

NONDISCRIMINATION/HARASSMENT

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 discriminatory harassment, intimidation, and bullying of any student 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, immigration status 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 all acts related to school activities or school attendance within a school under the jurisdiction of the Superintendent. (Education Code 234.1)

(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)

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 participates 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 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

NONDISCRIMINATION/HARASSMENT (continued)

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.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1330 - Use of Facilities)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)
(cf. 6164.2 - Guidance/Counseling Services)

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.

Any school employee who witnesses an incident of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall immediately intervene to stop the incident when it is safe to do so.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4218 - 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))
(cf. 5145.2 - Freedom of Speech/Expression)

*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

NONDISCRIMINATION/HARASSMENT (continued)PENAL CODE422.55 *Definition of hate crime*422.6 *Crimes, harassment*CODE OF REGULATIONS, TITLE 5432 *Student record*4600-4687 *Uniform complaint procedures*4900-4965 *Nondiscrimination in elementary and secondary education programs*UNITED STATES CODE, TITLE 201681-1688 *Title IX of the Education Amendments of 1972*12101-12213 *Title II equal opportunity for individuals with disabilities*UNITED STATES CODE, TITLE 29794 *Section 504 of Rehabilitation Act of 1973*UNITED STATES CODE, TITLE 422000d-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 2835.107 *Nondiscrimination on basis of disability; complaints*CODE OF FEDERAL REGULATIONS, TITLE 34100.3 *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*Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014**Final Guidance Regarding Transgender Students, Privacy, and Facilities, March 2014**Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011*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: Title IX Coordinators, April 2015**Dear Colleague Letter: Harassment and Bullying, October 2010**Notice of Non-Discrimination, January 1999*WEB SITESCSBA: <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

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SAN DIEGO UNIFIED SCHOOL DISTRICT

San Diego, California