of support for Israel/Jews, and (2) convey an anti-Israel/Jewish message referencing "genocide" in Palestine without any corresponding negative reference to the Hamas attack on Israel in October 2023. Viewed in their entirety, the posters contribute to a discriminatory physical classroom environment towards persons of Israeli or Jewish identity.

CONCLUSION

The CDE finds below that the appeal has merit. Corrective actions are assigned below.

CORRECTIVE ACTIONS:

1. By October 1, 2026, the LEA shall provide the CDE with evidence it has provided a training to all teaching staff at BIS on ensuring that the physical classroom environment does not promote a discriminatory bias against any protected class. This training should have a specific emphasis on the current situation in the Middle East and anti-Semitism. Acceptable evidence of compliance shall be a copy of the training agenda and training materials and a log of attendees who completed the training with their signatures and titles, and the principal's attestation that all teaching staff attended.

APPENDIX A

APPLICABLE LAW

California *Education Code (EC)* Section 220 Discrimination

No person shall be subjected to discrimination or harassment on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance . . .

EC, Section 33315(a)(1) Uniform Complaint Procedures (UCP)

The UCP shall apply to all of the following:

. . .

(F) The filing of complaints that allege unlawful discrimination, harassment, intimidation, or bullying against any protected group as identified under Sections 200 and 220 and Section 11135 of the Government Code, including any actual or perceived characteristic as set forth in Section 422.55 of the Penal Code, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity conducted by an educational institution, as defined in Section 210.3, that is funded directly by, or that receives or benefits from, any state financial assistance.

CDE'S JURISDICTION ON APPEAL

The scope of the CDE's jurisdiction on appeal, as well as the applicable appellate review procedures are set forth in the UCP pursuant to 5 CCR, Section 4600 *et. seq.*

Purpose and Scope

In pertinent part, 5 CCR, Section 4610 states:

- (a) This chapter applies to the filing, investigation, and resolution of a complaint regarding an alleged violation by a local agency of federal or state law or regulations governing educational programs, and other specified subject matter described in subsection (b), below.
- (b) The UCP in this chapter shall apply to complaints relating to all of the matters addressed in *EC* Section 33315(a)(1) and any other matters identified by the Legislature in the future.

Appeal of LEA Investigation Report

In pertinent part 5 CCR, Section 4632 states:

- (f) If the CDE determines that the LEA Investigation Report failed to address an allegation raised in the complaint, the CDE shall notify the LEA of such failure and direct the LEA to investigate such allegations. The LEA must provide both the CDE and the appellant an amended Investigation Report within 20 days of such notification. The amended report must also inform the appellant of the right to separately appeal . . . the complaint allegations . . . not addressed in the original report.

In pertinent part 5 CCR, Section 4633 states:

(a) If the LEA Investigation Report is appealed and meets the requirements of Section 4632, subdivisions (a) through (c), the CDE shall notify the LEA of the appeal. Upon notification by the CDE that the LEA Investigation Report has been appealed, the LEA shall forward the following to the CDE within 10 days of the date of notification:

- (1) A copy of the original complaint;
- (2) A copy of the LEA Investigation Report;
- (3) A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator;
- (4) A report of any action taken to resolve the complaint;
- (5) A copy of the LEA complaint procedures; and
- (6) Such other relevant information as the CDE may request.

An LEA's failure to provide a timely and complete response may result in the CDE ruling on the appeal without considering information from the LEA.

(b) In deciding an appeal, the CDE shall not consider any information not previously presented to the LEA investigator during the investigation, unless requested by the CDE. Any confidential information or pupil information in the investigative file shall remain confidential and shall not be disclosed by the CDE, to the extent permitted by law.

(c) The CDE may contact the parties for further information, if necessary.

(d) The CDE shall review the investigation file, the complaint procedures, documents, and any other evidence received from the LEA and determine whether:

- (1) The LEA followed its complaint procedures;
- (2) The LEA Investigation Report includes material findings of fact necessary to reach a conclusion of law on the subject of the appeal;
- (3) The material findings of fact in the LEA Investigation Report are supported by substantial evidence;
- (4) The LEA Investigation Report includes a legal conclusion(s) that is consistent with the law; and
- (5) In a case in which the LEA found noncompliance, the corrective actions provide a proper remedy.

- (e) If the CDE determines that the LEA Investigation Report meets the criteria in subsection (d) above, the appeal shall be denied.
- (f) If the CDE determines that the LEA Investigation Report is deficient because it does not meet the criteria in subsection (d) above, the CDE may:
 - (1) Notify the LEA of such deficiencies and return the LEA Investigation Report to the LEA for further processing and instruct the LEA to provide both the CDE and the complainant with an amended Investigation Report within 20 days of such notification, which amended report must inform the complainant of the right to appeal in accordance with Section 4632; or
 - (2) Issue a Decision based on the evidence in the investigation file received from the LEA; or
 - (3) Conduct a further investigation of the allegations which are the basis for the appeal and issue a Decision.