

OAKLAND UNIFIED SCHOOL DISTRICT

Administrative Regulation

AR 5131.2 – Investigating Complaints of Bullying Students

Bullying is defined in Education Code 48900(r) as any severe or pervasive physical or verbal act(s) or conduct, including electronic communications, that has, or can be reasonably predicted to have, the effect of one or more of the following:

- (1) Reasonable fear of harm to person or property.
- (2) Substantially detrimental effect on physical or mental health.
- (3) Substantial interference with academic performance.
- (4) Substantial interference with the ability to participate in or benefit from school services, activities, or privileges.

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

Any student, parent, or guardian who believes that the student has been subjected to bullying may file a written complaint under the procedure described below.

Written complaints of bullying based on protected characteristics designated in the Uniform Complaint Procedures (BP 1312.3) will be investigated as provided in the Uniform Complaint Procedures. (AR 1312.3) All other written complaints of bullying will be investigated as provided in this Administrative Regulation.

The District prohibits retaliation in any form for the filing of a complaint, the reporting of instances of bullying, or for participation in the complaint procedures. The report and identity of any complainant shall be kept confidential except to the extent necessary to carry out the investigation or to take necessary subsequent actions.

Site-Level Procedures for Investigating Complaints of Bullying

1) Bullying Complaints

- a) A student, parent, or guardian (“complainant”) may file a bullying complaint verbally or by completing the District’s bullying complaint form.
- b) If a student, parent, or guardian makes a verbal complaint of bullying, staff will advise the complainant of the opportunity to submit a written complaint on the District’s bullying complaint form.
- c) Staff shall investigate all verbal and written complaints of bullying.

2) Investigating a Bullying Complaint

- a) All written complaints of bullying that allege the bullying relates to a protected

characteristic such as race, national origin, religion, sexual orientation, disability, or gender identity as described more fully in Board Policy 1312.3 shall be promptly forwarded to the Ombudsperson for investigation. Written complaints of bullying based on protected characteristics shall be investigated pursuant to the Uniform Complaint Procedures. (AR 1312.3)

- b) All other complaints of bullying shall be promptly investigated by the principal or designee or shall be forwarded to Regional Office staff for investigation.
- c) The student who is alleging bullying shall have an opportunity to describe the incident, identify witnesses, and present evidence of bullying.
- d) 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 share the messages with the principal or principal's designee.
- e) To judge the severity of the conduct, the principal or designee may take into consideration the following (including but not limited to):
 - i) How the misconduct affected one or more students' education, mental/physical health, and ability to participate or benefit from school services, activities, or privileges
 - ii) Injury to persons or property
 - iii) The type, frequency, and duration of the misconduct
 - iv) The number of persons involved
 - v) The age of the person accused of bullying
 - vi) The place and situation where the incident occurred

3) Reporting Findings

- a) The principal or designee will make every effort to complete his or her investigation within fourteen school days and report his/her findings to the complainant.
- b) If the principal or designee verifies that bullying occurred, the principal or designee will, to the extent permitted by confidentiality laws, document the actions taken to end the bullying, address the effects of the bullying on the student who has been bullied, and put in place measures to prevent retaliation or further bullying.
- c) In response to written complaints of bullying, the principal or designee will provide the complainant with a brief written report of his/her findings.
- d) The principal or designee shall maintain a copy of the report as well as the complaint in a secure location at the school site for five years.

4) Appeal

- 1. The complainant may appeal the findings of the principal or designee by filing a Level I complaint with the Office of the Ombudsperson within five school days of being notified of the results of the principal's investigation. The Office of the Ombudsperson is located at Lakeview Elementary School, Cafeteria - 1st Floor, 746 Grand Avenue, Oakland, CA 94610.

5) Notification

- a) The District will publicize the bullying policy to students, parents, employees, agents of the governing board, and the general public, including information about the manner in

which to file a complaint. The information shall be translated pursuant to Education Code Section 48985.

- b) A copy of the District's bullying policy will be posted in all schools and offices, including teacher lounges and student government meeting rooms.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

32282 Comprehensive safety plan

35181 Governing board policy on responsibilities of students

35291-35291.5 Rules

48900-48925 Suspension or expulsion

48985 Translation of notices

PENAL CODE

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

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, (2002) 279 F.3d 719

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

Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Education Content Standards for California Public Schools: Kindergarten Through Grade Twelve, 2008

Bullying at School, 2003

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Harassment and Bullying, October 2010

WEB SITES

CSBA: <http://www.csba.org>

California Cybersafety for Children: <http://www.cybersafety.ca.gov>

California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/lr/ss>

Center for Safe and Responsible Internet Use: <http://cyberbully.org>

National School Boards Association: <http://www.nsba.org>

National School Safety Center: <http://www.schoolsafety.us>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

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