

AP 3438 Prohibition of Bullying of District Employees

Reference:

Education Code Sections 212.5; 44100; 66252; 66281.5;
Government Code Section 12950.1;
Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. and 2000e.;
Academic Senate Resolution 3.0.1 (Spring 2011);
AB620 Assembly Bill
BP 3436 Prohibition of Bullying

It is the priority of the District to provide every employee with a safe and orderly learning and working environment. To this end, the Board specifically prohibits harassing or bullying behavior at all levels between District employees. This administrative procedure is in addition to AP 3430: Prohibition of Harassment.

Employees are expected to comply with the behavior standards established by Board Policy and institutional system regulations. Volunteers and visitors on school property are also expected to comply with Board Policy and established institutional rules and procedures.

The Board specifically prohibits reprisal or retaliation against any individual who makes a complaint or reports an incident of harassing or bullying behavior or who participates in an investigation or grievance proceeding initiated under this administrative procedure. Reprisal or retaliation against any individual who reports an act of harassment or bullying may result in disciplinary action being taken, including termination from employment.

1. Definition of Harassment and Bullying

- A. As used in this administrative procedure, harassing or bullying behavior is any repeated, unwanted, systematic pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication on District property; at any District sponsored function; or as otherwise stated in Board Policy 5500: Standards of Conduct, and that:
- 1) Places an employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
 - 2) Creates or is certain to create a hostile environment by substantially interfering with or impairing an employee's work performance, opportunities, or benefits. A hostile environment means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or

harassing behavior.

- B. Harassing or bullying behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, gender identity, gender expression, socioeconomic status, academic status, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

2. Reporting Harassing and Bullying Behavior

- A. Any District employee who believes that he or she has been harassed or bullied in violation of this administrative procedure should report such behavior to their immediate supervisor and/or the Executive Director of Human Resources or designee.
- B. A District employee who has witnessed or has reliable information that an employee has been subject to any act of harassing or bullying behavior shall report the incident as follows:
 - 1) To the immediate supervisor of the alleged harasser or bully and/or the Executive Director of Human Resources;
 - 2) Failure to report may subject the employee to disciplinary action.
- C. Any person may report an act of harassment or bullying anonymously. However, formal disciplinary action may not be taken solely on the basis of an anonymous report.

3. Investigation of Harassment and Bullying Reports

- A. All complaints of harassing or bullying behavior made by employees shall be promptly to their immediate supervisor and/or the Executive Director of Human Resources.
- B. If the individual required to investigate a complaint made under this administrative procedure is the alleged harasser or bully, the investigation shall be conducted by an appropriate administrator as designated by the Superintendent/President. If the alleged perpetrator is the Superintendent/President, the Board attorney is the investigator. In such cases, whoever receives a complaint of harassment or bullying shall immediately notify the Executive Director President of Human Resources, who shall immediately notify the Board President. The Board President shall direct the

Board attorney to respond to the complaint and investigate. If the alleged perpetrator is a member of the Board, the Board attorney is the investigator. In such cases, whoever receives a complaint of harassment or bullying shall notify the Superintendent/President who shall direct the Board attorney to respond to the complaint and investigate. Unless the Board President is the alleged perpetrator, the Superintendent/President shall also notify the Board President of the complaint.

- C. If at any time during the investigation the District official investigating an employee allegation of harassment or bullying receives information alleging the harassment or bullying was based on sex or gender, the school official shall notify the Title IX Coordinator. In such cases, the procedures outlined in Board Policy 3540: Sexual and Other Assaults on Campus shall be followed. Further, in any case of alleged harassment or bullying, the District shall notify any other appropriate person or entity if required by law or Board Policy 3515-Reporting of Crimes.

4. **Disciplinary Action**

- A. The actions taken in response to evidence of harassing or bullying behavior should be reasonably calculated to end any harassment or bullying, eliminate a hostile environment if one has been created, and prevent harassment from occurring again. In addition to taking disciplinary action as necessary, the Superintendent/President or designee shall take appropriate remedial action to address the conduct fully.
- B. Violations of this administrative procedure shall be considered misconduct and will result in disciplinary action up to and including termination from employment.
- C. This administrative procedure may not be construed to allow District officials to punish student expression or speech based on an undifferentiated fear or apprehension of disturbance or out of a desire to avoid the discomfort and unpleasantness that may accompany an unpopular viewpoint.
- D. Nothing in this administrative procedure precludes the District from taking disciplinary action against an employee where the evidence does not establish harassment but the conduct otherwise fails to satisfy the District's high expectations for appropriate conduct.

This administrative procedure shall be widely published and publicized to administrators, faculty, staff, and students, particularly when they are new to the

institution. They shall be available for students and employees in all administrative offices.