Students BP 5145.3(a)

NONDISCRIMINATION/HARASSMENT

District programs and activities shall be free from discrimination, ~~including~~ **harassment, intimidation, and bullying,** with respect to ethnic group identification, religion, gender, gender identity[1], **gender expression[2]**, genetic information~~[2]~~ **[3]**, **perceived sex,** sexual orientation, color, race **or ethnicity,** age, national origin**, nationality**, **ancestry**, 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)

~~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.~~

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, harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity[1], or gender expression[2]; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics, or genetic information[3].

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

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5131 - Conduct)
(cf. 5131.8 – Bullying or Cyberbullying)
(cf. 5137 - Positive School Climate)
(cf. 5145.31 - Hate-Motivated Behavior)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6164.6 - Identification and Education under Section 504)

(gender identity[1]; gender expression[2]; Genetic information[3], see page BP 5145.3 (f))

NONDISCRIMINATION/HARASSMENT

~~The schools may provide males and females 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 (including gender identity), race, ethnic group, genetic information, 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, including on any basis identified in District policies and/or resolutions. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.~~

Prohibited discrimination, harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and 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 Board also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying.

(cf. 5145.2 - Freedom of Speech/Expression: Publications Code)
(cf. 5145.7 - Sexual Harassment)

Students who harass other students shall be subject to appropriate counseling and discipline, up to and including expulsion. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5144.1 - Suspension and Expulsion/Due Process)

NONDISCRIMINATION/HARASSMENT (continued)

The following position is designated Officer for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying, and to answer inquiries regarding the district's nondiscrimination policies:

Assistant Superintendent, Educational Services
San Leandro Unified School District
14735 Juniper Street
San Leandro, CA 94579
510-667-3538

(cf. 4144-4344 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

Any school employee who observes an incident of discrimination, harassment, intimidation, or bullying shall report the incident to the Officer or principal, whether or not the victim files a complaint.

In addition, the employee shall immediately intervene when safe to do so. (Education Code 234.1)

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Officer shall immediately investigate the complaint in accordance with the site-level grievance procedures specified in AR 5145.7 - Sexual Harassment.

(cf. 5145.7 - Sexual Harassment)

Within 30 days of receiving the district's report, the complainant may appeal to the Board if he/she disagrees with the resolution of the complaint. The Board shall make a decision at its next regular meeting and its decision shall be final.

The Superintendent or designee shall ensure that the district student handbook clearly describes the district's nondiscrimination policy, procedures for filing a complaint regarding discrimination, harassment, intimidation, or bullying, and the resources that are 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. 6163.4 - Student Use of Technology)

NONDISCRIMINATION/HARASSMENT

The Board affirms the right of all students, staff, and parents/legal guardians to be free from hate crimes, or any hate-inspired activity which degrades an individual including, but not limited to, color, race, age, religion, ethnicity, **ethnic group identification, ancestry, national origin,** culture, heritage, **marital or parental status, sex,** sexual orientation, gender**,** ~~(including~~ gender identity)[1], **gender expression[2]; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics, or** genetic information[3] , physical or mental disability.

Such acts may cause injury to victims and will not be tolerated in an educational setting. The Board encourages the Superintendent and staff to develop programs which enhance self-esteem, raise awareness and sensitivity, and foster respect and understanding for all individuals and their unique qualities.

The Board recognizes that such hate-inspired threats, physical assaults or damage to property jeopardize the safety and well-being of students and staff. The Board authorizes the staff to discipline students involved in such acts including suspension or recommendation for expulsion as permitted in Board Policy. Nothing in this policy shall be interpreted to prevent students from expressing their views.

(cf. 5144.1 - Suspension Expulsion/Due Process)

Any student who feels that he/she is being harassed should immediately contact the principal or designee. If a situation involving harassment is not promptly remedied by the principal or designee, a complaint can be filed in accordance with administrative regulations. The Superintendent or designee shall determine which complaint procedure is appropriate.

(cf. 4144-4344 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)

Legal Reference: (see next page)

NONDISCRIMINATION/HARASSMENT (continued)

Legal Reference:
EDUCATION CODE
~~*40 Prohibited sex discrimination*~~
~~*41 School-sponsored athletic programs; prohibited sex discrimination*~~
~~*200-262 Prohibition of discrimination on the basis of sex*~~
~~*220 The California Student Safety and Violence Prevention Act of 2000*~~
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
~~*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
PENAL CODE
422.55 Definition of hate crime
422.6 Crimes, harassment
CODE OF REGULATIONS, TITLE 5
~~*4621 District policies and procedures*~~
~~*4622 Notice requirements*~~
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
UNITED STATES CODE, TITLE 42
~~*2000d & 2000e et seq. Title VI & VII. Civil Rights Act of 1964 as amended*~~
~~*2000h-2 et seq. Title IX, 1972 Education Act Amendments*~~
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
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
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
Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010

NONDISCRIMINATION/HARASSMENT (continued)

Legal Reference (continued)

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES
California Student Safety and Violence Prevention - Laws and Regulations, April 2004
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.firstamendment.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

[1]Gender identity is defined as a person's identity, expression, or physical characteristics regardless of whether those characteristics are traditionally associated with one's assigned biological sex at birth. Gender identity refers to the gender the individual experiences.

[2]Gender expression refers to the ways in which people externally communicate their gender identity to others through behavior, clothing, hairstyle, voice and other forms of presentation.

[3]Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history).

Policy **SAN LEANDRO UNIFIED SCHOOL DISTRICT**
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