

# **Palm Springs USD**

## **Board Policy**

BP 5145.3, Students

### **NONDISCRIMINATION/HARASSMENT**

District programs and activities shall be free from discrimination, including harassment, intimidation, and bullying targeted at any student with respect to a student's actual or perceived sex, gender, gender identity, gender expression, ethnic group identification, ethnicity, race, nationality, national origin, immigration status, religion, color, physical or mental disability, age, ~~or~~ sexual orientation, ancestry, pregnancy, parental status, marital status or genetic information, or association with a person or group with one or more of these actual or perceived characteristics.

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

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

(cf. 5146 - Married/Pregnant/Parenting Students)

(cf. 6164.6 - Identification and Education under Section 504)

This policy shall apply to all acts related to school activity or to school attendance occurring in the district, and to acts occurring off campus or outside of school-related or school-sponsored activities but which may have an impact at school such as creating a hostile environment at school.

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 includes 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 the student's educational opportunities.

Unlawful discrimination also includes disparate treatment of students based on any of the categories listed 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 of Education also prohibits any form of retaliation against any individual who participates in the reporting of unlawful discrimination or participates in the investigation of a

complaint alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

The Board shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The district may provide male and female students with separate shower rooms and sexual health and HIV/AIDS prevention classes in order to protect student modesty.

The Superintendent or designee shall regularly publicize, within the district and in the community, the district's nondiscrimination policies and the availability of complaint procedures.

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6164.2 - Guidance/Counseling Services)

The Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 5145.7 - Sexual Harassment)

Students who harass other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion. An employee who permits or engages in discrimination or harassment may be subject to disciplinary action, up to and including dismissal.

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

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

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

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

The Board hereby designates the following position as Coordinator for Nondiscrimination ("Coordinator") to handle complaints regarding discrimination and inquiries regarding the district's nondiscrimination policies:

Assistant Superintendent of Educational Services and/or designee

Palm Springs Unified School District

150 District Center Drive

Palm Springs, CA 92264

760-883-2700

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

Any student who feels that he/she is being harassed should immediately contact the Coordinator, the principal or any other staff member. Any student who observes an incident of discrimination or harassment should report the incident to a school employee, whether or not the victim files a complaint.

Employees who become aware of an act of discrimination or harassment shall immediately report the incident to the Coordinator. Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment and AR 1312.3 – Uniform Complaint Procedures. Where the Coordinator finds that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim.

The Coordinator shall also advise the victim of any other remedies that may be available. The Coordinator shall file a report with the Superintendent or designee and refer the matter to law enforcement where required.

Legal Reference:

#### EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex, especially:

221.5 Prohibited sex discrimination

221.7 School-sponsored athletic programs; prohibited sex 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

49020-49023 Athletic programs

51006-51007 Equitable access to technological education 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

4600-4687 Uniform complaint procedures

4622 Notice requirements

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

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

UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

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

2000h-2-2000h-6 Title IX, of the Educational Amendments of 1972

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

#### 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:

#### CALIFORNIA SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Updated Legal Guidance Protecting Transgender and Gender Nonconforming Students Against Discrimination, March 2017

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

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

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, January, 1999

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 FR 47, March, 1994

#### WEB SITES

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

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

Policy PALM SPRINGS UNIFIED SCHOOL DISTRICT

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