

Policy 5145.3: Nondiscrimination/Harassment

Status: pending

Original Adopted Date: 08/08/2018 | **Last Revised Date:** 08/12/2020 | **Last Reviewed Date:** 08/12/2020

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.

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 Procedures

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.

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 prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

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.

Escalation Assistance (Uniform Complaint Procedure, UCP)

The *California Code of Regulations* (Title 5, Section 4600 et seq.) requires districts, among other things, to adopt and publish procedures referred to as the Uniform Complaint Procedures (UCP) that provide for prompt and equitable resolution of discrimination, harassment, intimidation, and bullying complaints. The district must notify students, employees, and parents, as well as others, of its local complaint procedures and identify the person or persons responsible for processing complaints (Board Policy 1312.3).

Students, parents, or interested third parties or organizations who want to report an instance of discrimination, harassment, intimidation and bullying, must file a complaint with the district no later than six months from the date the incident occurred, or the date you first obtained knowledge that the incident occurred. The district may have a complaint form available for your use, however, it is not a requirement to use the district form for filing a complaint. Reporting parties are encouraged to keep a copy of the complaint for their records.

UCP Complaint Form - <https://www.njuhsd.com/documents/Parents/UCP-Form-NJUHSd-v-2.2022.pdf>

If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

How to Fill Out Uniform Complaint Procedure

A signature may be handwritten, typed (including in an email) or electronically generated. Complaints may be filed anonymously. A complaint filed on behalf of an individual student may only be filed by that student or that student's duly authorized representative. If the complainant is unable to put the complaint in writing, due to conditions such as a disability or illiteracy, the district shall assist the complainant in the filing of the complaint.

Response to Uniform Complaint Procedure (UCP)

Within 60 days from the date of receipt of the complaint, the district shall conduct and complete an investigation of the complaint and prepare a written decision. During this process, the person responsible for the filing of the complaint is to be given the opportunity to provide evidence he/she believes supports the allegations. The district decision should include: (1) findings of fact; (2) conclusions of law; (3)

disposition of the complaint; (4) the rationale for such disposition; (5) corrective actions, if necessary; (6) notice of the right to appeal the district's decision to the California Department of Education (CDE) within 15 days; and, (7) the procedures to be followed to initiate such an appeal. If the school district fails to follow any of these rules a complaint can be filed directly with the CDE.

Appeals, Uniform Complaint Procedure (UCP)

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. Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within **30 calendar days** of receiving the district's investigation report. (5 CCR 4632). In addition, an appeal to the CDE can be filed should the district fail to provide a written response. This appeal must be received by the Department within **15 calendar days** of the date the response was due.

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. A disregard of the following guidelines will result in disciplinary action.

Please note, under California law, students can be suspended or expelled if they engage in bullying.

Offense	Other Means of Correction	1st Offense	2nd Offense	Add'L Offenses
Physical injury-any student who causes, attempts to cause, or threatens to cause serious physical injury to another person (Under Ed Code: 48900)	On Campus Intervention	5 days suspension and possible expulsion hearing.	5 days suspension and recommended expulsion.	5 days suspension and recommended expulsion.
Harassed, threatened, intimidated student who is a complaining witness. (Under Ed Code: 48900)	On Campus Intervention	1-5 days suspension.	3-5 days in OCR, Saturday work detention, or suspension.	3-5 days of suspension.
Sexual harassment (Under Ed Code: 48900.2)	On Campus Intervention	1-5 days suspension.	3-5 days of suspension.	3-5 days of suspension, extended suspension, recommendation to expel, and

				police notification.
Sexual Assault (Under Ed Code: 48915)	5 day suspension, extended suspension, recommendation to expel, and police notification.	5 day suspension, extended suspension, recommendation to expel, and police notification.	5 day suspension, extended suspension, recommendation to expel, and police notification.	5 day suspension, extended suspension, recommendation to expel, and police notification.
Harassment, threats, intimidation (Under Ed Code: 48900)	On Campus Intervention	1-5 days suspension.	3-5 days suspension.	3-5 days of suspension, possible recommendation for expulsion.
Act of hate violence (Under Ed Code: 48900)	On Campus Intervention	1-5 days suspension and possible expulsion, police notification.	5 days suspension. Recommended expulsion.	5 days suspension and recommended expulsion.
Hazing/slurs (racial, ethnic, religious, handicapped, sexual). (Under Ed Code: 48900)	On Campus Intervention	1-5 days suspension.	3-5 days OCI, Saturday work detention, or suspension.	5 days suspension.
Bullying (including electronic) (Under Ed Code: 48900)	On Campus Intervention	1-5 days detention, or suspension.	3-5 days OCI, Saturday work detention, or suspension.	5 days suspension.

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, whether intentional or unintentional, that communicate hostile, derogatory, or negative attitudes toward stigmatized or culturally marginalized groups. Microaggressions include, but are not limited to:

inappropriate jokes, inappropriate and derogatory gestures, malicious comments, singling-out students, setting exams and project due dates on religious holidays, and stereotyping. Microaggressions that are racist, ageist, transphobic, xenophobic etc. will be reported and reviewed by the same procedures as stated in the *Complaint Procedures* section.

If Your Child is the Bully

Involve your child in making amends or repairing the situation. The goal is to help them see how their actions affect others. For example, your child can:

- Write a letter apologizing to the student who was bullied.
- Do a good deed for the person who was bullied or for others in your community.
- Clean up, repair, or pay for any property they damaged.
- Speak with their school counselor or administrator.

Work with your student's school if you think additional referrals or resources are needed. Sometimes children bully to fit in. Your student can benefit from participating in positive activities. Involvement in sports and clubs can enable them to take leadership roles and make friends without feeling the need to bully. Other times kids act out because of something else—issues at home, abuse, stress, etc. — are going on in their lives. They also may have been bullied. These kids may be in need of additional support, such as mental health services. Parents should seek additional support from school staff. The StopBullying.gov resource can serve as an additional support for district families.

<https://www.stopbullying.gov/get-help-now/index.html>.

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	<u>Professional Standards</u>
4319.21-E(1)	<u>Professional Standards</u>
5000	<u>Concepts And Roles</u>
5030	<u>Student Wellness</u>
5111	<u>Admission</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.12	<u>District School Attendance Review Board</u>
5113.12	<u>District School Attendance Review Board</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5125.1	<u>Release Of Directory Information</u>
5125.1	<u>Release Of Directory Information</u>
5125.1-E(1)	<u>Release Of Directory Information</u>
5131	<u>Conduct</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5131.5	<u>Vandalism And Graffiti</u>
5132	<u>Dress And Grooming</u>
5132	<u>Dress And Grooming</u>
5137	<u>Positive School Climate</u>
5138	<u>Conflict Resolution/Peer Mediation</u>
5141.27	<u>Food Allergies/Special Dietary Needs</u>
5141.27	<u>Food Allergies/Special Dietary Needs</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.52	<u>Suicide Prevention</u>
5141.52	<u>Suicide Prevention</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.1	<u>Suspension And Expulsion/Due Process</u>
5144.2	<u>Suspension And Expulsion/Due Process (Students With Disabilities)</u>
5145.12	<u>Search And Seizure</u>

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
6143	Courses Of Study
6144	Controversial Issues
6144	Controversial Issues
6145	Extracurricular And Cocurricular Activities
6145	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