

**NONDISCRIMINATION/HARASSMENT**

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression or association with a person or group with one or more of these actual or perceived characteristics.

This policy shall apply to all acts related to school activity or to school attendance occurring within a district 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. (Education Code 234.1)

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

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

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

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also shall include the creation of a hostile environment when the prohibited conduct is so severe, persistent, 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.

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.

The Board also prohibits any form of retaliation against any individual who files or otherwise participated in the filing or investigation of a complaint or report regarding an incident of discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Superintendent or designee shall provide facilitate students' access to the educational program by publicizing the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. He/she shall provide training and 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 Superintendent or designee shall regularly review the implementation of the district's nondiscrimination policies and practices and, as necessary shall take action to remove any identified barrier to student access to or participation in the educational program. He/she shall report his/her findings and recommendations to the Board after each review.*

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~~, 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.~~

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including 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 discriminatory harassment, intimidation, retaliation, or bullying in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion for behavior that 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.

*(cf. 4128 – Dismissal/Suspension/Disciplinary Action)*

*(cf. 5144 - Discipline)*

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

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

### **Record-Keeping**

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

#### *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*

**Students**

**BP 5145.3 (c)**

## **NONDISCRIMINATION/HARASSMENT**

### *PENAL CODE*

*422.55 Definition of hate crime*

*422.6 Crimes, harassment*

### *CODE OF REGULATIONS, TITLE 5*

*432 Student record*

*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*

*12101-12213 Title II equal opportunity for individuals with disabilities*

### *UNITED STATES CODE, TITLE 29*

*794 Section 504 of Rehabilitation Act of 1973*

### *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*

*6101-6107 Age Discrimination Act of 1975*

### *CODE OF FEDERAL REGULATIONS, TITLE 28*

*35.107 Nondiscrimination on basis of disability; complaints*

### *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*