

Policy 5145.3: Nondiscrimination/Harassment

Status: ADOPTED

Original Adopted Date: 10/17/2007 | **Last Revised Date:** 02/20/2024 | **Last Reviewed Date:** 02/20/2024

This policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the San Bernardino Unified School District, and all act of the governing board or body of the San Bernardino Unified School District, the superintendent of the school district, and the county superintendent of schools in enacting policies and procedures that govern the San Bernardino Unified School District.

The Board desires to provide a welcoming, safe, and supportive school environment that allows all students equal access to and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or association with a person or group with one or more of these actual or perceived characteristics.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also occurs when prohibited conduct is so severe, persistent, or 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.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

Because unlawful discrimination may occur when disciplining students, including suspension and expulsion, the Superintendent or designee shall ensure that staff enforce discipline rules fairly, consistently and in a non-discriminatory manner, as specified in Board Policy and Administrative Regulation 5144 - Discipline, Board Policy and Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process, and Administrative Regulation 5144.2 - Suspension and Expulsion/Due Process (Students With Disabilities).

The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the Superintendent or designee shall post the district's policies prohibiting discrimination, harassment, intimidation, and bullying and other required information on the district's website in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation. (Education Code 234.1, 234.6)

The Superintendent or designee shall provide training and/or information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the District's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. The Superintendent or designee shall report the findings and recommendations to the Board after each review.

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or

discipline, which may include suspension or expulsion when the behavior is severe or pervasive, as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

"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. (Sexual Harassment Board Policy 4119.11)

"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, cell phone, or other wireless communication device or computer.

"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.

All allegations of unlawful discrimination in District programs and activities shall be brought, investigated, and resolved in accordance with Board Policy 1312.3 - Uniform Complaint Procedures.

The Affirmative Action Officer/Title IX Coordinator 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:

Affirmative Action Office
777 North F Street
San Bernardino, CA 92410
(909) 381-1122
E m a i l : affirmativeaction-
all@sbcusd.k12.ca.us(<https://simbli.eboardsolutions.com/SU/rS4XOuEWCCU4Ye47BzR2Sg==>)

504 Coordinator
4777 N. State Street
San Bernardino, CA 92407
(909) 887-2072

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.
