Students

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, immigration status, ethnicity, ethnic group identification, age, religion, marital status, 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.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5131 - Conduct)
(cf. 5131.2 - Bullying)
(cf. 5145.7 - Sexual Harassment)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6164.6 - Identification and Education Under Section 504)

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 an impact or create a hostile environment at school.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, 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.

The Governing Board shall ensure equal opportunities for all students in admission and access to academic courses, guidance and counseling programs, athletic programs, testing procedures, vocational education and other activities.

School staff and volunteers must be especially careful to guard against unconscious sex discrimination, insensitivity and stereotyping in instruction, guidance and supervision.
Students

Nondiscrimination/Harassment (continued)

Unlawful discrimination also includes disparate treatment of students based on one of the categories previously listed 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/designee shall facilitate students’ access to the educational program by publicizing the District’s nondiscrimination policies and related complaint procedures to students, parents/guardians, and employees. They 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/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. They shall report their findings and recommendations to the Board after each review.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1330 - Use of Facilities)
(cf. 131 - Professional Development)
(cf. 6145.2 - Athletic Competition)

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
Students

NONDISCRIMINATION/HARASSMENT (continued)

harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary
action, up to and including dismissal.

(cf. 4117.4 - Dismissal)
(cf. 4218 - Termination of Employment)
(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/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
Students

NONDISCRIMINATION/HARASSMENT (continued)

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
110.25 Prohibition of discrimination based on age

COURT DECISIONS

Management Resources:
CSBA PUBLICATIONS
Updated Legal Guidance: Protecting Transgender and 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
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
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
Adopted: 11/13/90
Revised: 07/12/17
Revised: 02/13/19
CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California