

ANTI-BULLYING POLICY

The Governing Board is committed to creating a safe learning and working environment for all students and employees and to protect all students and employees from all forms of bullying, harassment, hazing, discrimination, or intimidation of any type for any reason. The County Office of Education prohibits any form of bullying, harassment, hazing, discrimination, or intimidation; any such behavior shall be just cause for disciplinary action.

The purpose of this policy is to provide a definition of bullying in order to prevent such conduct and to establish positive, collaborative school and work environments with clear rules for student and employee conduct. As needed, employees shall receive professional development in the appropriate use of these resources.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 5137 - Positive School Climate)

(cf. 5131 – Student Conduct)

(cf. 6163.4 - Student Use of Technology)

Definitions**Bullying/harassment**

Bullying or harassment of students or staff includes, but is not limited to: cyberbullying, intimidation, hazing or initiating activity, extortion, or any other verbal, written, or physical conduct that causes, is perceived to cause, threatens, or is perceived to threaten violence, bodily harm, or substantial disruption in accordance with the following section.

Bullying is defined as any severe, systematic, or pervasive physical or verbal act or conduct that causes pain or psychological distress on one or more students or employees. Bullying includes unwanted written, verbal, nonverbal, or physical behavior including, but not limited to, any threatening, insulting, or dehumanizing gesture by an student or adult that causes any reasonable person to experience a detrimental effect on his or her physical or mental health and that has the potential to create a negative educational or workplace environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or workplace performance or participation, is carried out repeatedly and is often characterized by an imbalance of power.

Bullying may involve, but is not limited to:

- a. unwanted teasing
- b. threatening
- c. intimidating
- d. stalking
- e. cyberstalking
- f. cyberbullying
- g. physical violence
- h. theft
- i. hate violence

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- j. sexual (including sexual orientation), religious, or racial harassment
- k. public humiliation
- l. harassment
- m. destruction of school or personal property
- n. social exclusion, including, incitement and/or coercion
- o. rumor or spreading of falsehoods

Cyberbullying is sometimes referred to as Internet bullying or electronic bullying. It is an act of bullying committed through the transmission of a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, pager, or through digital technologies, including, but not limited to, email, blogs, texting, social websites (e.g. Facebook, MySpace, Twitter, etc.), chat rooms, “sexting”, instant messaging, or video voyeurism. Cyberbullying can be a carryover of verbal or physical bullying that occurs in the school or workplace environments.

Cyberstalking means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at or about a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

Harassment means any threatening, insulting, or dehumanizing gesture, use of technology, computer software, or written, verbal or physical conduct directed against a student or school employee that:

- places a student or employee in reasonable fear of harm to his or her person or damage to his or her property;
- has the effect of substantially interfering with a student’s educational performance, or employee’s work performance, or either’s opportunities, or benefits;
- has the effect of substantially negatively impacting a student’s or employee’s emotional or mental well-being; or
- has the effect of substantially disrupting the orderly operation of a school and/or school district work environment.

Sexual Harassment as defined by the U. S. Equal Employment Opportunity Commission means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Sexual harassment exists when submission to such conduct is made, explicitly or implicitly, a condition of employment; when submission to or rejection of such conduct is used in employment decisions affecting an individual; or when such conduct unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or offensive working environment.

Bullying Cyberbullying and/or Harassment also encompass:

- retaliation against a student or employee by another student or employee for asserting or alleging an act of bullying, harassment, or discrimination.
- reporting a baseless act of bullying, harassment, or discrimination that is not made in good faith.
- perpetuation of conduct listed in the definition of bullying, harassment, and/or discrimination by an individual or group with intent to demean, dehumanize, embarrass, or cause emotional or physical harm to a student or employee by incitement or coercion; accessing or knowingly

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and willingly causing or providing access to data or computer software through a computer, computer system, or computer network within the scope of the school or COE system; or acting in a manner that has an effect substantially similar to the effect of bullying, harassment, or discrimination.

Bullying, Cyberbullying, Harassment, Discrimination also encompass, but are not limited to, unwanted harm towards a student or employee in regard to their real or perceived sex, race, color, religion, national origin, age, disability (physical, mental, or educational), marital status, socioeconomic background, ancestry, ethnicity, gender, gender identity or expression, linguistic preference, political beliefs, sexual orientation, or social/family background or being viewed as different in its education programs or admissions to education programs and therefore prohibits bullying of any student or employee by any Board member, employee, consultant, contractor, agent, visitor, volunteer, student, or other person in the school or organization or outside the school or organization at school or organization sponsored events, on school buses, and at training facilities or training programs sponsored by the organization.

(cf. 5131 – Student Conduct)

(cf. 5145.3 – Nondiscrimination/Harassment)

(cf. 5145.7 – Sexual Harassment)

(cf. 5145.9 – Hate-Motivated Behavior)

(cf. 6163.4 – Student Use of Technology)

Expectations of Conduct

The Governing Board expects students and employees to exhibit appropriate conduct that does not infringe upon the rights of others or interfere with the school program while on school grounds or SCCOE property, while going to or coming from school or work, while at school activities, and while on public transportation.

The SCCOE prohibits the bullying of any student or school employee:

1. During any educational program or activity conducted by the SCCOE;
2. During any SCCOE-related or SCCOE-sponsored program or activity or on a SCCOE school bus;
3. Through the use of any electronic device or data while on SCCOE school grounds or on a SCCOE school bus, computer software that is accessed through a computer, computer system, or computer network of the SCCOE. The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action initiated under this section;
4. Through threats using the above to be carried out on SCCOE grounds. This includes threats made outside of school hours, which are intended to be carried out during any school-related or school-sponsored program or activity or on a SCCOE school bus.
5. While the SCCOE does not assume any liability for incidences that occur at a bus stop or en route to and from school, a student or witness may file a complaint following the same procedures for bullying against a student and the SCCOE will investigate and/or provide assistance and intervention as the principal/designee deems appropriate

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6. Though an incident of alleged bullying as defined within this policy may occur off campus and may not entail threats of acts to occur during school hours, if a student's ability to receive an education or a school's ability to provide an education is significantly impaired, as determined by the school administrators, disciplinary sanctions may be issued.

(cf. 5131 – Student Conduct)

(cf. 5131.1 – Bus Conduct)

(cf. 6145.2 – Athletic Competition)

Enforcement of Standards

The Santa Clara County Superintendent of Schools or designee shall ensure that each school site develops standards of conduct and discipline consistent with SCCOE policies and administrative regulations. Students and parents/guardians shall be notified of SCCOE and school rules related to conduct.

(cf. 5131 – Student Conduct)

(cf. 5131.1 – Bus Conduct)

Employees are expected to provide appropriate supervision to enforce standards of conduct and, if they observe or receive a report of a violation of these standards, to immediately intervene or call for assistance. If an employee believes a matter has not been resolved, he/she shall refer the matter to his/her supervisor or administrator for further investigation.

Any student who engages in bullying as described within this policy while 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 in accordance with SCCOE policies and regulations. If the student is using a social networking site or service that has terms of use that prohibit posting of harmful material, the County Superintendent or designee also may file a complaint with the Internet site or service to have the material removed.

Discipline

Students who violate SCCOE or school rules and regulations may be subject to discipline including, but not limited to, suspension, expulsion, transfer to alternative programs, or denial of the privilege of participation in extracurricular or co-curricular activities in accordance with Board policy and administrative regulation. The County Superintendent or designee shall notify local law enforcement as appropriate.

When conducting hearings related to discipline, attendance and other student matters, The County Office shall afford students their due process rights in accordance with law.

(cf. 5000 – Concepts and Roles)

(cf. 5125 - Student Records)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5145.6 - Parental Notifications)

(cf. 9000 - Role of District)

ANTI-BULLYING POLICY (continued)**Reporting**

The Santa Clara County Superintendent of Schools or designee shall establish and publicize to students, staff, volunteers, and parents how to report bullying and actions that may be taken.

The process for receiving and investigating instances of bullying of any kind, as defined within this policy, includes complaints of discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics.

School and COE personnel who witness such acts of bullying as defined within this policy shall take immediate steps to intervene when safe to do so. Complaints of bullying shall be investigated and resolved in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment.

Reporting any act of bullying:

1. At each school or SCCOE location, the principal/designee is responsible for receiving oral or written complaints alleging violations of this policy, as well as any infractions of the Student Conduct policy.
2. Students may report complaints of bullying to any school or SCCOE employee. Any such reports of bullying allegations must be made, in writing, to the principal/designee or other appropriate administrator/designee.
3. Any member of the school community who may have credible information about an act of bullying that may have taken place may file a report of bullying either as a witness or a victim.
4. Any student (or a parent or guardian on behalf of the complainant who is a minor) who believes he/she is a victim of bullying, has witnessed an act of bullying, or has knowledge of any incidents involving acts of bullying are strongly encouraged to report the incidents to a school official.
5. A student, school employee, school volunteer, contractor, parent/guardian, or other persons who promptly reports in good faith an act of bullying to the appropriate school official, and who makes this report in compliance with the procedures set forth in the policy, is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. Submission of a good faith complaint or report of bullying will not affect the complainant or reporter's future employment, grades, learning or working environment, or work assignments within the SCCOE.
6. Administrators/principal/designee(s) shall document in writing all complaints regarding bullying to ensure that incidents of bullying, or any other infractions, are appropriately addressed in a timely manner, whether the original report of bullying is made verbally or in writing.

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7. Anonymous reports of bullying may be made to the appropriate school official. School officials should develop and publicize a system in which students, employees, volunteers, parents/guardians can make an anonymous report of bullying.

Investigation of Complaints

The investigation of a reported act of bullying of a student, school-based employee, parent/guardian or other persons providing service to the school is deemed to be a school related activity and begins with a report of such an act.

The principal/designee and/or Investigative Designee shall document all complaints in writing and/or through the appropriate data system to ensure that problems are addressed in a timely manner. This process is to be followed with all anonymous complaints as well. Although this Policy encourages students to use the formal written complaint process, school officials "should investigate all complaints and reports of harassment, whether or not the complaint is in writing," as stated by the Office for Civil Rights in Protecting Students from Harassment and Hate Crime: A Guide for Schools, Part II (1999).

If the complaint is about the principal or a staff member's direct supervisor, then the Superintendent/Designee or appropriate administrator shall be asked to address the complaint.

The trained Investigative Designee(s) will make the determination if a reported act of bullying or harassment falls within the scope of SCCOE policies and regulations.

- A. If it is within the scope of SCCOE policies and regulations, move to Procedures for Investigating Bullying and/or Harassment as outlined below.
- B. If it is outside the scope and determined an alleged criminal act, refer to appropriate law enforcement, provide any applicable interventions, and document according to Policy.
- C. If it is outside the scope and determined not a criminal act, inform parents/guardians of all students involved, provide appropriate interventions and document according to Policy.

Internal Investigation:

- A. The procedures for investigating school-based bullying must include the principal/designee and/or the Investigative Designee, in the case of student-to-student bullying. The principal, Investigative Designee and Prevention Liaison shall be trained in investigative procedures and interventions as outlined in this Policy. For incidents at the area or for school-based adult-on-adult bullying, the appropriate administrator will be responsible for the investigation as outlined in this policy and will run concurrently and in addition, to all agreed upon procedures for staff discipline
- B. The investigator may not be the accused or the alleged victim.

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- C. The principal/designee or appropriate administrator shall begin a thorough investigation with the alleged victim and accused within two (2) school days of receiving a notification of complaint. The school administrators/designees will provide immediate notification to the parents of both the victim and the alleged perpetrator of an act of bullying or harassment.
- D. During the investigation, the principal/designee or appropriate administrator may take any action necessary to protect the complainant, alleged victim, other students or employees consistent with the requirements of applicable regulations and statutes.
1. Documented interviews of the alleged victim, alleged perpetrator, and witnesses are conducted privately, separately, and are confidential. Each individual (victim, alleged perpetrator, and witnesses) will be interviewed separately and at no time will the alleged perpetrator and victim be interviewed together.
 2. At no time during the investigation will the name of the complainant be revealed by the investigator.
 3. In general, student complainants and/or alleged victims will continue attendance at the same school and pursue their studies as directed while the investigation is conducted and the complaint is pending resolution. Any legal order of a court will prevail.
 4. When necessary to carry out the investigation or for other good reasons, and consistent with federal and state privacy laws, the principal/designee or appropriate administrator also may discuss the complaint with any school district employee, the parent of the alleged victim, the parent of the complainant or accused, if one or both is a minor (or has given consent or is an adult who has been determined to be incompetent or unable to give informed consent due to disability), and/or child protective agencies responsible for investigating child abuse.
 5. During the investigation where an employee is the accused, the principal/designee or the appropriate administrator may recommend to the Chief Student Officer and/or Executive Director of Human Resources/designee, any action necessary to protect the complainant, the alleged victim, or other students or employees, consistent with the requirements of applicable statutes, Board of Education Policies, and collective bargaining agreements.
- E. Within ten (10) school days of the notification as to the filing of the complaint, there shall be a written decision by the Principal/Designee or appropriate administrator regarding the completion and determination of the investigation. The principal/designee shall make a decision about the validity of the allegations in the complaint and about any corrective action, if applicable, consistent with the School Program Discipline Plan.
- F. The Principal/Designee or appropriate administrator will inform all relevant parties in writing of the decision and the right to appeal. A copy of the decision will be sent to the originating school and be noted in all relevant data tracking systems.
- G. If the accused is an employee, discipline may be taken, consistent with any applicable collective bargaining agreement provisions, to resolve a complaint of bullying. The supervisor/designee of

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the employee shall discuss the determination and any recommended corrective action with the appropriate supervisor and the Executive Director of Human Resources or designee.

- H. No retaliation of any kind is permitted in connection with an individual's having made a bullying complaint and if it occurs, it shall be deemed an additional act of bullying as stated herein this Policy.

Informal Resolution

The administrator, along with the alleged victim and the accused/student, may agree to informally resolve the complaint. Documented interviews of the victim, alleged perpetrator, and witnesses are conducted privately and are confidential. Each individual (victim, alleged perpetrator and witnesses) will be interviewed separately, and at no time will the alleged perpetrator and victim be interviewed together. Each party's agreement to Informal Resolution must be in writing.

Formal Resolution

The alleged victim/complainant/student/employee or parent(s), on behalf of the student, may file a written complaint with the principal/designee or appropriate administrator.

Based on the level of infraction, parents will be promptly notified of any actions being taken to protect the victim via written notice, telephone or personal conference; the frequency of notification will depend on the seriousness of the bullying incident.

The resolution, all interviews and interventions that take place and the corresponding dates shall be documented in writing and/or noted in a specified data system.

External Investigation

If the act is outside the scope of the SCCOE, and determined a criminal act, referral to appropriate law enforcement shall be made immediately, the parent will be notified, and the referral documented by the principal/designee in the specified format.

While SCCOE does not assume any liability for incidences that must be referred for external investigation, it encourages the provision of assistance and intervention as the principal/designee deems appropriate, including the use of the School Resource Officer and other personnel. The principal/designee shall log all reports and interventions.

Prevention

The SCCOE shall provide students with instruction, in the classroom or other educational settings, that promotes communication, social skills, and assertiveness skills and educates students about appropriate online behavior and strategies to prevent and respond to bullying as defined in this policy.

(cf. 1220 - Citizen Advisory Committees)

(cf. 6163.4 - Student Use of Technology)

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School staff shall receive related professional development, including information about early warning signs of harassing/intimidating behaviors and effective prevention and intervention strategies. Parents/guardians, students, and community members also may be provided with similar information.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 5136 - Gangs)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

32261 Bullying

32282 Comprehensive School Safety Plans

32283 Workshops; Contracts with law enforcement and educator trainers

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

48950 Student Free Speech Off School Campus

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

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