

Policy 5145.3: Nondiscrimination/Harassment

Status: ADOPTED

Original Adopted Date: 10/17/2007 | **Last Revised Date:** 07/19/2022 | **Last Reviewed Date:** 07/19/2022

Statement of Policy

The San Bernardino City Unified School District is committed to providing all students a learning environment that is free of discrimination, harassment, intimidation, and bullying in accordance with applicable state and federal laws. This nondiscriminatory learning environment is for the benefit of all district students and all students are expected to fully comply with this policy. Additionally, non-district students who have contact with any of the district's students are expected to conduct themselves in accordance with this policy in any district school or district school-sponsored activity. Absolutely no one is authorized to engage in conduct prohibited by this policy.

The District prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived ancestry, color, disability, gender, gender identity, gender expression, immigration status, nationality, race or ethnicity, religion, sex, sexual orientation, or association with a person or a group with one or more of these actual or perceived characteristics. Moreover, students will not be excluded on the basis of the aforementioned protected bases from participation in or access to any educational program, guidance and counseling programs, testing procedures, curricular or extracurricular, including all sports and other activities; denied the benefits of participation, or subjected to harassment or other forms of discrimination, harassment, intimidation, or bullying in such programs. This policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the Superintendent of the school district.

"Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, as defined, including, but not limited to, sexual harassment, hate violence, or harassment, threats, or intimidation, that has the effect or can reasonably be predicted to have the effect of placing a reasonable pupil, as defined, in fear of harm to that pupil's or those pupils' person or property, causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health, causing a reasonable pupil to experience substantial interference with his or her academic performance, or causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

"Electronic act" means the transmission of a communication, including, but not limited to, a message, text, sound, or image, or a post on a social network Internet Web site, 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" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average 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.

Gender means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

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 may interfere with another student's ability to participate in or benefit from school services, activities or privileges. School personnel who witness such acts of discrimination, harassment, intimidation, or bullying based on actual or perceived characteristics delineated in this policy are required to take immediate steps to intervene when safe to do so.

Sexual Harassment

All of the foregoing applies to complaints of sexual harassment. For the purpose of clarification, prohibited sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature where such conduct has the purpose or effect of having a negative impact upon the individual's academic performance, or creating an intimidating, hostile, or offensive educational environment; where submission to such conduct is explicitly or implicitly made a term or condition of an individual's academic status or progress; where submission to, or rejection of, the conduct by the individual is used as the basis of academic decisions affecting the individual; where submission to, or rejection of, such conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the district and its school sites.

Examples of Prohibited Behavior:

1. Exposing genitals
2. Shouting obscenities
3. Mooning
4. Streaking
5. Leaving obscene messages on school computers
6. Whistling at other students and/or school employees
7. Threatening rape
8. Intentionally pressing or rubbing oneself sexually around another person
9. Teasing other students and/or school employees about their sexual activity or body
10. Unwanted deliberate hugging, kissing, touching, patting, pinching, grabbing, leaning over, or cornering a student or school employee
11. Flipping up skirts
12. Pulling down someone's pants, shorts or skirt
13. Bra, pants, shorts or skirt snapping
14. Continual staring at a person's body
15. Sexual or dirty jokes
16. Actual or attempted rape or sexual assault
17. Unwanted pressure for sexual favors or dates
18. Making sexual gestures with hands or through body movements
19. Unwanted letters or materials of a sexual nature
20. Kissing sounds, howling, and smacking lips
21. Looking a person up and down
22. Sexual rumors
23. Comments about the body
24. Violating personal space
25. Pornographic pictures, posters, drawings or stories
26. Offensive displays of sex-related objects
27. Offensive graffiti of a sexual nature, racial nature or of any discriminatory basis
28. Holding a person against his or her will

Enforcement

Disciplinary action up to and including expulsion will be promptly taken against any student if it becomes known to the district and proven by school officials that such student has engaged in conduct prohibited by this policy.

No Retaliation

No student, employee, or other individuals will be retaliated against, in any manner, for reporting conduct which he or she believes to be a violation of this policy, for participating in an investigation of a possible violation of this policy, or for using the district's Uniform Complaint Procedure. The identity of the complainant alleging discrimination, harassment, intimidation, or bullying will remain confidential, as appropriate.

Complaints

Students who have been subjected to discriminatory harassment have an obligation to immediately report the incident or incidents to their principal or designee or the district's Affirmative Action Officer, who is also the district's Title IX Coordinator. The Affirmative Action Officer or designee is the responsible local educational agency officer for ensuring the district's compliance with the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200) and may be contacted at:

777 North F Street
San Bernardino, CA 92410
(909) 381-1122

The complaint filed with the district's Affirmative Action Office will be processed in accordance with the district's Uniform Complaint Policy and Procedure. Students, parents, guardians, employees, or third parties may report any incidents covered by this policy to the school site administrator of the child's school who will investigate the allegations in a timely manner. It is encouraged and recommended that students use the district's Uniform Complaint Procedure; however, they may seek recourse by pursuing available remedies outside the district. The district's

Affirmative Action Office will have available the specific rule and procedures for reporting charges of sexual harassment and for pursuing available remedies.

Notifications

Pursuant to Educational Code 231.5, a copy of this policy will be displayed in a prominent location in the main administrative building at each school site of the district or other areas where notices regarding the district's rules, regulations, procedures and standards of conduct are posted. Also, this policy will be a part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable. At the beginning of each school year, the district's sexual harassment policy will be included in the notifications that are sent to parents/guardians and will be disseminated to each staff member annually, at the beginning of the first quarter or semester of the school year, or at the time a new employee is hired. This policy will also appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct. This policy and the policy on bullying prevention shall be posted in all schools and offices, including staff lounges and pupil government meeting rooms. Any teacher, counselor, or district employee who receives a sexual harassment or bullying incident report from any student or adult in the educational setting and/or if the alleged incident occurred on district property or school site, or at a district or school-related or sponsored activity, must report this information to the site administrator. Site administrators are required to submit a report to the Affirmative Action Office in order for the Affirmative Action Office to maintain a record of complaints for sexual harassment and bullying.
