

BULLYING

The Board of Trustees recognizes the harmful effects of bullying on student learning and school attendance and desires to provide a safe school environment that protects students from physical and emotional harm. District employees shall establish student safety as a high priority and shall not tolerate bullying of any student.

As defined by Education Code section 48900(r), “Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a student or group of students as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:

- (A) Placing a reasonable student or students in fear of harm to that student’s or those students’ person or property.
- (B) Causing a reasonable student to experience a substantially detrimental effect on his or her physical or mental health.
- (C) Causing a reasonable student to experience substantial interference with his or her academic performance.
- (D) Causing a reasonable student to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

Cyberbullying includes the electronic creation or transmission of harassing communications or direct threats, or other harmful texts, sounds, or images as defined in Education Code § 48900. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage their reputation.

No individual or group of students shall, through physical, written, verbal, or other means, harass, threaten, or intimidate employees, or adults. No individual or group of students shall, through physical, written, verbal, or other means, harass, threaten, intimidate, or bully students. Bullying may include, but is not limited to, actions based on actual or perceived race, ethnicity, religion, immigration status, religious beliefs, customs, gender, weight, health or sexuality; or any other verbal, written, or physical conduct that causes or threatens to cause violence, bodily harm, or substantial disruption. Thus, bullying can include sexual harassment, hate-motivated behavior, discrimination based on an actual or perceived protected class outlined in Education Code section 220 retaliation, cyberbullying, hazing or initiation activity, extortion or harassment (such as threats, name-calling, or insults). Bullying will not be tolerated.

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

BULLYING (continued)

BULLYING PREVENTION

The District shall provide students with instruction, in the classroom or other educational settings, that promotes social-emotional learning, effective communication and conflict resolution skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior. Such instruction shall also educate students about the negative impact of bullying, discrimination, intimidation, and harassment.

NOTIFICATIONS

A copy of the District's Bullying policy and regulation shall be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code § 48980).

TRAINING

The Superintendent or designee shall provide training to teachers and other school staff defining bullying and describing their legal obligation to prevent discrimination, harassment, intimidation, and bullying.

INTERVENTION

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

The following interventions shall be considered. Appropriate interventions will depend on the nature and extent of the bullying.

- Take immediate action when bullying is observed, when safe to do so.
- Respond in a timely manner to all reports of bullying.
- Provide protection for students who are bullied.
- Establish support programs and resources for both the target and bully.
- Develop policies that define bullying and provide appropriate responses to the problem.
- Apply school expectations, policies, and sanctions fairly and consistently.
- Establish an effective system for reporting bullying, including adults who can be relied on to respond responsibly and sensitively.
- Teach parents to understand bullying and the consequences.
- Partner with law enforcement and mental health agencies to identify and address cases of serious bullying.
- Promote the norm for a bully-free school throughout the entire school community.
- Engage students to help promote the norm of a bully-free school.

BULLYING (continued)

- As appropriate, suspend or recommend expulsion of a student who engages in bullying, as provided in California Education Code § 48900(r).
- Make bullying complaint forms available at school sites and the District office.

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 victims and perpetrators and may contact law enforcement.

The Superintendent, principal, or principal's designee may refer a victim, witness, perpetrator, or other student 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)

REPORTING AND FILING OF COMPLAINTS

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 available school employee. Within one business day of receiving such a report, the employee shall notify the principal or principal's designee 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, principal's designee or a District compliance officer, whether or not the alleged victim files a complaint.

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 to the extent doing so is lawful and to notify a teacher, the principal, or other employee so that the matter may be investigated. When a student uses a social networking service to bully or harass another student or employees, the Superintendent or designee may file a request with the networking service to suspend the privileges of the student and to have the material removed.

The 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. The District shall prohibit retaliation against a person who submits a complaint of discrimination, harassment, intimidation, or bullying. The District shall ensure that complaint procedures contain confidentiality safeguards for immigration status information.

BULLYING (continued)

Students may also report bullying anonymously, however it is preferred that the student report it directly to an administrator, counselor, teacher, or other staff member. At the secondary level, we use the “Say Something Anonymous Reporting System” (SSARS). SSARS allows the user to directly submit a secure and anonymous safety concern to a monitored crisis center that would then help identify and intervene quickly. The system can be accessed through either an app or website, 24 hours a day, 7 days a week, and 365 days a year. After hours “life threatening” notifications will now not only go to the site contacts (typically the administration and School Resource Officer) but to District contacts as well. The crisis center, while monitoring the calls will simultaneously contact the Sheriff’s Dispatch. At the elementary level, sites will use a “bully box” in which students can drop a note in and the administration or counselor can follow up with the confidential report.

INVESTIGATION AND RESOLUTION OF COMPLAINTS

The investigation should determine if the complaint is discriminatory or nondiscriminatory bullying. If determined to be discriminatory, the complaint should be resolved in accordance with law and the District's uniform complaint procedures specified in AR 1312.3. If determined to be nondiscriminatory bullying, the appeal of the decision on the complaint should be resolved through the District’s formal complaint procedures specified in AR 1312.1.

ENFORCEMENT

The Superintendent or designee shall take appropriate actions to reinforce the District’s Bullying policy. Corrective actions for a student who commits an act of bullying of any type may include counseling, behavioral intervention and education, and, if the behavior is severe or pervasive as defined in Education Code § 48900, may include suspension or expulsion in accordance with District policies and regulations. As needed, these actions may include any of the following:

1. Taking appropriate disciplinary action which may include suspension or expulsion under Education Code § 48900(r).
2. Providing staff in-service training and student instruction or counseling.
3. Notifying parents/guardians of the actions taken to the extent permitted by law.
4. Notifying Law Enforcement for a criminal investigation.
5. In the event of multiple incidents within a two-year period, a record of those incidents will be established in the permanent cumulative file of the student found to have engaged in bullying.

BULLYING (continued)

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

4600-4687 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

Policy

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CAPISTRANO UNIFIED SCHOOL DISTRICT

San Juan Capistrano, California