

**NONDISCRIMINATION/HARASSMENT**

The Board of Education and Superintendent desire to provide a safe school environment that allows all students equal access and opportunities in academic and other educational support programs, services and activities. Office of Education programs and activities shall be free from discrimination, including harassment, intimidation and bullying, with respect to the actual or perceived ethnic group identification, religion, gender, gender identity, gender expression, color, race, ancestry, national origin, nationality, immigration status ethnicity, ethnic group identification, and physical or mental disability, age, religion, marital or parental status, sex or sexual orientation, gender, gender identification, gender expression; the perception of one or more 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 an Office of Education program.

Prohibited discrimination, harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above. Discrimination also includes the creation of a hostile environment when the prohibited conduct is so severe, persistent, 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 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 and Superintendent also prohibit any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Board of Education and Superintendent 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 prohibits discrimination, harassment, intimidation, retaliation, and bullying of any student by any employee, student or other person in the Office

of Education. 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.

Students who engage in discrimination, harassment, intimidation, bullying or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include counseling, up to and including suspension and/or expulsion for behavior that is severe or pervasive as defined in Education Code 48900.4. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

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 Office of Education's nondiscrimination policy, what constitutes prohibited behavior, how to report incidents, and to whom such reports should be made.

In providing instruction, guidance, supervision, or other services to students, employees and volunteers shall carefully guard against segregating or stereotyping students.

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.

*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

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

432 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

12101-12213 Title II equal opportunity for individuals with disabilities

UNITED STATES CODE, TITLE 29

794 Section 504 of Retaliation Act of 1973

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

6101-6107 Age Discrimination Act of 1975

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

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