

CSBA Sample

Board Policy

Students

BP 5145.9(a)

HATE-MOTIVATED BEHAVIOR

Note: The following **optional** policy addresses prevention strategies for hate-motivated incidents and should be modified to reflect district practice. Elements of this policy may be integrated into existing district and school site plans, such as the local control and accountability plan, comprehensive school safety plan, and staff development plans.

The Governing Board is committed to providing a **respectful, inclusive, and** safe learning environment that protects students from discrimination, harassment, intimidation, bullying, **or any other type of behavior that is motivated by hate.** ~~and other behavior motivated by a person's hostility towards another person's real or perceived ethnicity, national origin, immigrant status, sex, gender, sexual orientation, religious belief, age, disability, or any other physical or cultural characteristic. The Superintendent or designee shall design strategies to promote harmonious relationships among students, prevent incidents of hate-motivated behavior to the extent possible, and address such incidents if they occur.~~

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

(cf. 0415 - Equity)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3515.4 - Recovery for Property Loss or Damage)

(cf. 5131- Conduct)

(cf. 5131.2 - Bullying)

(cf. 5131.5 - Vandalism and Graffiti)

(cf. 5136 - Gangs)

(cf. 5137 - Positive School Climate)

(cf. 5141.52 - Suicide Prevention)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Note: The following paragraph reflects the definition of "hate-motivated behavior" specified in the California Department of Education's (CDE) publication Bullying at School, expanded to include the categories of protected characteristics identified in state and federal law. Also see BP 0410 - Nondiscrimination in District Programs and Activities and AR 1312.3 - Uniform Complaint Procedures.

***Hate-motivated behavior* is any behavior intended to cause emotional suffering, physical injury, or property damage through intimidation, harassment, bigoted slurs or epithets, force or threat of force, or vandalism motivated in part or in whole by bias or hostility toward the victim's real 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 any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55.**

HATE-MOTIVATED BEHAVIOR (continued)

The Superintendent or designee shall design strategies to promote harmonious relationships among students, prevent incidents of hate-motivated behavior to the extent possible, and address such incidents **in a timely manner if when they occur.**

Note: Hate-motivated behavior, such as an assault, physical threat, bomb threat, destruction of property, graffiti, and ~~certain types of~~ vandalism, may constitute a crime under state or federal law. Local law enforcement agencies, ~~and human rights commissions,~~ **and community organizations** throughout the state have established countywide hate crimes networks aimed at responding to and preventing hate crimes.

Districts can identify local hate crime resources through the California Association of Human Relations Organizations, which conducts activities designed to protect human and civil rights **by creating a climate of respect and inclusion** through networks of collaborations that reduce community tension and build intergroup relationships.

~~The following optional paragraph should be revised to reflect district practice.~~

The Superintendent or designee shall collaborate with regional programs and community organizations to promote **safe an environments for youth where diversity is celebrated and hate-motivated behavior is not tolerated.** Such collaborative efforts shall focus on ~~ensuring an efficient use of district and community resources, developing the development of~~ effective prevention strategies and response plans, ~~providing~~ **provision of** assistance to students affected by hate-motivated behavior, and/or ~~educating~~ **education of** students who have perpetrated hate-motivated acts.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 1700 - Relations Between Private Industry and the Schools)

(cf. 5148.2 - Before/After School Programs)

The district shall provide students with age-appropriate instruction that:

1. ~~i~~Includes the development of social-emotional learning;
2. ~~p~~Promotes ~~their an~~ understanding, **awareness, appreciation,** ~~of~~ and respect for human rights, **human relations,** diversity, and acceptance in a multicultural society;
3. **Explains the harm and dangers of explicit and implicit biases**
4. **Discourages discriminatory attitudes and practices and**
5. ~~p~~Provides strategies to manage conflicts constructively;

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 6142.3 - Civic Education)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. 6142.94 - History-Social Science Instruction)

HATE-MOTIVATED BEHAVIOR (continued)

As necessary, the district shall provide counseling, guidance, and support to students who are victims of hate-motivated behavior and to students who exhibit such behavior.

(cf. 6164.2 - Guidance/Counseling Services)

When appropriate, students who engage in hate-motivated behavior shall be disciplined.

(cf. 5144 - Discipline)

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

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

~~The Superintendent or designee shall ensure that the rules prohibiting hate-motivated behavior and procedures for reporting a hate-motivated incident are provided to students and parents/guardians.~~

Note: Education Code 218 requires CDE, by July 1, 2021, to develop and/or update resources for use in schools serving students in grades 7-12 for in-service training for the support of lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) students, and strategies to increase support for LGBTQ students which improve overall school climate. Pursuant to Education Code 218, districts that serve students in grades 7-12 are encouraged to use such resources to provide training at least once every two years to teachers and other certificated staff.

The Superintendent or designee shall provide staff with training **that on:**

- 1. Promotes an understanding of diversity, equity, and inclusion**
- 2. Discourages the development of discriminatory attitudes and practices**
- 3. Includes social-emotional learning and nondiscriminatory instructional and counseling methods**
- 4. Supports the prevention, recognition, recognizing and response preventing to hate-motivated behavior**
- 5. Raises the awareness and sensitivity of staff to potentially prejudicial and discriminatory behavior and on**
- 6. Includes effectively enforcement enforcing of rules for appropriate student conduct.**

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

HATE-MOTIVATED BEHAVIOR (continued)

Employees who engage in hate-motivated behavior shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

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

~~The Superintendent or designee shall ensure that the r~~**Rules prohibiting hate-motivated behavior and procedures for reporting a hate-motivated incident are shall be provided to students, staff, and parents/guardians.**

This policy shall be posted in a prominent location on the district's web site in a manner that is readily and easily accessible to parents/guardians and students. (Education Code 234.6)

(cf. 1113 - District and School Web Sites)

Complaints Process

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 race or ethnicity, nationality, **disability**, gender, **gender identity**, **gender expression**, sex, sexual orientation, religion, immigration status, or any characteristic contained in the definition of hate crimes in Penal Code 422.55, **or association with a person or group with one or more of these actual or perceived characteristics**. In addition, federal regulations require districts to adopt procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25). Pursuant to 5 CCR 4600-4670, uniform complaint procedures (UCP) must be used for this purpose. See BP/AR 1312.3 - Uniform Complaint Procedures. **Complaints of sexual harassment that meet the federal definition of sexual harassment in 34 CFR 106.30 must be addressed through the procedures specified in 34 CFR 106.44-106.45; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.**

Although some incidents of harassment, intimidation, or bullying 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 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 victimized because of **his/her an** actual or perceived membership in a legally protected class. Those incidents found to involve discrimination based on the results of the investigation would then be resolved using the UCP. When an incident is determined to be nondiscriminatory, it should be resolved through the appropriate disciplinary process.

~~A student or parent/guardian who believes the student is a victim of hate motivated behavior is strongly encouraged to report the incident to a teacher, the principal, or other staff member.~~

Any staff member who is notified that hate-motivated behavior has occurred, observes such behavior, or otherwise becomes aware of an incident shall immediately contact the **principal**

HATE-MOTIVATED BEHAVIOR (continued)

~~or the~~ compliance officer responsible for coordinating the district's response to complaints and complying with state and federal civil rights laws. As appropriate, ~~he/she~~ **the staff member** shall also contact law enforcement.

(cf. 3515.3 - District Police/Security Department)

(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)

A student or parent/guardian who believes the student is a victim of hate-motivated behavior is ~~strongly~~ encouraged to report the incident to a teacher, the principal, **the district's compliance officer**, or other staff member.

Any complaint of hate-motivated behavior shall be investigated and, if determined to be discriminatory, shall be resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures **or other applicable procedure**. If, during the investigation, it is determined that a complaint is about nondiscriminatory behavior, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

~~*(cf. 5144 - Discipline)*~~

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

~~*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*~~

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

Legal Reference: (see next page)

HATE-MOTIVATED BEHAVIOR (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

32282 School safety plans

48900.3 Suspension for hate violence

48900.4 Suspension or expulsion for ~~threats or~~ harassment, threats, **or intimidation**

GOVERNMENT CODE

11135 Prohibition of discrimination in programs or activities

PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

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

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.30 Discrimination on the basis of sex in education programs and activities; definitions

106.44 Recipient's response to sexual harassment

106.45 Grievance process for formal complaints of sexual harassment

110.25 Prohibition of discrimination based on age

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Bullying at School, 2003

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

HUMAN RIGHTS CAMPAIGN FOUNDATION PUBLICATIONS

California LGBTQ Youth Report, 2019

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Harassment and Bullying, October 2010

Dear Colleague Letter: Prohibited Disability Harassment, July 2000

WEB SITES

CSBA: <http://www.csba.org>

California Association of Human Relations Organizations: <http://www.cahro.org>

California Department of Education: <http://www.cde.ca.gov>

California Office of the Attorney General: <http://oag.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

U.S. Department of Health and Human Services: <http://www.stopbullying.gov>

U.S. Department of Justice: <https://www.justice.gov>

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