

San Juan USD

Board Policy

Nondiscrimination/Harassment

BP 5145.3

Students

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, immigration status, ethnicity, ethnic group identification, age, religion, marital or parental status, pregnancy, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, genetic information, 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 section 234.1) This policy shall also apply to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

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

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5145.7 - Sexual Harassment)

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

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

Unlawful discrimination, including discriminatory harassment, intimidation, bullying or the creation of a hostile environment, may result from physical, verbal, nonverbal, 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 above identified categories 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, reports, or otherwise participates in the filing, reporting, or investigation of a complaint or report alleging

unlawful discrimination, including discriminatory harassment, intimidation, or bullying. 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. The superintendent or designee 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 educational program. The superintendent or designee shall report his/her/their findings and recommendations to the board after each review.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1330 - Use of District Facilities and Grounds)
(cf. 3513 - Use of School Facilities)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331.5 - Professional Growth)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Interscholastic Competition)
(cf. 6164.2 - Guidance 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, bullying, or retaliation, 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 section 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory 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 (Individuals with Exceptional Needs))
(cf. 5145.2 - Freedom of Speech/Expression)

The district designates the individuals identified below as the employees responsible for coordinating the district's efforts to comply with applicable state and federal civil rights laws, including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975, and to answer inquiries regarding the district's nondiscrimination policies. The individual(s) shall also serve as the compliance officer(s) specified in AR 1312.3 - Uniform Complaint Procedures as the responsible employee to handle complaints alleging unlawful discrimination targeting a student, including discriminatory harassment, intimidation, or bullying, based on the student's actual or perceived race, color, ancestry, nationality, national origin, nationality, immigration status, ethnicity, ethnic group identification, ethnicity, age, religion, marital status, parental status, pregnancy, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, genetic information, or any other legally protected status or association with a person or group with one or more of these actual or perceived characteristics. (Education Code section 234.1; 5 CCR 4621)

The non-discrimination coordinator/ UCP compliance officer may be contacted at:

General Counsel, Legal Services
3738 Walnut Avenue
Carmichael, CA 95608
(916) 971-7110
fax: (916) 971-7704
LegalServices@sanjuan.edu

The Title IX Coordinator may be contacted at:

Legal Analyst, Legal Services
3738 Walnut Avenue
Carmichael, CA 95608
(916) 971-7110
fax: (916) 971-7704
LegalServices@sanjuan.edu

Process for Initiating and Responding to Complaints

The general counsel or designee may assign other staff to investigate based on the nature of the complaint as directed under BP/AR 1312.3, Uniform Complaint Procedures.

Any student who feels that he/she/they has been subjected to unlawful discrimination, including discriminatory harassment, intimidation, or bullying is strongly encouraged to immediately contact the general counsel, the principal, or any other district employee. Any student who observes any such incident is strongly encouraged to report the incident to the general counsel or principal, or any other district employee whether or not the victim files a complaint. Any district employee who observes an incident of unlawful discrimination, including discriminatory harassment, intimidation, or bullying shall report the incident to his/her/their supervisor, the general counsel, or principal, whether or not the victim files a complaint. In addition, the

district employee shall immediately intervene when safe to do so. (Education Code section 234.1)

Upon receiving a complaint of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, the general counsel or designee shall immediately investigate the complaint in accordance with AR 1312.3, Uniform Complaint Procedures.

(cf. 5145.7 - Sexual Harassment)

The general counsel shall ensure that the student and parent handbook clearly describes the district's nondiscrimination policy, procedures for filing a complaint regarding unlawful discrimination, including discriminatory harassment, intimidation, or bullying, and the resources that may be available to students who feel that they have been the victim of any such behavior. The district's policy shall also be posted on the district web site or any other location that is easily accessible to students.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4119.21/4219.21/4319.21 - Code of Ethics)

(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 (Individuals with Exceptional Needs))

(cf. 5145.2 - Freedom of Speech/Expression)

Record-Keeping

The superintendent or designee shall maintain a record 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 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

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

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 Rehabilitation 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

99.31 Disclosure of personally identifiable information

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

Final Guidance Regarding Transgender Students, Privacy, and Facilities, March 2014

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

Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, July 2016

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

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, Fact Sheet, August 2010

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.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 SAN JUAN UNIFIED SCHOOL DISTRICT

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