

## 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 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 of any student based on the student's actual or perceived race, color, ancestry, national origin, nationality, ethnicity, ethnic group identification, immigration status, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression or 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 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.

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 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 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. He/she 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 district's educational program. He/she shall report his/her findings and recommendations to the Board after each review.

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 for behavior that is severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

**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.**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
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**GOVERNMENT CODE**

11135	Nondiscrimination in programs or activities funded by state
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**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
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**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**

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**

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

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

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016  
Dear Colleague Letter: Title IX Coordinators, April 2015  
Dear Colleague Letter: Harassment and Bullying, October 2010  
Notice of Non-Discrimination, January 1999

**WEBSITES**

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>

**San Dieguito Union High School District**

*Policy Adopted: May 7, 1989*  
*Policy Revised: May 16, 2013*  
*Policy Revised: October 1, 2015*  
*Policy Revised: June 21, 2018*