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- Information Item Only
  - Approval on Consent Agenda
  - Conference (for discussion only)
  - Conference/First Reading (Action Anticipated: \_\_\_\_\_)
  - Conference/Action
  - Action
  - Public Hearing

**Department:** HR/Legal

**Recommendation**

\_\_\_\_\_ : Approve revisions to BP 5145.3, Nondiscrimination - Students, to include all protected groups pursuant to Ed. Code, as well as all State and Federal law. Also, this revision is necessary to bring BP up to date generally with all revisions required by numerous legal changes as reflected in the CSBA Model Policy.

**Background/Rationale**

\_\_\_\_\_ : To update and bring into compliance with State and Federal law as directed by the recent Federal Program Monitoring (FPM) Review.

**Financial Considerations**

\_\_\_\_\_ : NA

**Documents Attached:**

1. Revised Board Policy 5145.3
2. Red-Lined Board Policy 5145.3

**Estimated Time of Presentation:** (N/A if on Consent Agenda)

**Submitted by:** Cancy McArn, Assistant Superintendent of Human Resource Services & Employee Compensation

# **Sacramento City 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 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, age, religion, family, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression or association with a person or group with one or more of these actual or perceived characteristics.

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

(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 1330 - Use of Facilities)  
(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)  
(cf. 6145 - Extracurricular and Cocurricular Activities)  
(cf. 6145.2 - Athletic Competition)  
(cf. 6164.2 - Guidance/Counseling Services)

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.

District personnel shall take immediate steps to intervene when safe to do so when he or she witnesses an act of discrimination, harassment, intimidation, retaliation, or bullying. The District will investigate all allegations of discrimination and implement effective corrective actions when appropriate pursuant to Administrative Regulation 5143.3.

(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 (Students with Disabilities))  
(cf. 5145.2 - Freedom of Speech/Expression)

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# Sacramento City USD

## Board Policy

### Nondiscrimination/Harassment

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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. 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)

~~District programs and activities shall be free from discrimination, including harassment, with respect to ethnic group, religion, gender, color, race, national origin and physical or mental disability.~~

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

~~(cf. 1312.3 - Uniform Complaint Procedures)~~

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

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, includes physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also shall include the creation of a hostile environment when the prohibited conduct 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.



~~(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))  
(cf. 5145.2 - Freedom of Speech/Expression)~~

~~The Governing Board 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. 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.~~

~~(cf. 1240—Volunteer Assistance)  
(cf. 6145.2—Interscholastic Competition)  
(cf. 6162.5—Student Assessment)~~

~~The schools may provide girls and boys with separate shower rooms and sex education classes in order to protect student modesty. In physical education, when objective standards have an adverse effect on students because of their gender, race, ethnic group or disability, other standards shall be used to measure achievement and create comparable educational opportunities.~~

~~The Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. Staff shall be alert and immediately responsive to student conduct which~~  
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~~(cf. 1312.1—Complaints Concerning District Employees)~~  
~~(cf. 1312.3—Uniform Complaint Procedures)~~

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex, especially:  
221.5 Prohibited sex discrimination  
221.7 School-sponsored athletic programs; prohibited sex 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  
49020-49023 Athletic programs  
51006-51007 Equitable access to technological education 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

~~CODE OF REGULATIONS, TITLE 5~~

~~4621—District policies and procedures~~

~~4622—Notice requirements~~

~~CODE OF REGULATIONS, TITLE 5~~

~~4621—District policies and procedures~~

~~4622—Notice requirements~~

~~4900-4965—Nondiscrimination in elementary and secondary education programs receiving state-financial assistance~~

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 & VII Civil Rights Act of 1964 as amended

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

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

100.3a 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

Management Resources:

OFFICE OF CIVIL RIGHTS

Notice of Non-Discrimination, January, 1999

WEB SITES

OCR: <http://www.ed.gov/offices/OCR>

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

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: Harassment and Bullying, October 2010

Notice of Non-Discrimination, January 1999

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 SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

adopted: November 16, 1998 Sacramento, California

revised: April 15, 2002

Revised: December , 2014