

BP 5131.2 **Bullying**

The Board of Trustees recognizes the harmful effects of bullying, including cyberbullying, on student well-being, student learning, and school attendance and desires to provide a safe school environment that protects students from physical and emotional harm. **The Board of Trustees believes that no student should have to experience bullying or any kind of targeted harassment from their peers in the school environment. Where students exhibit bullying behavior, schools will adopt positive and restorative responses that get to the root of the problem and teach students why bullying each other is wrong. Students should not be viewed as “bullies” who must be excluded from school; rather they are young people who need scaffolded opportunities to grow as individuals and repair any harm they have caused.**

~~No individual or group shall, through physical, written, verbal, visual, or other means, harass, sexually harass, threaten, intimidate, cyberbully, cause bodily injury to, or commit hate violence against any student or school personnel, or retaliate against them for filing a complaint or participating in the complaint resolution process.~~ **When any individual or group, through physical, written, verbal, electronic, or other means, harasses, sexually harasses, threatens, intimidates, retaliates, cyberbullies, causes bodily injury to, or commits hate violence against any student or school personnel, it will be recognized as a situation that requires interventions and support.**

The district shall adopt and publicize policies that prohibit discrimination, harassment, intimidation, and bullying on the basis of a student's actual or perceived **disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, immigration status**, ~~nationality, ethnicity, or immigration status,~~ **or association with a person or group with one or more of the aforementioned characteristics.** Those policies must be translated in the student's primary language if at least 15 percent of the students enrolled in the school speak a single primary language other than English.

The district shall notify parents and guardians of their children's right to a free public education, regardless of immigration status or religious beliefs. This information shall include information related to the "Know Your Rights" immigration enforcement established by the Attorney General. The district shall inform students who are ~~victims~~ **targets** of **alleged** hate crimes of their right to report such crimes.

(cf. [5131](#) - Conduct)

(cf. 5136 - Gangs)

(cf. [5145.3](#) - Nondiscrimination/Harassment)

(cf. [5145.7](#) - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

Cyberbullying includes the creation or transmission of harassing communications, direct threats, or other harmful texts, sounds, or images on the Internet, social media, or other technologies using a telephone,

computer, or any wireless communication device. Cyberbullying also includes breaking into another person's electronic account and/or assuming that person's identity in order to damage that person's reputation.

(cf. [5145.2](#) - Freedom of Speech/Expression)

Strategies for addressing bullying in district schools shall be developed with involvement of key stakeholders, including students, parents/guardians, and staff, and may be incorporated into the comprehensive safety plan, the local control and accountability plan, and other applicable district and school plans.

(cf. [0420](#) - School Plans/Site Councils)

(cf. [0450](#) - Comprehensive Safety Plan)

(cf. 0460 - Local Control and Accountability Plan)

(cf. [1220](#) - Citizen Advisory Committees)

(cf. [1400](#) - Relations Between Other Governmental Agencies and the Schools)

(cf. [6020](#) - Parent Involvement)

As appropriate, the Superintendent or designee may collaborate with ~~law enforcement, courts,~~ social services, mental health services, **law enforcement, courts,** other agencies, and/or community organizations in the development and implementation of joint strategies to promote safety in schools and the community and to provide services for ~~alleged victims and perpetrators of~~ **students involved in instances of** bullying.

(cf. [1020](#) - Youth Services)

Bullying Prevention

To the extent possible, district schools shall focus on the prevention of bullying by establishing clear rules for student conduct and implementing strategies to promote a positive, **restorative**, collaborative, school climate. Students shall be informed, through student handbooks and other appropriate means, of district and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for engaging in bullying.

(cf. 5137 - Positive School Climate)

As appropriate, the district shall provide students with instruction, in the classroom or other educational settings, that promotes effective communication and conflict resolution skills, social skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior. The district shall educate students about the negative impact of bullying other students based on their actual or perceived **disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation,** immigration status, ~~or~~

~~their religious beliefs or customs or association with a person or group with one or more of the~~
aforementioned characteristics.

District and school policy shall prevent bullying behavior through:

- 1. Implementation of school-wide and classroom-based social and emotional learning strategies and positive approaches to discipline including relationship-building circles and other restorative justice practices as preventative measures;**
- 2. A commitment to supportive and restorative strategies that focus on harmful behavior, and a rejection of language that labels any student as a “bully;”**
- 3. Age-appropriate instruction on bullying prevention in each grade that is incorporated into the curriculum;**
- 4. Creation of a school-wide and classroom climate that supports tolerance and celebration of all forms of difference (including but not limited to differences along race/ethnicity, national origin, language, sexual orientation and gender identity, learning difference, appearance, etc.);**
- 5. Media literacy and digital citizenship, and**
- 6. Encouragement of parent participation in bullying behavior prevention initiatives.**

(cf. [6142.8](#) - Comprehensive Health Education)

(cf. [6142.94](#) - History-Social Science Instruction)

(cf. [6163.4](#) - Student Use of Technology)

Staff shall receive related professional development, including information about **the effects of trauma**, early warning signs of harassing/intimidating behaviors, and effective response. The district shall also train teachers, staff, and personnel to ensure that they are aware of their legal duty to take reasonable steps to eliminate a hostile environment and respond to any incidents of harassment based on the actual or perceived characteristics noted above. Such training should, at minimum, ~~cover: provide agency personnel with the skills to do the following:~~

- 1. Developmentally appropriate trauma-informed strategies to prevent and respond to bullying behavior;**
- 2. The complex interaction and power differential that can take place between all parties involved in bullying behavior;**
- 3. An understanding of prejudice and bias of all kinds; and**
- 4. Information on the incidence and nature of cyberbullying.**

~~1. Discuss the varying immigration experiences among members of the student body and school community;~~

~~2. Discuss bullying prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims;~~

~~3. Identify the signs of bullying or harassing behavior;~~

~~4. Take immediate corrective action when bullying is observed; and~~

~~5. Report incidents to the appropriate authorities, including law enforcement in instances of criminal behavior.~~

(cf. [4131](#) - Staff Development)

(cf. [4231](#) - Staff Development)

(cf. [4331](#) - Staff Development)

Based on an assessment of bullying incidents at school, the Superintendent or designee may increase supervision ~~and security~~ in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, and cafeterias.

Intervention

Students are encouraged to notify school staff when they are being bullied or suspect that another student is being ~~targeted~~ **victimized**. In addition, the Superintendent or designee shall develop means for students to report threats or incidents confidentially and anonymously.

School staff who witness an act of bullying shall immediately intervene to stop the incident when it is safe to do so. (Education Code [234.1](#))

When appropriate based on the severity or pervasiveness of the bullying, the Superintendent or designee shall notify the parents/guardians of **students involved and district Student Services**. ~~victims and perpetrators and may contact law enforcement.~~

The Superintendent, principal, or principal's designee may refer ~~a victim, witness, perpetrator, or other~~ students affected by an act of bullying to a school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and/or participation in a restorative justice program as appropriate. (Education Code [48900.9](#))

(cf. [6164.2](#) - Guidance/Counseling Services)

Reporting and Filing of Complaints

The district shall adopt a process **for making anonymous complaints** and for receiving ~~complaints of~~ and investigating complaints of discrimination, harassment, intimidation, and bullying. ~~based on any of the following actual or perceived characteristics:~~

* ~~disability~~

~~* gender~~

~~* gender identity~~

~~* gender expression~~

~~* nationality~~

~~* race or ethnicity~~

~~* religion~~

~~* sexual orientation~~

~~* association with a person or group with one or more of the aforementioned characteristics~~

~~* immigration status~~

The complaint process must include, but is not limited to, the following steps:

1. A requirement that, if school personnel witness an act of discrimination, harassment, intimidation, or bullying, they shall take immediate steps to intervene when safe to do so;
2. A timeline to investigate and resolve complaints of discrimination, harassment, intimidation, or bullying that shall be followed by all schools under the jurisdiction of the local educational agency; and
3. An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint.
4. The district shall ensure that complaint procedures contain confidentiality safeguards for immigration status information.
5. The district shall prohibit retaliation against a person who submits a complaint of discrimination, harassment, intimidation, or bullying.

Any student, parent/guardian, or other individual who believes that a student has been subjected to bullying or who has witnessed bullying may report the incident to a teacher, the principal, a compliance officer, or any other available school employee. Within one business day of receiving such a report, a staff member shall notify the principal of the report, whether or not a uniform complaint is filed. In addition, any school employee who observes an incident of bullying involving a student shall, within one business day, report his/her observation to the principal or a district compliance officer, whether or not the ~~alleged~~ **victim complainant** files a complaint.

Within two business days of receiving a report of bullying, the principal shall notify the district compliance officer identified in AR 1312.3 - Uniform Complaint Procedures.

(cf. [1312.3](#) - Uniform Complaint Procedures)

When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages that they feel constitute cyberbullying and to notify a teacher, the principal, or other **district** employee so that the matter may be investigated. When a student uses a social networking site or service to bully or harass another student, the Superintendent or designee may file a request with the networking site or service to suspend the privileges of the student and to have the material removed.

When a report of bullying is submitted, the principal or a district compliance officer shall inform the student or parent/guardian of the right to file a formal written complaint in accordance with AR 1312.3. The **complainant** ~~student who is the alleged victim of the bullying~~ shall be given an opportunity to describe the incident, identify witnesses who may have relevant information, and provide other evidence of bullying.

Investigation and Resolution of Complaints

Any complaint of bullying shall be investigated and, if determined to be discriminatory, resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3.

(cf. [1312.3](#) - Uniform Complaint Procedures)

If, during the investigation, it is determined that a complaint is about nondiscriminatory bullying, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

Discipline

Corrective actions for a student who commits an act of bullying of any type may include **restorative practices**, counseling, behavioral intervention and education. **Suspension and expulsion may only be considered when** ~~and~~, if the behavior is “severe” or “pervasive” as defined in Education Code [48900](#), **and when when it can be documented that other restorative, non-punitive, alternative means of correction have failed to bring about proper conduct, or when a student's presence causes a danger to themselves or others or they commit a single act of a grave nature or an offense for which suspension or expulsion is required by law.** ~~may include suspension or expulsion in accordance with district policies and regulations.~~

(cf. [5138](#) - Conflict Resolution/Peer Mediation)

(cf. [5144](#) - Discipline)

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

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. [6159.4](#) - Behavioral Interventions for Special Education Students)

Any employee who permits or engages in bullying or retaliation related to bullying shall be subject to disciplinary action, up to and including dismissal.

(cf. [4118](#) - Dismissal/Suspension/Disciplinary Action)

(cf. [4119.21/4219.21/4319.21](#) - Professional Standards)

(cf. [4218](#) - Dismissal/Suspension/Disciplinary Action)

The Superintendent or designee shall develop strategies for bullying prevention and interaction in district schools with the involvement of students, parents/guardians, and staff. As appropriate, the Superintendent or designee may also collaborate with social services, mental health services, law enforcement, courts, and other agencies and community organizations in the development and implementation of effective strategies to promote safety in schools and the community.

(cf. [1220](#) - Citizen Advisory Committees)

(cf. [1400](#) - Relations Between Other Governmental Agencies and the Schools)

(cf. [6020](#) - Parent Involvement)

Such strategies shall be incorporated into the comprehensive safety plan and, to the extent possible, into the local control and accountability plan and other applicable district and school plans.

(cf. [0420](#) - School Plans/Site Councils)

(cf. [0450](#) - Comprehensive Safety Plan)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

32282 Comprehensive safety plan

32283.5 Bullying; online training

35181 Governing board policy on responsibilities of students

35291-35291.5 Rules

48900-48925 Suspension or expulsion

48985 Translation of notices

52060-52077 Local control and accountability plan

PENAL CODE

422.55 Definition of hate crime

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

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

UNITED STATES CODE, TITLE 47

254 Universal service discounts (e-rate)

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

110.25 Notification of nondiscrimination on the basis of age

COURT DECISIONS

Wynar v. Douglas County School District, (2013) 728 F.3d 1062

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

Final Guidance: AB 1266, Transgender and Gender Nonconforming Students, Privacy, Programs, Activities & Facilities, Legal Guidance, March 2014

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Addressing the Conditions of Children: Focus on Bullying, Governance Brief, December 2012

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

Cyberbullying: Policy Considerations for Boards, Policy Brief, rev. July 2010

Building Healthy Communities: A School Leaders Guide to Collaboration and Community Engagement, 2009

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Bullying Module

California's Social and Emotional Learning: Guiding Principles, 2018

Social and Emotional Learning in California: A Guide to Resources, 2018

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

Bullying at School, 2003

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California K-12 Schools in Responding to Immigration Issues, April 2018

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

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

Guidance to America's Schools: Bullying of Students with Disabilities, October 2014

Dear Colleague Letter: Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability, October 26, 2010

Dear Colleague Letter: Harassment and Bullying, October 2010

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

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

California Office of the Attorney General: <http://oag.ca.gov>

Center on Great Teachers and Leaders: <https://gtlcenter.org>

Collaborative for Academic Social and Emotional Learning: <https://casel.org>

Common Sense Media: <http://www.commonsensemedia.org>

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

Partnership for Children and Youth: <https://www.partnerforchildren.org>

U.S. Department of Education: <http://www.ed.gov>

Policy SAN MATEO FOSTER CITY SCHOOL DISTRICT

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