

## **NON-DISCRIMINATION/HARASSMENT OF STUDENTS**

### **Non-discrimination and Harassment**

The Governing Board shall ensure that all district programs and activities shall be free from discrimination, including harassment, with respect to the actual or perceived ethnic group, religion, gender, color, race, ancestry, national origin, and physical or mental disability, age or sexual orientation.

### **Equal Opportunities and Access**

Furthermore, the Governing Board shall ensure equal opportunities for students in admission and access to all educational programs, guidance and counseling programs, athletic and intramural sports programs, testing procedures, and other extracurricular activities. Eligibility for choral and cheerleading groups shall be determined solely on the basis of objective competencies. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. In certain special cases as provided by law and/or district policy, separate provisions may be made for students according to sex with respect to such matters as protection of modesty in shower rooms and in sex education classes and in the state's physical fitness standards when the standards adversely affect students because of gender, race, ethnic group or disability.

The Governing 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. Students who harass other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion.

### **Coordination of Title IX and Section 504**

The Governing Board hereby designates the following position: Title IX and Americans With Disabilities Act Section 504 Coordinator.

Director of Instructional Support Services  
309 South K Street, Oxnard, CA 93030  
(805) 385-2510

Any student who feels that he/she is being harassed should immediately contact either the school principal, a school administrator, or the Title IX ADA Section 504 Coordinator.

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### **Protected Categories**

The protected categories in discrimination law are:

- Race
- National Origin
- Color
- Ancestry
- Ethnic Identification
- Sexual Orientation
- Sex
- Religion
- Mental or Physical Disability (including AIDS and HIV diagnosis)
- Marital Status
- Age (40 and over)
- Perception by others that the person is one of the aforementioned categories
- Medical condition (rehabilitation, cancer and genetic characteristic)
- Refusal of family leave or pregnancy disability leave
- Denial of Leave for an employee's serious health condition

### **Unlawful Harassment Defined**

Certain kinds of conduct that are not welcomed are against the law. Often times this type of un-welcomed conduct is insulting, hurtful, belittling, and degrading and at times is directed against persons that are members of the protected classes as cited in Section I. Both federal and state law, as well as current board policy, prohibit such behavior. The behaviors include, but are not limited to, the following:

- Slurs, insults, derogatory comments
- Verbal and/or physical abuse of a person because that person is a member of a protected category ,
- Negative or insulting gestures
- Intimidation (physical, verbal, or psychological) impeding or blocking movement
- Jokes about a specific protected category
- Unwanted sexual advances, offering employment benefits in exchange for sexual favors, threatening or making reprisals after a negative response to a request for sexual favors, sexual leering, displaying sexually suggestive objects or pictures, or using sexually degrading words to describe an individual.

### **Reasonable Victim Standard**

If a reasonable person of the same protected category finds the conduct offensive and un-welcomed, then the conduct is unlawful.

**Personal Liability:** Generally speaking, employers defend and indemnify (pay settlements/damages) employees who are conducting themselves in the scope of their employment. The courts have held that discriminatory conduct, such as unlawful harassment, is conduct which is outside the scope of one's employment and, therefore, employees and board of trustee members could be required to defend and indemnify themselves if found guilty of the conduct.

**Entity Liability:** If individual employees are negligent and allow someone to engage in unlawful harassment, then the public entity may be held liable.

**Duties and Responsibilities:**

A. The Victim:

If one is the victim of unlawful harassment based on a protected category:

1. It is suggested that the victim politely confront the offender and let the person know that the conduct is unwelcome and offensive. Often this provokes a genuine apology and the other person learned a valuable lesson.
2. If one suffers unlawful harassment based on a protected category, report the matter to the principal or designee or to school staff with whom you feel comfortable discussing the issue.
3. If one believes that adequate action has not been taken by the school site personnel, then report the matter to the Director of Instructional Support Services.
4. If an investigation is conducted, all employees are to keep the findings of the investigation confidential, unless otherwise required by law.
5. All individuals have the right to complain about any unlawful harassment or retaliation resulting from reporting unlawful harassment to the matter to the Department of Fair Employment and Housing at any time.

B. If One is Aware of Harassment Against Another:

If an employee observes unlawful harassment against another person, the employee has the following duties:

1. When the harassment is student-to-student, to intervene and stop the harassment.
2. Report the matter to the principal or designee. This would include use of harassing epithets, assaults, batteries, serious attempts at intimidation.
3. If the conduct constitutes "child abuse"<sup>2</sup>
  - a. Immediately phone either Child Protective Services (654-3200) or the local law enforcement and report the matter.
  - b. Within 36 hours, file a Child Abuse Report with either Child Protective Services or the police. Blank reports are kept in the school nurse's office or in cases where a site does not have a school nurse, all teachers have child abuse reporting forms.
4. Report the matter to the appropriate manager in cases of unlawful and inappropriate conduct of other staff.

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<sup>2</sup> "Child abuse" is defined as: Whenever a certificated employee, or classified employee who works with children, reasonably concludes that child abuse has taken place, then that individual is required by law to report the child abuse to the appropriate authorities.

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- (cf. 1312.1 Complaints Concerning District Employees)
- (cf. 1312.3 Uniform Complaint Procedures)
- (cf. 4118 Suspension/Disciplinary Action)
- (cf. 4218 Dismissal/Suspension/Disciplinary Action)
- (cf. 5144 Discipline)
- (cf. 5144.1 Suspension and Expulsion /Due Process)
- (cf. 5144.2 Suspension and Expulsion/Due Process (Students with Disabilities))
- (cf. 0410 Nondiscrimination in District Programs and Activities)
- (cf. 5145.9 Hate-Motivated Behavior)
- (cf. 5146 Married/Pregnant/Parenting Students)
- (cf. 6164.6 Identification and Education under Section 504)

### 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 of 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

#### **CODE OF REGULATIONS, TITLE 5**

- 4621 District policies and procedures
- 4622 Notice requirements

#### **PENAL CODE**

- 422.6 Interference with constitutional right or privilege

#### **UNITED STATES CODE, TITLE 42**

- 2000d-2000e-17 Title VI & VII Civil Rights Act of 1964 as amended
- 2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

#### **CODE OF FEDERAL REGULATIONS, TITLE 34**

- 100.3a 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