

Policy 5145.3: Nondiscrimination/Harassment

Status: ADOPTED

Original Adopted Date: 08/08/2018 | **Last Revised Date:** 03/08/2023 | **Last Reviewed Date:** 03/08/2023

This Board Policy applies to the Nevada Joint Union High School District.

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a district school and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

Respect for All

Respect for All is the philosophy by which the Nevada Joint Union High School District shall respond to instances of bullying and harassment. The district is committed to keeping schools safe, supportive, and free from discrimination and harassment.

Purpose

The Board of Trustees desires to provide a safe 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.

Prohibited Discrimination

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.

Prohibited Retaliation

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.

Complaint Resolution

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 web site in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation.

The Board encourages the early resolution of complaints whenever possible.

1. **Informal Complaints** - Informal complaints may be filed directly to school staff verbally, in writing, by email, telephone or other form of communication. 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 if findings of discrimination is found to have occurred, prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Under this informal process, a Complainant shall receive a verbal or written response to complaints within 3 school days of having filed the complaint.

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.

2. Formal Complaint Guide - Uniform Complaint Procedures, UCP

To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation. Unless extended by written agreement with the complainant, an investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint.

Board Policy 1312.3 - Uniform Complaint

Procedures(<https://simbli.eboardsolutions.com/SU/slshA6ddyntZ5lxukbV9rtYyQ==>)

Board Regulation 1312.3 Uniform Complaint

Procedures(<https://simbli.eboardsolutions.com/SU/x44FmSLqsBqf4alz0qUgkQ==>)

Consequences

Certain standards of conduct and behavior are essential to the functioning of a safe and healthy school district. Students are expected to conduct themselves according to basic standards when on school grounds or representing the school/district in any way. Students are expected to be courteous and show respect for others. The following policies are in effect for all students at all times on all school grounds and at all school functions. Engaging in discrimination, harassment, bullying and/or intimidation on the basis of a protected characteristic will result in other means of correction and/or disciplinary action.

Please note, under California law, students can be suspended or expelled if they engage in harassment or bullying. The following chart sets forth common administrative action taken towards a student who has engaged in prohibited conduct.

Offense	1st Offense	2nd Offense	3rd Offense
Physical injury-any student who causes, attempts to cause, or threatens to cause serious physical injury to another person (Under Ed Code: 48900a1)	OCI, Site Discipline Contract, 1-5 day suspension and possible recommendation for expulsion	3-5 day suspension and possible recommendation for expulsion	5 day suspension, extended suspension, and recommendation for expulsion
Harassed, threatened, intimidated student who is a complaining witness. (Under Ed Code: 48900o)	OCI, Site Discipline Contract, 1-5 day suspension and possible recommendation for expulsion	3-5 day suspension, possible recommendation for expulsion	3-5 days of suspension, possible recommendation for expulsion
Sexual harassment (Under Ed Code: 48900.2)	OCI, Site Discipline Contract, 1-5 day suspension and possible	3-5 day suspension, possible law enforcement notification, possible	3-5 days of suspension, law enforcement notification, possible recommendation for

	recommendation for expulsion	recommendation for expulsion	expulsion
Sexual Assault (Under Ed Code: 48915)	5 day suspension, extended suspension, recommendation to expel, and law enforcement notification.		
Harassment, threats, intimidation (Under Ed Code: 48900.4)	OCI, Site Discipline Contract, 1-5 days suspension.	1-5 days of suspension, possible recommendation for expulsion.	3-5 days of suspension, possible recommendation for expulsion.
Act of hate violence/hate crime (Under Ed Code: 48900.3)	OCI, Site Discipline Contract, 1-5 days suspension, law enforcement notification, possible recommendation for expulsion.	5 days suspension, law enforcement notification, recommended expulsion.	5 days suspension, law enforcement notification, recommended expulsion.
Hazing/slurs (racial, ethnic, religious, handicapped, sexual). (Under Ed Code: 48900.4)	OCI, Site Discipline Contract 1-5 days suspension, possible law enforcement notification, possible recommendation for expulsion.	1-5 days suspension, possible law enforcement notification, recommended expulsion.	5 days suspension, law enforcement notification, recommended expulsion.
Bullying (including electronic) (Under Ed Code: 48900)	OCI, Site Discipline Contract, 1-5 days suspension	1-5 days suspension, possible recommendation for expulsion	3-5 days of suspension, possible recommendation for expulsion
Other Means of Correction	Brief Intervention (BI), On-Campus Intervention (OCI), Restorative Accountable Youth Solutions (RAYS), Saturday School, Lunch Detention		

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.

District Staff Training

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.

Microaggressions

Microaggression is a term used for commonplace, daily, verbal, behavioral or environmental slights or insults, whether intentional or unintentional, when those acts communicate hostile, derogatory, or negative attitudes toward

stigmatized or culturally marginalized groups. Microaggressions include, but are not limited to: inappropriate and derogatory jokes, gestures, and malicious comments, singling out students for embarrassment or significant criticism. Microaggressions can also include setting exams and project due dates on religious holidays, and engaging in harmful stereotyping. Allegations of microaggressions shall be reported and reviewed by the same procedures as stated in the *Complaint Procedures* section, above. Staff shall receive regular training surrounding the identification of microaggressions and how to respond appropriately when identified or reported.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
5 CCR 432	Student records
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary education programs
Civ. Code 1714.1	<u>Liability of parent or guardian for act of willful misconduct by a minor</u>
Ed. Code 200-262.4	<u>Educational equity; prohibition of discrimination on the basis of sex</u>
Ed. Code 48900.3	Suspension or expulsion for act of hate violence
Ed. Code 48900.4	Suspension or expulsion for threats or harassment
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48907	Exercise of free expression; rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Translation of notices
Ed. Code 49020-49023	Athletic programs
Ed. Code 49060-49079	Student records
Ed. code 49060-49079	Student records
Ed. Code 51500	Prohibited instruction or activity
Ed. Code 51501	Prohibited means of instruction
Ed. Code 60044	Prohibited instructional materials
Gov. Code 11135	Nondiscrimination in programs or activities funded by state
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Civil rights; crimes
Federal	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973, Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Designation of responsible employee for Section 504
34 CFR 104.8	Notice

34 CFR 106.8	Designation of responsible employee for Title IX
34 CFR 106.9	Notification of nondiscrimination on basis of sex
34 CFR 110.25	Prohibition of discrimination based on age
34 CFR 99.31	Disclosure of personally identifiable information
42 USC 12101-12213	Title II equal opportunity for individuals with disabilities
42 USC 2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
CA Office of the Attorney General Publication	Promoting Safe & Secure Learning Environment for All: Guidance & Model Policies to Assist CA K-12 Schools in Responding to Immigration Issues, 4/2018
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130
CSBA Publication	Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, March 2017
First Amendment Center Publication	Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006
U.S Dept of Ed Office for Civil Rights Publication	Resolution Agreement Between the Arcadia USD, US Dept of Ed, OCR, & the US DOJ, CRD, (2013) OCR 09- 12-1020, DOJ 169-12C-70
U.S. Dept of Health & Human Services Publication	Guid. to Fed Fin. Assist. Recipients Re. Title VI Prohibition Against Nat'l Origin Discrimination Affect Limited English Proficient Persons, Aug. 2013
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Harassment and Bullying, October 2010
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Title IX Coordinators, April 2015
U.S. DOE, Office for Civil Rights Publication	Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016
U.S. DOE, Office for Civil Rights Publication	Notice of Non-Discrimination, Fact Sheet, August 2010
Website	First Amendment Center
Website	California Office of the Attorney General
Website	California Safe Schools Coalition
Website	CSBA
Website	California Department of Education
Website	U.S. Department of Education, Office for Civil Rights
Cross References	
Code	Description
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0450	Comprehensive Safety Plan

0450	Comprehensive Safety Plan
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
4131	Staff Development
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4231	Staff Development
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
5000	Concepts And Roles
5030	Student Wellness
5111	Admission
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.12 District School Attendance Review Board	5113.12 District School Attendance Review Board
5125	Student Records

125. Student Records

5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information

131. Conduct

5131.2	Bullying
5131.2	Bullying
5131.5	Vandalism And Graffiti

132. Dress And Grooming

5132	Dress And Grooming
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137. Positive School Climate

138. Conflict Resolution/Peer Mediation

5141.27	Food Allergies/Special Dietary Needs
5141.27	Food Allergies/Special Dietary Needs
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5144	Discipline

144. Discipline

5144.1	Suspension And Expulsion/Due Process
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1. Suspension And Expulsion/Due Process
2. Suspension And Expulsion/Due Process (Students With

Disabilities)

5145.12	Search And Seizure
5145.12	Search And Seizure

5145.2 Freedom Of Speech/Expression
5145.2 Freedom Of Speech/Expression
5145.7 Sexual Harassment
5145.7 Sexual Harassment
5145.9 Hate-Motivated Behavior
5146 Married/Pregnant/Parenting Students
6142.1 Sexual Health And HIV/AIDS Prevention Instruction 6142.1 Sexual Health And HIV/AIDS Prevention Instruction
6143 Courses Of Study

143. Courses Of Study

144. Controversial Issues

144. Controversial Issues

145. Extracurricular And Cocurricular Activities

145. Extracurricular And Cocurricular Activities

6145.2 **Athletic Competition**
6145.2 **Athletic Competition**
6145.2-E(1) **Athletic Competition**
6163.4 **Student Use Of Technology**
6163.4-E(1) **Student Use Of Technology**
6163.4-E(2) **Student Use Of Technology**
6164.2 **Guidance/Counseling Services**
6173.1 **Education For Foster Youth**
6173.1 **Education For Foster Youth**
