

**NONDISCRIMINATION**

The Board of Trustees desires to provide a safe school environment that allows all students equal access 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 of any student based on the student's actual or perceived race, color, ancestry, national origin, nationality, immigration status, ethnicity, ethnic group identification, age, religion, marital or parental status, pregnancy, physical or mental disability, 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.

This policy shall apply to all acts 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. (Education Code 234.1)

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, includes physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also shall include the creation of a hostile environment when the 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.

The Board also prohibits any form of retaliation against any individual who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

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. He/she shall provide training and 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 educational program. He/she shall report his/her findings and recommendations to the Board after each review.

**NONDISCRIMINATION** (continued)

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 for behavior that is severe or pervasive as defined in Education Code 48900.4. School personnel must take immediate steps to intervene when safe to do so upon witnessing an act of discrimination, harassment, intimidation, or bullying. 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.

## 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.

*Legal Reference:**EDUCATION CODE**200-262.4 Prohibition of discrimination**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**48985 Translation of notices**49020-49023 Athletic programs**51500 Prohibited instruction or activity**51501 Prohibited means of instruction**60044 Prohibited instructional materials**CIVIL CODE**1714.1 Liability of parents/guardians for willful misconduct of minor**GOVERNMENT CODE**11135 Nondiscrimination in programs or activities funded by state**PENAL CODE**422.55 Definition of hate crime**422.6 Crimes, harassment**CODE OF REGULATIONS, TITLE 5**432 Student record**4600-4670 Uniform complaint procedures**4900-4965 Nondiscrimination in elementary and secondary education programs**UNITED STATES CODE, TITLE 20**1681-1688 Title IX of the Education Amendments of 1972**12101-12213 Title II equal opportunity for individuals with disabilities*

**NONDISCRIMINATION** (continued)

*UNITED STATES CODE, TITLE 29*

*794 Section 504 of Rehabilitation Act of 1973*

*UNITED STATES CODE, TITLE 42*

*2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended*

*2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964*

*6101-6107 Age Discrimination Act of 1975*

*CODE OF FEDERAL REGULATIONS, TITLE 28*

*35.107 Nondiscrimination on basis of disability; complaints*

*CODE OF FEDERAL REGULATIONS, TITLE 34*

*99.31 Disclosure of personally identifiable information*

*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*

*106.9 Notification of nondiscrimination on basis of sex*

*110.25 Prohibition of discrimination based on age*

*COURT DECISIONS*

*Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567*

*Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130*

*Management Resources:*

*CSBA PUBLICATIONS*

*Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, July 2016*

*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*

*FIRST AMENDMENT CENTER PUBLICATIONS*

*Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006*

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

*Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016*

*Dear Colleague Letter: Title IX Coordinators, April 2015*

*Dear Colleague Letter: Harassment and Bullying, October 2010*

*Notice of Non-Discrimination, Fact Sheet, August 2010*

*WEB SITES*

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

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

*California Safe Schools Coalition: <http://www.casafeschools.org>*

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

*First Amendment Center: <http://www.firstamendmentcenter.org>*

**NONDISCRIMINATION** (continued)

*National School Boards Association: <http://www.nsba.org>*

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

Policy

adopted: August 18, 1997

revised: December 6, 1999

revised: December 9, 2015

revised: March 9, 2016

revised: April 13, 2016

revised: July 25, 2018

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

San Juan Capistrano, California