

PAUSD Recommendation

Board Policy

Students

NONDISCRIMINATION/HARASSMENT

BP 5145.3

The Board of Education desires to provide a safe school environment that allows all students equal access and opportunities in the district's academic and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including harassment, intimidation, and/or bullying of any student, based actual or perceived characteristics of race or ethnicity, color, nationality, national origin, ethnic group identification, age, religion, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or any other characteristic identified in Education Code 200 or 220, Penal Code 422.55, or Government Code 11135, or based on association with a person or group with one or more of these actual or perceived characteristics.

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

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.9 - Hate-Motivated Behavior)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 6164.6 - Identification and Education Under Section 504)

Discrimination includes harassment, intimidation, or bullying, consisting of physical, verbal, nonverbal, or written conduct, based on one of the categories listed above, that is so severe or 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 effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities. Prohibited discrimination also includes different treatment of students with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

Though an incident of alleged harassment, intimidation, and/or bullying as defined within this policy may occur off campus, if the effects of the off-campus incident result in harassment, intimidation, or bullying at school that is sufficiently serious to interfere with or limit the targeted student's ability to participate in or benefit from the education program, the school must respond promptly and effectively to eliminate the harassment that occurs at school, prevent its recurrence, and address its effects. Such response may include discipline of the alleged harasser in accordance with applicable law and as provided in Board Policy (BP) and Administrative Regulation (AR) 5144. Other possible responses include, but are not limited to, those listed in AR 1312.3 Section G – Remedial Action.

The Board also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, including discriminatory harassment, intimidation, or bullying.

The Board is committed to providing age-appropriate training and information to students, parents/guardians, and employees regarding discrimination, including discriminatory harassment, intimidation, and bullying, including, but not limited to, the district's nondiscrimination policy, what constitutes prohibited behavior, how to report incidents and to whom such reports should be made. Staff and administrators will also receive training on their responsibilities for responding to reports and complaints of discrimination under the District's Uniform Complaint Procedure.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

In providing instruction, guidance, supervision, or other services to district students, employees and volunteers shall carefully guard against segregating or stereotyping students.

(cf. 1240 - Volunteer Assistance)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)
(cf. 6164.2 - Guidance/Counseling Services)

The principal or designee shall develop a plan to provide students with appropriate interim remedies when necessary for their protection from actual or threatened discriminatory harassment or other discriminatory behavior.

Students who engage in discrimination, including discriminatory harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate discipline, up to and including counseling, suspension, and/or expulsion. Any employee who permits or engages in prohibited discrimination, harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

Any school employee who observes an incident of discrimination, including discriminatory harassment, intimidation, or bullying shall immediately intervene when safe to do so and report the conduct to appropriate administrators. (Education Code 234.1)

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4119.21/4219.21/4319.21- Professional Standards)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5131 - Conduct)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 5145.2 - Freedom of Speech/Expression)

Grievance Procedures

All complaints alleging conduct prohibited by this policy shall be handled in accordance with the District’s Uniform Complaint Procedures AR 1312.3.

The following position is the District Compliance Officer designated to handle complaints under the Uniform Complaint Procedure regarding discrimination, including discriminatory harassment, intimidation, or bullying, based on the protected categories identified above, and to answer inquiries regarding the district's nondiscrimination policies:

Associate Superintendent – Educational Services
25 Churchill Avenue, Palo Alto, CA 94306
650-329-3700

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

Upon receiving a complaint of discrimination, including discriminatory harassment, intimidation, or bullying, the Compliance Officer shall immediately investigate the complaint in accordance with the Uniform Complaint Procedures specified in AR 1312.3 – Uniform Complaint Procedures

The Superintendent or designee shall ensure that the student handbook clearly describes the district's nondiscrimination policy, procedures for filing a complaint regarding discrimination, including discriminatory harassment, intimidation, or bullying, and the resources that are available to students who feel that they have been the victim of any such behavior. The district's policy shall also be posted on the district web site or any other location that is easily accessible to students.

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 6163.4 - Student Use of Technology)

When required pursuant to Education Code 48985, complaint forms shall be translated into the student's primary language. Additionally, when otherwise necessary to provide access to information for limited English proficient students and parents/guardians, as required by federal law, the complaint forms shall be translated into the student’s or parent/guardian’s primary language.

Legal Reference:

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
- 48985 Translation of notices
- 49020-49023 Athletic programs
- 51500 Prohibited instruction or activity
- 51501 Prohibited means of instruction
- 60044 Prohibited instructional materials

CIVIL CODE

- 1714.1 Liability of parents/guardians for willful misconduct of minor

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 1964, 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

COURT DECISIONS

- Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
- Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Management Resources:

CSBA PUBLICATIONS

- Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
- Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

- California Student Safety and Violence Prevention - Laws and Regulations, April 2004

FIRST AMENDMENT CENTER PUBLICATIONS

- Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

NONDISCRIMINATION/HARASSMENT

BP 5145.3

Management Resources (continued):

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity, 2004

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, January 1999

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

California Safe Schools Coalition: <http://www.casafeschools.org>

First Amendment Center: <http://www.firstamendment.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

Policy
adopted: 02.11.14

PALO ALTO UNIFIED SCHOOL DISTRICT
Palo Alto, California