

POLICY 5131.2: BULLYING

Comparison Chart

Section: Students

SUMMARY OF UPDATE

Summary of Update: *The policy has been updated to reflect NEW LAW (AB 1078, 2023), which mandates that the district's policy against discrimination, harassment, intimidation, and bullying includes a statement that it applies to all actions taken by the Governing Board and Superintendent in establishing district policies and procedures. Additionally, the update references new guidance from the U.S. Department of Education on addressing discrimination and incorporates recommendations from CSBA's policy brief on bullying and cyberbullying. This encourages district families to model respectful behavior, contribute to a safe and supportive learning environment, and monitor potential causes of bullying.*

CSBA NOTE: Education Code 234.4 mandates districts to adopt procedures for preventing acts of bullying, including cyberbullying. The following policy and accompanying administrative regulation contain sample procedures that fulfill this mandate and may be revised to reflect district practice.

In addition, Education Code 234.1 and federal law mandate that the Governing Board adopt policy as well as a process for prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics and ensuring the protection of complainants from retaliation. Education Code 234.1 requires that the district's nondiscrimination policy include a statement that the policy applies to all acts related to a school activity or school attendance and, as amended by AB 1078 (Ch. 229, Statute of 2023), all acts of the Board and the Superintendent in enacting policies and procedures that govern the district. See BP 0410 - Nondiscrimination in District Programs and Activities and BP 5145.3 - Nondiscrimination/Harassment for language fulfilling this mandate.

The U.S. Department of Education Office for Civil Rights' (OCR) October 2010 Dear Colleague Letter, "Harassment and Bullying," clarifies that misconduct that falls under a district's general anti-bullying policy may also trigger responsibilities under one or more federal or state antidiscrimination laws if the bullying is on the basis of race, color, national origin, sex, sexual orientation, gender identity or expression, age, disability, and/or another legally protected category. Federal law requires the district to take immediate and appropriate action to investigate or otherwise determine what occurred and, if it finds that unlawful discrimination did occur, take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

OCR's October 2014 Dear Colleague Letter, "Responding to Bullying of Students with Disabilities," explains that any bullying of a student with a disability that results in the student not receiving meaningful educational benefit constitutes a denial of a free appropriate public education and must be remedied under the federal Individuals with Disabilities Education Act. As necessary, the school may need to convene the student's individualized education program (IEP) team to determine whether the student's needs have changed as a result of the bullying and, if so, revise the IEP to ensure that the student continues to receive appropriate special education and related services.

OCR's November 2023 Dear Colleague Letter, "Discrimination, Including Harassment, Based on Shared Ancestry or Ethnic Characteristics," further states that all students, including students who are or are perceived to be Jewish, Israeli, Muslim, Arab, or Palestinian, as well as students who come from, or are perceived to come from, all regions of the world, are entitled to a school environment free from discrimination based on race, color, or national origin. Title VI also protects students from discrimination which is based on (1) actual or perceived citizenship or residency in a country with a dominant religion or distinct religious identity, including Jewish, Muslim, Sikh, Hindu, Christian, and Buddhist students, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes, (2) a student's skin color, physical features, or style of dress that reflects both ethnic and religious traditions, and (3) where a student came from or is perceived to

have come from. Discrimination based on a student's foreign accent, foreign name, or a student speaking a foreign language may also violate Title VI's prohibitions against discrimination.

OCR's May 2023 Dear Colleague Letter, "Addressing Discrimination Against Jewish Students," states that a school violates Title VI when it fails to take adequate steps to address discriminatory harassment, including antisemitic harassment. Such harassment may include ethnic or ancestral slurs, harassment based on appearance, dress, or speech in ways linked to ethnicity or ancestry, or stereotyping based on perceived shared ancestral or ethnic characteristics.

The U.S. Department of Education's June 2023 Toolkit, "Creating Inclusive and Nondiscriminatory School Environments for LGBTQI Students," includes examples of policies and practices that schools and districts may consider developing to support lesbian, gay, bisexual, transgender, queer, or intersex students and families, including training and activities to reduce and prevent bullying.

Additionally, CSBA's October 2023 Policy Brief, "School Safety: Bullying and Cyberbullying," provides that a positive, safe, and inclusive school climate helps prevent bullying and harassment, reduce absenteeism, and improve academic achievement, and includes resources to assist districts in building safe and inclusive schools.

CURRENT VERSION			REVISED VERSION	CSBA MODIFICATIONS and/or NOTES
PARA	Section	Sub-Section	December 8, 2020	
			<i>This policy shall apply to all acts constituting bullying related to school activity or to school attendance occurring within a district school, 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, and to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district.</i>	New paragraph added While this policy is intended to prevent and address all types of bullying incidents among students, when "discriminatory bullying" is committed and the bullying is sufficiently serious to create a hostile educational environment for the alleged victim or to otherwise deny or limit the student's educational benefits and services, including denial of a free appropriate public education, the alleged victim must be afforded the protections specified under relevant state and/or federal law.
1			The Governing Board recognizes the harmful effects of bullying on student well-being, student learning and school attendance and desires to provide safe school environments	The Board recognizes the harmful effects of bullying on student well-being, student learning, and school attendance and desires to provide <i>a welcoming, safe, and supportive</i>

		that protects students from physical and emotional harm. 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.	school environment that protects students from physical, <i>mental</i> , and emotional harm. 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.	
2		The Superintendent or designee shall develop strategies for addressing bullying 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.	No change	CSBA NOTE: Because bullying and its effects extend beyond the school environment, collaboration among a variety of community agencies and organizations that serve youth may be helpful in preventing and responding to bullying. For further information about building a collaborative, see CSBA's publications, "Safe Schools: Strategies for Governing Boards to Ensure Student Success," and "Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement."
3		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.	No change	CSBA NOTE: Education Code 32282 encourages districts to include bullying prevention policies and procedures in their comprehensive safety plan; see BP 0450 - Comprehensive Safety Plan. In addition, Education Code 52060-52077 require the Board to adopt and annually update a local control and accountability plan which includes, among other specified state priorities, goals for addressing school climate; see BP/AR 0460 - Local Control and Accountability Plan. Pursuant to Education Code 52060, school climate should be measured by student suspension and expulsion rates and other local measures, including surveys of students,

				parents/guardians, and teachers on the sense of safety and school connectedness, as applicable.
4		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. 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.	No change	<p>CSBA NOTE: Pursuant to Education Code 234.1, districts are required to adopt a process for receiving and investigating complaints involving unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on specified characteristics. Pursuant to 5 CCR 4600-4633, the uniform complaint procedures (UCP) must be used for this purpose. In addition, federal regulations require districts to adopt procedures providing for prompt and equitable resolution of complaints of unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) on the basis of sex (34 CFR 106.8), disability (28 CFR 35.107 and 34 CFR 104.7), and age (34 CFR 110.25).</p> <p>Although some bullying incidents may not fall within the provisions of Education Code 234.1 or federal civil rights regulations, CSBA strongly recommends that districts use the UCP to investigate all bullying incidents (whether discriminatory or nondiscriminatory) to ensure consistent implementation by district staff. It is not always easy or possible for staff to know prior to an investigation whether a student was bullied because of an actual or perceived membership in a legally protected class. Those bullying incidents found to involve discrimination based on the results of the investigation would then be resolved using the UCP. When a bullying incident is determined to be nondiscriminatory, it should be resolved through the appropriate disciplinary process.</p>

				Districts that are concerned about the capacity of a single district compliance officer to handle a possible increase in the number of UCP complaints, or that prefer to handle certain incidents at the school site level whenever possible, may designate multiple compliance officers in accordance with AR 1312.3 - Uniform Complaint Procedures.
5		If the Superintendent or designee believes it is in the best interest of a student who has been the victim of an act of bullying, as defined in Education Code 48900, the Superintendent or designee shall advise the student's parents/guardians that the student may transfer to another school. If the parents/guardians of a student who has been the victim of an act of bullying requests a transfer for the student pursuant to Education Code 46600, the Superintendent or designee shall allow the transfer in accordance with law and district policy on intradistrict or interdistrict transfer, as applicable.	No change	CSBA NOTE: Education Code 46600 requires a district to approve an intradistrict transfer request for a victim of bullying. If there is no available school for an intradistrict transfer, the district cannot prohibit the student's interdistrict transfer. See BP/AR 5116.1 - Intradistrict Open Enrollment and AR 5117 - Interdistrict Attendance.
			<i>District families are encouraged to model respectful behavior, contribute to a safe and supportive learning environment, and monitor potential causes of bullying</i>	New paragraph added
6		Any employee who permits or engages in bullying or retaliation related to bullying shall be subject to disciplinary action, up to and including dismissal.	No change	

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