

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING

District programs and activities shall be free from discrimination, including harassment, intimidation and bullying based on a student's actual or perceived disability, sex, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. This policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the District Superintendent.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5131.2 - Bullying)

(cf. 6164.6 - Identification and Education Under Section 504)

The Governing Board shall ensure equal opportunities for students in admission and access to educational programs, guidance and counseling programs, athletic programs, testing procedures, consideration for selection for awards and honors, and other activities, including extracurricular activities, regardless of a student's actual or perceived disability, sex, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. Lack of English language skills will not be a barrier to admission and participation in career technical education programs. Eligibility for co-curricular or extra-curricular programs, including but not limited to choral and cheerleading, shall be determined on the basis of objective competencies. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

(cf. 1240 - Volunteer Assistance)

(cf. 6145.2 - Interscholastic Competition)

(cf. 6162.5 - Standardized Testing)

No student shall be excluded from any benefit, aid, service, award or honor, or recommendation for an award or honor, or excluded from attendance/participation in an extracurricular activity solely on the basis of that student's having a disability and/or receiving services through a Section 504 plan or Individualized Education Program ("IEP"). Students with disabilities shall be given an equal opportunity to be considered for selection for any awards or honors and be provided an equal opportunity to participate in extracurricular activities, and their parents shall be advised of such awards, honors, and extracurricular activities in the same and equal manner as parents of students without disabilities. When providing or arranging for the provision of nonacademic and extracurricular services and activities, the District shall ensure that a student with a disability participates with nondisabled persons in such activities and services to the maximum extent appropriate to the needs of the student with a disability in question. The District will provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford students with disabilities an equal opportunity for participation in such

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services and activities. The District may set uniform standards for measuring academic achievement for such awards or honors/eligibility requirements for educationally sound purposes if the criteria are objective and clearly-defined, related to the purpose of the program, and applied equally to all students without regard to disability. Participation of a student who, even with the benefit of accommodations, could not meet the essential academic or skill requirements necessary for participation or recognition, is not required.

Pursuant to California Education Code section 221.5, a pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records. Any student may request the use of private or unisex restroom facilities for increased privacy. The District endeavors to protect the privacy of all students.

Policies and procedures related to the types of unlawful discrimination, including harassment, intimidation and bullying described above must also be consistent with student free speech rights under the First Amendment and Education Code sections 48907 and 48950. Education Code section 48907 protects students' speech rights, except to the extent student speech is obscene, libelous, or slanderous, or constitutes speech that incites pupils as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. Education Code 48950 provides that no district with one or more high schools shall make or enforce any rule subjecting a high school student to disciplinary sanctions solely on the basis of speech or other communication that would be constitutionally protected if engaged in outside of campus. Education Code 48950 states that it does not prohibit discipline for harassment, threats or intimidation unless constitutionally protected. As a general rule, harassment, threats, intimidation and bullying directed at an individual or group are not constitutionally protected, and whether such speech might be entitled to constitutional protection will be determined on a case-by-case basis, with consideration for the specific words used and the circumstances involved. This assessment will also question whether the conduct is prohibited because it is based upon a person's actual or perceived disability, sex, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics.

Prohibited discrimination, harassment, intimidation and bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and 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.

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The Board prohibits discrimination, harassment, intimidation and bullying of any student by an employee, student or other person in the district based on actual or perceived disability, sex, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. District staff shall be on the alert for and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges. If district staff witnesses an action of discrimination, harassment, intimidation and bullying, he or she must take immediate steps to intervene when safe to do so.

The district prohibits retaliatory behavior against any complainant or any participant in the complaint process. Each complaint of discrimination, harassment, intimidation and bullying shall be promptly investigated in a way that respects the privacy of all parties concerned.

(cf. 5131.2 - Bullying)

(cf. 5145.2 - Freedom of Speech/Expression: Publications Code)

(cf. 5145.7 - Sexual Harassment)

Students who harass, intimidate or bully other students on these prohibited bases shall be subject to appropriate counseling and discipline, up to and including expulsion. An employee who permits or engages in such harassment, intimidation and bullying may be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/disciplinary Action)

(cf. 5131.2 - Bullying)

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

Any student who feels that he/she is being discriminated against, harassed, intimidated or bullied because of actual or perceived disability, sex, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics, should immediately contact the principal or designee; and if unable to contact the principal or designee, such a student should immediately contact any other member of district staff. In addition to informal resolution of complaints of discrimination, harassment, intimidation and bullying at the site level through a complaint to the site principal or designee, a written complaint can be filed in accordance with the district's Uniform Complaint Procedures (BP 1312.3). Policies explaining complaint procedures are available at all school sites and at the Education Center.

(cf. 1312.3 - Uniform Complaint Procedures)

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING (continued)

In the event of a complaint regarding gender equity or sexual harassment, or discrimination, including harassment, intimidation and bullying because of actual or perceived disability, sex, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics, contact one of the following Title IX and Nondiscrimination Coordinators:

For complaints against employees:

Associate Superintendent, Human Resources, (916) 686-7795; 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

For student against student complaints:

Associate Superintendent, PreK-6 Education, (916) 686-7704; 9510 Elk Grove-Florin Road, Elk Grove, CA 95624; or
Associate Superintendent, Secondary Education, (916) 686-7706, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

In the event of a complaint regarding discrimination based upon an actual or perceived mental or physical disability, contact the District's Director of Student Support and Health Services (916) 686-7797, 9510 Elk Grove-Florin Road, Elk Grove, CA 95624.

Legal Reference:

CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct minor

EDUCATION CODE

40 Prohibited sex discrimination

41 School-sponsored athletic programs; prohibited sex discrimination

200 et seq. Prohibition of discrimination on the basis of sex

48900-48925 Suspension or expulsion

48900.2 Suspension or expulsion for sexual harassment

48900.3 Suspension or expulsion for act of hate violence

48900.4 Suspension or expulsion for threats or harassment

48904 Liability of parent/guardian for willful student misconduct

48907 Student exercise of free expression

48950 Freedom of speech

49020 et seq. Athletic programs

51006 et seq. Equitable access to technological education programs

51500 Prohibited instruction or activity

51501 Prohibited means of instruction

Students

BP 5145.3(e)

NONDISCRIMINATION/HARASSMENT/INTIMIDATION/BULLYING (continued)

60044 Prohibited instructional materials

CODE REGULATIONS, TITLE 5

4621 District policies and procedures

4622 Notice Requirements

PENAL CODE

422.5 Definition of hate crime

UNITED STATES CODE, TITLE 42

2000d & 2000e et seq. Title VI & VII, Civil Rights Act of 1964 as amended

2000h-2 et seq. Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3a Prohibition of discrimination on basis of race, color or national origin

106.8 Designation of responsible employee

106.9 Notification of nondiscrimination on basis of sex

Policy

Adopted: October 29, 1984

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April 6, 1998

June 7, 1999

July 1, 2002

June 19, 2012

February 3, 2015

March 1, 2016

ELK GROVE UNIFIED SCHOOL DISTRICT

Elk Grove, California