

NONDISCRIMINATION/HARASSMENT & TRANSGENDER POLICY

District programs and activities shall be free from discrimination, including harassment, with respect to the actual or perceived ethnic group, religion, gender, color, race, ancestry, national origin, and physical or mental disability, age or sexual orientation.

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

(cf. 5145.9 - Hate-Motivated Behavior)

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

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

The Governing Board is committed to providing a safe school environment that protects privacy, supports attendance, and allows all students shall ensure equal access and opportunities in the District's academic and other for all students in admission and access to the educational support programs, services guidance and counseling programs, athletic programs, testing procedures, and other activities, as well as District services, facilities, and activities. The Board prohibits, at any District school or school activity, unlawful District programs and activities shall be free from discrimination, including harassment, intimidation, and bullying of any student based on with respect to a the student's actual or perceived sex, gender, ethnic group identification, race, color, ancestry, nationality, national origin, ethnicity, ethnic group identification, age, religion, marital or parental status, color, physical or mental disability, age, sex, or sexual orientation, gender, gender identity, or gender expression, or genetic information; or 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.

Eligibility for choral and cheerleading groups shall be determined solely on the basis of objective competencies. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

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. 1240 - Volunteer Assistance)

(cf. 6145.2 - Athletic Competition)

(cf. 6162.5 - Student Assessment)

(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 Prohibited discrimination, harassment, intimidation or harassment bullying of any student by any employee, student or other person in the district. Prohibited

NONDISCRIMINATION/HARASSMENT (continued)

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, facility, service, or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the ~~purpose or effect~~ of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects the a student's educational opportunities in the District.

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.

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.

School staff and volunteers shall carefully guard against segregation, bias, and stereotyping in the delivery of services, including, but not limited to, instruction, guidance, and supervision.

(cf. 1312.3 – Uniform Complaint Procedures)

(cf. 1330 – Use of Facilities)

(cf. 4131 – Staff Development)

(cf. 4231 – Staff Development)

(cf. 4331 – Staff Development)

(cf. 5145.2 – Freedom of Speech/Expression)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6164.2 - Guidance/Counseling Services)

The principal or designee shall develop a plan to provide students with appropriate accommodations when necessary for their protection from threatened or potentially harassing or discriminatory behavior.

Students who engage in discrimination, or harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, up to and including counseling, suspension, and/or expulsion. Any employee who permits or engages in harassment or prohibited discrimination, 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. 5131 – Conduet)

(cf. 5144 - Discipline)

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

NONDISCRIMINATION/HARASSMENT (continued)

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

(cf. 5145.2 – Freedom of Speech/Expression)

Grievance Procedures

The Board hereby designates the following position as Coordinator for Nondiscrimination to handle complaints regarding discrimination and harassment and inquiries regarding the district's nondiscrimination policies:

Superintendent or designee

1936 Carlotta Drive

Concord, CA 94519-1397

(925) 682-8000 Ext. 4010

(cf. 1312.1 – Complaints Concerning District Employees)

(cf. 1312.3 – Uniform Complaint Procedures)

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

Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5145.7 – Sexual Harassment.

(cf. 5145.7 – Sexual Harassment)

The Superintendent or designee shall ensure that the student handbook clearly describes the district's nondiscrimination policy, procedures for filing a complaint regarding discrimination or harassment, and the resources that are available to students who feel that they have been the victim of discrimination or harassment. The district's policy may also be posted on the district website or any other location that is easily accessible to students.

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

NONDISCRIMINATION/HARASSMENT (continued)

60044 Prohibited instructional materials

Legal Reference continued: (see next page)

Legal Reference: (continued)

CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

PENAL CODE

422.55 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 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

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014 All Students, Policy Brief, April 2010

Final Guidance: AB 1266, Transgender and Gender Nonconforming Students,

Privacy, Programs, Activities, & Facilities

March 2014

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

California Student Safety and Violence Prevention—Laws and Regulations, April 2004

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

NONDISCRIMINATION/HARASSMENT (continued)

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, January 1999

Management Resources continued: (see next page)

Management Resources: (continued)

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.firstamendment.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

adopted: February 8, 2011

MT. DIABLO UNIFIED SCHOOL DISTRICT

Concord, California