

**NONDISCRIMINATION/HARASSMENT**

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 support programs, services, and activities. The Board prohibits, at any District school or school activity, unlawful discrimination, harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical and 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.

This policy shall apply to all acts related to school activity or to school attendance occurring within a District school. (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)*

The Board prohibits discrimination, intimidation or harassment of any student by any employee, student or other person in the District. Prohibited harassment includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and 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 the student's educational opportunities.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the District's nondiscrimination policy and related 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.

*(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 discrimination, harassment, intimidation, bullying, or retaliation in violation of the law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline. Any employee who permits or engages in prohibited discrimination,

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harassment, intimidation, bullying, or retaliation 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)

### 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

45985 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

#### CODE OF REGULATIONS, TITLE 5

432 Student Record

4600-4687 Uniform Complaint Procedure

4900-4965 Nondiscrimination in elementary and secondary education programs

#### PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

#### 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 & VII Civil Rights Act of 1964 as amended

2000h-2-2000h-6 Title IX, 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.4<sup>th</sup> 567

Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

#### 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

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*Management Resources:*

*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>*

*U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>*

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

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

*First Amendment Center: <http://www.nsba.org>*

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