Information Sheet – 8/21/18 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.5

FR: Celli Coeville

DATE: August 16, 2018

RE: Revised Board Policy, BP 5145.9, Hate-Motivated Behavior, Consider Adoption as Presented

Hate-Motivated Behavior, BP 5145.9:

(BP revised) Policy updated to define hate-motivated behavior and expand material related to collaboration, staff training, and enforcement of rules regarding student conduct. Policy also provides for the use of uniform complaint procedures when the behavior is determined to be based on unlawful discrimination.

Recommendation Action: Approve the revised Board Policy

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 should 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 safe learning environment that protects students from discrimination, harassment, intimidation, bullying, 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.

~~In order to create a safe learning environment for all students, The Governing Board desires to protect the right of every student to be free from hate-motivated behavior and will promote harmonious relationships among students so as to enable them to gain a true understanding of the civil rights and social responsibilities of people in society. The district prohibits discriminatory behavior or statements that degrade an individual on the basis of his/her actual or perceived race, ethnicity, culture, heritage, gender, sex, sexual orientation, physical/mental attributes, or religious beliefs or practices.~~

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 0450 - Comprehensive Safety 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)
~~*(cf. 5147 - Dropout Prevention)*~~
~~*(cf. 5149 - At-Risk Students)*~~

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 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 through networks of collaborations that reduce community tension and build intergroup relationships.

Note: 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 environments for youth. ~~These efforts shall be focused on providing an efficient use of district and community resources.~~ Such collaborative efforts shall focus on ensuring an efficient use of district and community resources, developing effective prevention strategies and response plans, providing assistance to students affected by hate-motivated behavior, and/or educating students who have perpetrated hate-motivated acts.

(cf. 1020 - Youth Services)
(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)
~~*(cf. 5148.3 - Preschool/Early Childhood Education)*~~
~~*(cf. 6020 - Parent Involvement)*~~

The district shall provide students with age-appropriate instruction that includes the development of social-emotional learning, ~~to help~~ promotes an understanding of and respect for human rights, diversity, and ~~tolerance~~ acceptance in a multicultural society, and ~~to~~ 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. 6141.94 - History-Social Science Instruction)

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)

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.

The Superintendent or designee shall provide ~~ensure that~~ staff ~~receive~~ with training on recognizing and preventing hate-motivated behavior and on ~~strategies to help respond appropriately to such behavior.~~ effectively enforcing rules for appropriate student conduct.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

~~Grievance Procedures~~ Complaint 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, gender, sex, sexual orientation, religion, immigration status, or any characteristic contained in the definition of hate crimes in Penal Code 422.55. 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.***

Note: 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 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.

~~Any student who believes he/she is a victim of hate-motivated behavior shall immediately contact the Principal or. Upon receiving such a complaint, the Principal shall immediately investigate the complaint in accordance with school-level complaint process/grievance procedures as described in AR 5145.7 - Sexual Harassment. A student who has been found to have demonstrated hate-motivated behavior shall be subject to discipline in accordance with law, Board policy, and administrative regulation.~~

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 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 shall also contact law enforcement.

(cf. 3515.3 - District Police/Security Department)
(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)

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. 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. 5131 - Conduct)*~~
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
~~*(cf. 5145.7 - Sexual Harassment)*~~

~~Staff who receive notice of hate-motivated behavior or personally observe such behavior shall notify the Principal, Superintendent or designee, and/or law enforcement, as appropriate.~~

~~*(cf. 3515.3 - District Police/Security Department)*~~

~~*(cf. 4158/4258/4358 - Employee Security)*~~

~~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)*~~

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
PENAL CODE
422.55 Definition of hate crime
422.6 Crimes, harassment
CODE OF REGULATIONS, TITLE 5
4600-4687 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
110.25 Prohibition of discrimination based on age
Management Resources:
~~*CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES*~~
~~*California Student Safety and Violence Prevention - Laws and Regulations, April 2004*~~
~~*U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS & NATIONAL ASSOCIATION OF ATTORNEYS GENERAL PUBLICATIONS*~~
~~*Protecting Students from Harassment and Hate Crime: A Guide for Schools, 1999*~~
~~*U.S. DEPARTMENT OF JUSTICE PUBLICATIONS*~~
~~*Preventing Youth Hate Crimes: A Guide for Schools and Communities, 1997*~~
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 K-12 Schools in Responding to Immigration Issues, April 2018
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
~~*National Youth Violence Prevention Resource Center: http://www.safeyouth.org*~~
U.S. Department of Education, Office for Civil Rights: http://www.ed.gov/about/offices/list/ocr
U.S. Department of Justice~~, Community Relations Service: http://www.usdoj.gov/crs~~
http://www.justice.gov