

Santa Barbara Unified School District Board Policy

Students

BP 5145.3

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 a direct impact on/or create a hostile environment at school.

(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, may result from physical, verbal, nonverbal, and/or written conduct based on any of the categories listed above. Unlawful discrimination also includes the creation of a hostile environment through prohibited conduct that 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 reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful 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 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 district's 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)*

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 when the behavior 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. 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)*

Record-Keeping

The Superintendent or designee shall maintain an electronic record via the district's student information system 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.

- (cf. 3580 - District Records)*

Legal Reference:

EDUCATION CODE

200-262.4	<i>Prohibition of discrimination</i>
48900.3	<i>Suspension or expulsion for act of hate violence</i>
48900.4	<i>Suspension or expulsion for threats or harassment</i>
48904	<i>Liability of parent/guardian for willful student misconduct</i>
48907	<i>Student exercise of free expression</i>
48950	<i>Freedom of speech</i>

48985	<i>Translation of notices</i>
49020-49023	<i>Athletic programs</i>
51500	<i>Prohibited instruction or activity</i>
51501	<i>Prohibited means of instruction</i>
60044	<i>Prohibited instructional materials</i>
<u>CIVIL CODE</u>	
1714.1	<i>Liability of parents/guardians for willful misconduct of minor</i>
<u>PENAL CODE</u>	
422.55	<i>Definition of hate crime</i>
422.6	<i>Crimes, harassment</i>
<u>CODE OF REGULATIONS, TITLE 5</u>	
432	<i>Student record</i>
4600-4687	<i>Uniform complaint procedures</i>
4900-4965	<i>Nondiscrimination in elementary and secondary education programs</i>
<u>UNITED STATES CODE, TITLE 20</u>	
1681-1688	<i>Title IX of the Education Amendments of 1972</i>
12101-12213	<i>Title II equal opportunity for individuals with disabilities</i>
<u>UNITED STATES CODE, TITLE 29</u>	
794	<i>Section 504 of Rehabilitation Act of 1973</i>
<u>UNITED STATES CODE, TITLE 42</u>	
2000d-2000e-17	<i>Title VI and Title VII Civil Rights Act of 1964, as amended</i>
2000h-2-2000h-6	<i>Title IX of the Civil Rights Act of 1964</i>
6101-6107	<i>Age Discrimination Act of 1975</i>
<u>CODE OF FEDERAL REGULATIONS, TITLE 28</u>	
35.107	<i>Nondiscrimination on basis of disability; complaints</i>
<u>CODE OF FEDERAL REGULATIONS, TITLE 34</u>	
99.31	<i>Disclosure of personally identifiable information</i>
100.3	<i>Prohibition of discrimination on basis of race, color or national origin</i>
104.7	<i>Designation of responsible employee for Section 504</i>
106.8	<i>Designation of responsible employee for Title IX</i>
106.9	<i>Notification of nondiscrimination on basis of sex</i>
<u>COURT DECISIONS</u>	
<i>Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567</i>	
<i>Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130</i>	

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: Transgender Students, May 2016

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Title IX Coordinators, April 2015

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>*

SANTA BARBARA UNIFIED SCHOOL DISTRICT
Santa Barbara, California September 9, 2014; February 10, 2015; February 14, 2017