

CSBA Sample Board Policy

Students

BP 5131.2(a)

BULLYING

Note: The following **optional** policy may be revised to reflect district practice.

Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires the Governing Board to adopt policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics; see BP 5145.3 - Nondiscrimination/Harassment for language fulfilling this mandate. In addition, AB 1156 (Ch. 732, Statutes of 2011) amended Education Code 32282 to encourage comprehensive safety plans to include policies and procedures aimed at the prevention of bullying; see BP 0420 - Comprehensive Safety Plan.

The Governing Board recognizes the harmful effects of bullying on student learning and school attendance and desires to provide safe school environments that protect students from physical and emotional harm. District employees shall establish student safety as a high priority and shall not tolerate bullying of any student.

No student or group of students shall, through physical, written, verbal, or other means, harass, sexually harass, threaten, intimidate, cyberbully, cause bodily injury to, or commit hate violence against any other student or school personnel.

(cf. 5131 - Conduct)

(cf. 5136 - Gangs)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

Note: Pursuant to Education Code 32261 and 48900.2-48900.4, the definition of "bullying" for purposes of establishing grounds for suspension or expulsion includes bullying via an electronic act. AB 746 (Ch. 72, Statutes of 2011) amended Education Code 32261 to expand the definition of bullying committed by means of an electronic act to include posting of messages on social media networks; see AR 5144.1 - Suspension and Expulsion/Due Process.

In addition, Penal Code 653.2 makes it a crime for a person to distribute personal identity information electronically with the intent to cause harassment by a third party and to threaten a person's safety or that of his/her family (e.g., placing a person's picture or address online so that he/she receives harassing messages). Penal Code 288.2 makes it a crime to send a message to a minor if the message contains matter that is sexual in nature with the intent of seducing the minor (i.e., sexting).

Cyberbullying includes the transmission of harassing communications, direct threats, or other harmful texts, sounds, or images on the Internet, social media, or other technologies using a telephone, computer, or any wireless communication device. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage that person's reputation.

(cf. 5145.2 - Freedom of Speech/Expression)

BULLYING (continued)

Strategies for bullying prevention and intervention shall be developed with involvement of key stakeholders in accordance with law, Board policy, and administrative regulation governing the development of comprehensive safety plans and shall be incorporated into such plans.

(cf. 0420 - School Plans/Site Councils)
(cf. 0450 - Comprehensive Safety Plan)
(cf. 1220 - Citizen Advisory Committees)
(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 6020 - Parent Involvement)

Bullying Prevention

To the extent possible, district and school strategies shall focus on prevention of bullying by establishing clear rules for student conduct and strategies to establish a positive, collaborative school climate. Students shall be informed, through student handbooks and other appropriate means, of district and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for perpetrators of bullying.

(cf. 5137 - Positive School Climate)
(cf. 6164.2 - Guidance/Counseling Services)

Note: California content standards related to student education about bullying and violence prevention (e.g., recognizing the characteristics of bullying, examining the effects of bullying on others, demonstrating what to say and do when witnessing bullying) are addressed within the health education content standards adopted by the State Board of Education.

47 USC 254 requires districts that receive e-rate discounts to adopt a policy which addresses educating students about appropriate online behavior, including the interaction with other individuals on social networking web sites and in chat rooms, as well as providing information about cyberbullying awareness and response. See BP 6163.4 - Student Use of Technology for language implementing this mandate.

The district may provide students with instruction, in the classroom or other educational settings, that promotes effective communication and conflict resolution skills, social skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior.

(cf. 6163.4 - Student Use of Technology)
(cf. 6142.8 - Comprehensive Health Education)
(cf. 6142.94 - History-Social Science Instruction)

School staff shall receive related professional development, including information about early warning signs of harassing/intimidating behaviors and effective prevention and intervention strategies.

(cf. 4131 - Staff Development)

BULLYING (continued)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Based on an assessment of bullying incidents at school, the Superintendent or designee may increase supervision and security in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, cafeterias.

Intervention

Students are encouraged to notify school staff when they are being bullied or suspect that another student is being victimized. In addition, the Superintendent or designee shall develop means for students to report threats or incidents confidentially and anonymously.

Note: Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires the district to adopt a process requiring school personnel who witness acts of discrimination, harassment, intimidation, or bullying to take immediate steps to intervene when safe to do so; also see BP 5145.3 - Nondiscrimination/Harassment.

School staff who witness bullying shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

As appropriate, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators. He/she also may involve school counselors, mental health counselors, and/or law enforcement.

Complaints and Investigation

Note: Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires districts to adopt a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying which includes timelines applicable to all district schools, an appeal process, and translation of complaint forms pursuant to Education Code 48985. The following **optional** paragraph provides that complaints regarding bullying will be investigated using the district's grievance procedure for investigation of sexual harassment pursuant to AR 5145.7 - Sexual Harassment. Districts that wish to use another procedure should modify the following paragraph accordingly.

Students may submit to a teacher or administrator a verbal or written complaint of conduct they consider to be bullying. Complaints of bullying shall be investigated and resolved in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment.

Note: Districts have the authority to monitor students' use of the district's Internet system and to conduct individual searches of students' accounts if there is reasonable suspicion that a user has violated district policy or the law; see BP/AR 5145.12 - Search and Seizure and BP/AR 6163.4 - Student Use of Technology.

As noted in the section "Discipline" below, the courts have generally upheld a district's authority to

BULLYING (continued)

discipline a student for off-campus conduct when that conduct causes, or is foreseeably likely to cause, a substantial disruption of school activities. Thus, in complaints regarding off-campus conduct, districts should document, with specific examples, how the speech significantly disrupted or was likely to significantly disrupt school activities and the targeted student's educational performance.

When a student is reported to be engaging in bullying off campus, the Superintendent or designee shall investigate and document the activity and shall identify specific facts or circumstances that explain the impact or potential impact on school activity, school attendance, or the targeted student's educational performance.

When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages sent to them that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated.

If the student is using a social networking site or service that has terms of use that prohibit posting of harmful material, the Superintendent or designee also may file a complaint with the Internet site or service to have the material removed.

Discipline

Note: Pursuant to Education Code 32261 and 48900.2-48900.4, "bullying" is a ground for suspension or expulsion in grades 4-12; see AR 5144.1 - Suspension and Expulsion/Due Process.

As noted in the section "Complaints and Investigation" above, the courts have generally upheld discipline for off-campus conduct that posed a threat to the safety of other students, staff, or school property or presented a risk of substantial disruption of school activities, provided that the district was able to document the impact or disruption that the conduct had, or could be expected to have, on school activities (e.g., Lavine v. Blaine School District). In addition, courts have analyzed the reasonableness of the district's policy and whether the disciplinary action taken by the district was in proportion to the student's misbehavior. For example, the court in J.C. v. Beverly Hills Unified School District found that the district would be able to discipline a student for a video recorded off campus and posted on YouTube, but that the discipline imposed on this particular student was not justified since the district did not present evidence of specific facts that led school officials to predict that the video would cause substantial disruption (e.g., the video was not violent or threatening nor did it lead to any confrontations between the students). When the conduct does not rise to the level of "substantial disruption," the district may implement interventions other than suspension or expulsion to address the bullying. For further information, see CSBA's policy brief Cyberbullying: Policy Considerations for Boards. Also see BP 5131 - Conduct and BP 5145.2 - Freedom of Speech/Expression.

Any student who engages in bullying on school premises, or off campus in a manner that causes or is likely to cause a substantial disruption of a school activity or school attendance, shall be subject to discipline, which may include suspension or expulsion, in accordance with district policies and regulations.

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

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

BULLYING (continued)

(cf. 5144.2 - *Suspension and Expulsion/Due Process (Students with Disabilities)*)
(cf. 6159.4 - *Behavioral Interventions for Special Education Students*)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination*

32282 *Comprehensive safety plan*

35181 *Governing board policy on responsibilities of students*

35291-35291.5 *Rules*

48900-48925 *Suspension or expulsion*

48985 *Translation of notices*

PENAL CODE

647 *Use of camera or other instrument to invade person's privacy; misdemeanor*

647.7 *Use of camera or other instrument to invade person's privacy; punishment*

653.2 *Electronic communication devices, threats to safety*

UNITED STATES CODE, TITLE 47

254 *Universal service discounts (e-rate)*

COURT DECISIONS

J.C. v. Beverly Hills Unified School District, (2010) 711 F.Supp.2d 1094

Lavine v. Blaine School District, (2002) 279 F.3d 719

Management Resources:

CSBA PUBLICATIONS

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

Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010

Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Education Content Standards for California Public Schools: Kindergarten Through Grade Twelve, 2008

Bullying at School, 2003

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

Dear Colleague Letter: Harassment and Bullying, October 2010

WEB SITES

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

California Cybersafety for Children: <http://www.cybersafety.ca.gov>

California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/ls/ss>

Center for Safe and Responsible Internet Use: <http://cyberbully.org>

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

National School Safety Center: <http://www.schoolsafety.us>

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