PROPOSED CHANGES

Students

BP 5131.8 (a)

CONDUCT

Bullying or Cyberbullying

The purpose of this policy is to promote consistency of approach to school bullying and to help create a learning climate in which all types of bullying behavior are regarded as unacceptable. The Board of the San Leandro Unified School District affirms that all students and staff have a right to safe and supportive school environments, free from threat, harassment, hazing, intimidation or any type of bullying behavior.

(cf. 5131 - Conduct)

All staff of the San Leandro Unified School District must immediately report incidents of bullying to the principal or designee. All staff members ~~are expected to~~ **shall** immediately intervene when they see a bullying incident occur. Students **are encouraged to** ~~should~~ report incidents to any adult staff member. **Parent and community stakeholders shall be informed of the policy and encouraged to participate in Anti-bullying events.**

Reports of bullying will be promptly investigated. Site administrators are responsible for an annual review of this policy with all staff, and will ensure that the policy is visibly posted and supported with training as needed. An allegation of bullying that involves sexual harassment, and the results of the investigation, shall be kept confidential to the extent reasonably possible.

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

The district will not tolerate discrimination, intimidation, harassment, bullying or any behavior that infringes on the safety or well-being of students, staff, or any other persons within the district's jurisdiction whether directed at an individual or group. This includes but is not limited to discrimination, intimidation, harassment, and bullying based on actual or perceived characteristics and disability, gender, gender identity, gender expression, genetic information, nationality, race or ethnicity, ancestry, national origin, age, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. (Education Code 234.1)

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Definitions

"Bullying" is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils that constitutes sex harassment, hate violence or creates an intimidating or hostile educational environment, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on her or her physical or mental health.

(C) Causing a reasonable pupil to experience a substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience a substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

"Electronic act" is defined as the transmission of a communication, including, but not limited to, a message, text, sound, or image, or post on a social network Internet Website, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

"Reasonable pupil" is defined as a pupil, including, but not limited to, an exceptional needs pupil, who exercises care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs. (Education Code 48900(r))

~~Bullying is defined as aggressive or unwanted and unwelcome behavior by an individual or groups of individuals who ridicule, harass, humiliate, or intimidate another while on school grounds, at a school sponsored activity, while traveling to or from school, on a school bus, during any activities related to school attendance, or that is directed against school district personnel or students and that constitutes sex harassment, hate violence or creates an intimidating or hostile educational environment. Typically, the behavior is repeated over time and includes the use of hurtful words and/or acts.~~

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Indicators of Bullying Behavior

Bullying behaviors may include, but are not necessarily limited to the following:

1. Verbal: Hurtful name-calling, teasing, gossiping, making threats, making racial slurs or epithets, making rude noises, or spreading hurtful rumors.
2. Nonverbal: Posturing, making gang signs, leering, staring, stalking, destroying property, insulting or threatening notes, using graffiti or graphic images, or exhibiting inappropriate and/or threatening gestures or actions.
3. Physical: Hitting, punching, pushing, shoving, poking, kicking, tripping, strangling, hair pulling, fighting, beating, "pantsing", pinching, slapping, biting, spitting, or destroying property.
4. Emotional (Psychological): Rejecting, terrorizing, extorting, defaming, intimidating, humiliating, blackmailing, manipulating friendships, isolating, shunning, ostracizing, using peer pressure, or rating or ranking personal characteristics.

Cyberbullying: Bullying committed by means of an electronic act, the transmission of a communication, including but not limited to, a message, text, sexting (texting or images of a sexual nature) sound, or image by means of an electronic device, including but not limited to, a phone, wireless telephone, or other wireless communication device, computer, or pager. Sending insulting or threatening messages by phone, e-mail, Web sites, or any other electronic or written communication. This policy pertains to cyberbullying in accordance to *California Education Code 48900 (r).*

(cf. 5145.31 - Hate-Motivated Behavior)
(cf. 5145.3 - Nondiscrimination/ Harassment)
(cf. 6163.4 – Student Use of Technology)

In addition to the grounds specified in Education Code sections 48900, sections 48900.2, 48900.3, and 48900.4 provide additional authority to discipline a pupil for conduct that amounts to bullying. (Education Code 48900, 48900.2, 48900.3 and 48900.4) Penal Code 653.2 makes it a crime for a person to distribute personal identity information electronically with the intent to cause harassment by a third party and to threaten a person's safety or that of his/her family (e.g., placing a person's picture or address online so that he/she receives harassing messages). Penal Code 288.2 makes it a crime to send a message to a minor if the message contains matter that is sexual in nature with the intent of seducing the minor (i.e., sexting).

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(cf. 5131 - Conduct)
(cf. 5136 - Gangs)
(cf. 5145.3 - Nondiscrimination/ Harassment)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.9 - Hate-Motivated Behavior)

The Board recognizes that some acts of bullying, harassment, or intimidation may be isolated and/or unintentional incidents requiring that the school respond appropriately to the individuals committing the acts. Other acts may indicate a larger pattern of bullying that require a response either at the classroom, school site, or district levels or by law enforcement officials. Consequences and appropriate remedial actions for a student who commits an act of bullying may range from behavioral intervention and education up to and including suspension or expulsion.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

~~Certain acts of bullying are covered under California Education Code Section 48900.4 which states: "In addition to the grounds specified in Section 48900 and 48900.2, a pupil enrolled in any of grades 4 through 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonable expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment."~~

~~*(cf. 5145.31 - Hate Motivated Behavior)*~~
~~*(cf. 5145.3 - Nondiscrimination/ Harassment)*~~
~~*(cf. 6163.4 – Student Use of Technology)*~~

~~If the District determines that bullying has occurred, it will act appropriately in accordance to the District's Uniform Discipline policy and will take reasonable action to end the bullying.~~

Bullying Prevention

To the extent possible, district and school strategies shall focus on prevention of bullying by establishing clear rules for student conduct and strategies to establish a positive, collaborative school climate. Students shall be informed, through student handbooks and other appropriate means, of district and school rules related to bullying, mechanisms

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available for reporting incidents or threats, and the consequences for perpetrators of bullying.

(cf. 5137 - Positive School Climate)
(cf. 6164.2 - Guidance/Counseling Services)

The district may provide students with instruction, in the classroom or other educational settings, that promotes effective communication and conflict resolution skills, social skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior.

(cf. 6163.4 - Student Use of Technology)
(cf. 6142.8 - Comprehensive Health Education)
(cf. 6142.94 - History-Social Science Instruction)

School staff may receive related professional development, including information about early warning signs of harassing/intimidating behaviors and effective prevention and intervention strategies.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Based on an assessment of bullying incidents at school, the Superintendent or designee may increase supervision and security in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, cafeterias.

<u>Intervention</u>

Students are encouraged to notify school staff when they are being bullied or suspect that another student is being victimized. In addition, the Superintendent or designee shall develop means for students to report threats or incidents confidentially and anonymously.

School staff who witness bullying shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

As appropriate, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators. He/she also may involve school counselors, mental health counselors, and/or law enforcement.

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Complaints and Investigation

The principal or principal's designee at each school shall be responsible for receiving complaints alleging violations of this policy. All staff is expected to provide appropriate supervision to enforce standards of conduct. The Board requires that staff follow district and school procedures for reporting alleged acts of bullying. All bullying complaints shall be investigated and resolved within 30 school days of the filing of a complaint.

All other members of the school community, including students, parents/guardians, volunteers, and visitors, are encouraged to report any act that may be a violation of this policy. While submission of the report form is not required, the reporting party is encouraged to use the report form available from the principal of each school or at the district office. Oral reports shall also be considered official reports. Reports may be made anonymously, but formal disciplinary action may not be based solely on an anonymous report. Prompt and reasonable investigation of alleged acts of bullying is expected.

Students are expected to report all incidents of discrimination, intimidation, harassment, bullying, teasing, or other verbal or physical abuse. Any student who feels she/he is a victim of such behavior should immediately contact a teacher, counselor, administrator, or staff person. If the student who was bullied believes the situation has not been remedied, she/he may file a complaint in accordance with district procedures.

Complaints of bullying shall be investigated and resolved in accordance with site-level grievance procedures specified in [AR 5131.8 – Responding to Bullying] Students and parents are to be informed annually of the process by which they may make report of bullying or harassment.

When a student is reported to be engaging in bullying off campus, the Principal or designee shall investigate and document the activity and shall identify specific facts or circumstances that explain the impact or potential impact on school activity, school attendance, or the targeted student's educational performance.

When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages sent to them that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated.

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If the student is using a social networking site or service that has terms of use that prohibit posting of harmful material, the Superintendent or designee also may file a complaint with the Internet site or service to have the material removed.

Discipline

Any student who engages in bullying on school premises, or off campus in a manner that causes or is likely to cause a substantial disruption of a school activity or school attendance, shall be subject to discipline, which may include suspension or expulsion, in accordance with district policies and regulations.

(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Retaliation against a student because the student has filed a complaint or assisted or participated in a bullying investigation or proceeding is also prohibited. Students who knowingly file false bullying complaints or give false statements in an investigation shall be subject to discipline by measures up to and including suspension and expulsion, as shall any student who is found to have retaliated against another in violation of this policy. ~~The District prohibits retaliatory conduct against any complainant or any participant in the complaint process, including witnesses.~~

(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities)

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
32261 Bullying
35181 Governing board policy on responsibilities of students
35291-35291.5 Rules
44807 Duty concerning conduct of students
48900-48925 Suspension or expulsion, especially:
48908 Duties of students
51512 Prohibition against electronic listening or recording device in classroom without permission
CIVIL CODE
1714.1 Liability of parents and guardians for willful misconduct of minor

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Legal Reference (continued):

PENAL CODE
288.2 Harmful matter with intent to seduce
313 Harmful matter
417.25-417.27 Laser scope
647 Use of camera or other instrument to invade person's privacy; misdemeanor
647.7 Use of camera or other instrument to invade person's privacy; punishment
653.2 Electronic communication devices, threats to safety
VEHICLE CODE
23124 Use of cellular phones provisional license holders
CODE OF REGULATIONS, TITLE 5
300-307 Duties of pupils
UNITED STATES CODE, TITLE 42
2000h-2000h6 Title IX, 1972 Education Act Amendments
UNITED STATES CODE, TITLE 47
254 Universal service discounts (e-rate)
COURT DECISIONS
J.C. v. Beverly Hills Unified School District, (2010) 711 F.Supp.2d 1094
LaVine v. Blaine School District, (2000, 9th Cir.) 257 F.3d 981
Emmett v. Kent School District No. 415, (2000) 92 F.Supp. 1088
Bethel School District No. 403 v. Fraser, (1986) 478 U.S. 675
Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

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Students

CONDUCT

Bullying or Cyberbullying

The Board of the San Leandro Unified School District affirms that all students and staff have the right to a safe and supportive school environment, free from threat, harassment, hazing, intimidation or any type of bullying behavior.

(cf. 5131 - Conduct)

To ensure that bullying does not occur on school campuses, the District ~~will~~ **may** provide staff development training in bullying prevention and methods for cultivating respect and understanding between all students and staff in order to build each school's capacity to maintain a safe and supportive learning environment.

Definitions

"Bullying" is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils that constitutes sex harassment, hate violence or creates an intimidating or hostile educational environment, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

- **(E) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.**
- **(F) Causing a reasonable pupil to experience a substantially detrimental effect on her or her physical or mental health.**
- **(G) Causing a reasonable pupil to experience a substantial interference with his or her academic performance.**
- **(H) Causing a reasonable pupil to experience a substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.**

"Electronic act" is defined as the transmission of a communication, including, but not limited to, a message, text, sound, or image, or post on a social network Internet Website, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

"Reasonable pupil" is defined as a pupil, including, but not limited to, an exceptional needs pupil, who exercises care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs. (Education Code 48900(r))

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The school district has jurisdiction to respond to bullying behavior that is related to school activity or school attendance and that occurs at any time, including, but not limited to, while on school grounds, at a school sponsored activity, while traveling to or from school, on a school bus, or during the lunch period whether on or off campus. (Education Code 48900(s))

District Administrators shall assist sites in developing comprehensive plans aimed toward accomplishing the following goals:

1. To send a clear message to students and staff members that bullying will not be tolerated.
2. To train staff and students in taking pro-active steps to prevent the occurrence of bullying.
3. To implement procedures for immediate intervention, investigation, and confrontation of students engaged in bullying behavior.
4. To initiate efforts to change the behavior of students engaged in bullying through re-education on acceptable behavior, discussion, counseling, social skills training, and appropriate consequences for negative behavior. Interventions should align with positive discipline procedures aimed at promoting pro-social behavior.
5. To support victims of bullying by means of individual counseling and through peer support or counseling where appropriate.
6. To train students to take a pro-active role as bystanders in bullying situations.
7. To provide social skills training for all students and to develop peer support structures.
8. To promote and recognize pro-social student interactions and positive behavior on a regular basis.
9. To foster a productive partnership with parents and community members, including disseminating information, in order to help maintain a bully-free environment.
10. To send the message that SLUSD administrators and staff are expected to model respectful behavior and language in their interactions with students, staff and parents.

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CONDUCT

Bullying or Cyberbullying

Site Administrators are responsible for:

- Reviewing SLUSD policy and procedures on bullying annually with all certificated and classified staff and **students**
- Arranging staff training as necessary
- Visibly posting the policy in the school
- **Visibly post the Student Code of Conduct in all classrooms and common areas such as cafeteria, multiuse rooms, library, and offices.**
- Ensuring that all staff, students, and parents/ legal guardians receive a summary of the policy prohibiting bullying at the beginning of the school year, as part of the student handbook and/or information packet, as part of new student orientation, and as part of the school system's notification to parents.

Teachers/Para-Educators/Coaches are responsible for:

- Discussing the District bullying policy with their students in an age appropriate manner
- Assuring students that they need not endure any form of bullying
- Ensuring their students know that bullying violates District policy, and that violators are subject to disciplinary action under **California Ed. Code 48900 (r).** ~~District disciplinary code~~
- Adhering to District procedures as stated below.

Procedures for all staff members intervening in bullying behavior include, but are not limited to the following:

- **All** ~~S~~staff members must immediately intervene when they witness a bullying incident.
- Serious or repeated incidents must be reported to the principal or administrator in charge with written documentation of the offense and what actions were taken.
- Such reporting will not reflect on the victim or witness in any way.
- Each incident reported must be promptly investigated. Investigation and action may involve interviews with perpetrators, victims, notification of parents or guardian, and counseling.
- The school will make reasonable efforts to keep a report of bullying and the results of investigation confidential.
- Incidents involving breaking the law will be reported to the police.

(cf. *4119.21*/*4219.21*/*4319.21* - Professional Standards)
(cf. *1400* - Relations Between Other Governmental Agencies and the Schools)

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CONDUCT

Bullying or Cyberbullying

All Schools must adopt a Student Code of Conduct regarding bullying to be followed by every student in accordance with BP 5145.31 for Hate Motivated Behavior. All students would follow the code when traveling to and from school or at a school-sponsored activities, during school lunch or recess, and whether on or off campus.

The Student Code of Conduct should include, but is not limited to the following expectations:

- Students are expected to treat others with respect and dignity.
- Any student who engages in bullying may be subject to disciplinary action under the District disciplinary code.
- Students are expected to immediately report incidents of bullying to the principal or designee. Reporting safety concerns to adult authorities is not the same as "tattling" and shows concern for the person or persons being harmed.
- Students should refuse to watch, laugh, or join in when someone is being bullied.
- Students are encouraged to offer moral support to any student who is being bullied or mistreated.
- Students can rely on staff to promptly investigate each complaint of bullying in a thorough and confidential manner.
- If the complainant student or the parent of the student feels that appropriate resolution of the investigation or complaint has not been reached, the student or the parent of the student should contact the Site Administrator or the ~~District Ombudsperson.~~ **Director of Student Support Services.**

Parent Responsibilities

- **Understand and discuss this policy and school rules with your child.**
- **Report incidents of bullying to your student's teacher, counselor, principal, or principal's designee.**
- **Learn the warning signs that your child might be a victim or perpetrator of bullying.**

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Responding to Bullying Complaints

- **The district's response to bullying shall be comprehensive and involve staff, students, parents/legal guardians, and the community, as appropriate, in order to address bullying at all school levels.**

- **A complaint may be made to any site or district level staff person, as appropriate. Victims of bullying are encouraged to file their complaint in writing, using the Bullying Report Form. However, oral complaints will be accepted.**

- **All bullying complaints shall be investigated and resolved within 30 school days of the filing of a complaint.**

- **The response shall:**

    - **Take reports of bullying seriously.**

    - **Provide all parties involved with assurances regarding district policies on confidentiality and non- retaliation in the complaint investigation.**

    - **Encourage individuals who witness bullying to report such incidents per the district report procedures.**

    - **Obtain specific information relevant to bullying complaint such as: the date, time, location, witness(s), and whether this was an isolated incident or related to previous incidents.**

    - **Obtain a written statement from the complainant. If the complainant is unable to provide a written statement, school personnel shall assist in writing a statement as dictated by the complainant. It is important to note that any oral report of bullying is to be a considered a complaint and, as such, must be investigated.**

    - **Obtain a written statement from the student alleged to have committed the bullying act. If the student is unable to provide a written statement, school personnel shall assist in writing a statement as dictated by the student.**

    - **Obtain statements from any witnesses, as appropriate.**

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- **Assure the student reporting bullying, that steps will be taken to monitor that the behavior does not continue. Provide the individual with the names of school personnel who can help if the situation continues, escalates, or arises again.**

- **Determine what type of action or consequences will resolve the situation.**

- **Follow the school behavior guidelines outlined in student/district handbook.**

- **Consequences for a student who commits an act of discrimination, intimidation, harassment, and bullying shall be appropriate according to:**

  - **The nature of the behavior**

  - **The developmental age of the student**

  - **The student's history of problem behaviors and performance**

  - **Consistent with related Board policies and schools' codes of conduct**

- **Inform the parents/guardians of both the victim and the child who committed the act of bullying of the following:**

  - **The nature of the incident**

  - **The results of the investigation**

  - **The type of action(s), consequences, and follow-up that will be taken to resolve the situation (as appropriate to ensure confidentiality)**

Other Considerations

- **If either party disagrees with the resolution of the complaint, she/he may file a written appeal to Office of Student Support Services. An appeal must be filed within 5 school days of resolution of the initial complaint. The district has 15 school days to review the appeal and respond.**

- **If either party disagrees with the resolution of the appeal, she/he may file complaint in accordance with district Uniform Complaint policy and procedures. Students and parents/legal guardians are to be**

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informed annually of the process by which they may make a report of discrimination, intimidation, harassment, or bullying or file a Uniform Complaint.

- **It is important to note that bullying may, at times, be part of a continuum of violence and that some discrimination, intimidation, harassment, or bullying actions can and do constitute other categories of misconduct such as sexual harassment, hate- motivated behavior, assault, or child abuse, and as such, they would violate other district policies. When discrimination, intimidation, harassment, or bullying behavior does escalate to the level of violating other district policies, district personnel are obligated to adhere to appropriate district reporting guidelines and protocols and may be required to report to one or more offices or outside agencies, as appropriate.**

The District prohibits retaliatory behavior against any complainant or any participant in the complaint process.

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