

**Nondiscrimination/Harassment
Board Policy
Students**

BP 5145.3

Nondiscrimination/Harassment

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The Board of Trustees 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, harassment, intimidation, and/or bullying of any student based on the student's actual or perceived characteristics of race or ethnicity, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics. Sexual harassment includes sexual violence, pursuant to Title IX of the Education Amendments of 1972.

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

(cf. 5131 - Conduct)

(cf. 5137 - Positive School Climate)

(cf. 5145.7 - Sexual Harassment)

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

Prohibited discrimination, harassment, intimidation, or bullying includes 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.

The Board of Trustees shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

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

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6164.2 - Guidance/Counseling Services)

Nondiscrimination/Harassment

BP 5145.3

The Superintendent or designee shall provide age-appropriate training and information to students, parents/guardians, and employees regarding discrimination, 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)

The Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 5145.7 - Sexual Harassment)

The principal or designee shall develop a plan to provide students with appropriate accommodations 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. An 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 immediately 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))

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 Board hereby designates the following position as Coordinator for Nondiscrimination to handle complaints 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:

Nondiscrimination/Harassment

BP 5145.3

Assistant Superintendent of Human Resources
17421 Farley Road
Los Gatos, CA 95030
(408) 354-2520

(cf. 1312.3 - Uniform Complaint Procedures)

Any student who feels that he/she is being harassed should immediately contact the Coordinator for Nondiscrimination, the principal or any other staff member. Any student who observes an incident of harassment should report the harassment to a school employee, whether or not the victim files a complaint.

Employees who become aware of an act of harassment shall immediately report the incident to the Coordinator for Nondiscrimination. Upon receiving a complaint of discrimination, including discriminatory harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 1312.3 Uniform Complaint Procedures. Where the Coordinator finds that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim.

The Coordinator shall also advise the victim of any other remedies that may be available. The Coordinator shall file a report with the Superintendent or designee and refer the matter to law enforcement where required.

A student may also file a discrimination complaint based on sex with the federal Office for Civil Rights (OCR). Instructions for filing a complaint can be found at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

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

Nondiscrimination/Harassment

BP 5145.3

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

FIRST AMENDMENT CENTER PUBLICATIONS

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

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.firstamendmentcenter.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 LOS GATOS-SARATOGA UNION HIGH SCHOOL DISTRICT

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