

AP 3438 Prohibition of Bullying of District Employees

Reference:

Education Code Sections 212.5; 44100; 66252; 66281.5;
Government Code Section 12950.1;
Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. and 2000e.;
Academic Senate Resolution 3.0.1 (Spring 2011);
AB620 Assembly Bill
BP 3436 Prohibition of Bullying

It is the priority of the District to provide every employee with a safe and orderly learning and working environment. To this end, the Board specifically prohibits harassing or bullying behavior at all levels between District employees. This administrative procedure is in addition to AP 3430: Prohibition of Harassment.

Employees are expected to comply with the behavior standards established by Board Policy and institutional system regulations. Volunteers and visitors on school property are also expected to comply with Board Policy and established institutional rules and procedures.

The Board specifically prohibits reprisal or retaliation against any individual who makes a complaint or reports an incident of bullying behavior or who participates in an investigation or grievance proceeding initiated under this administrative procedure. Reprisal or retaliation against any individual who reports an act of bullying may result in disciplinary action being taken, including termination from employment.

1. Definition of Bullying

- A. As used in this administrative procedure, bullying behavior is any unwanted, aggressive behavior that involves a real or perceived imbalance of power between individuals that is either repeated or has potential to become a recurring deliberate act. Bullying includes, but is not limited to, gestures or written, electronic, or verbal communications, or any physical act or any threatening communication on District property or, at any District sponsored function, or as otherwise stated in Board Policy 5500: Standards of Conduct, and that:
- 1) Places an employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
 - 2) Creates or is certain to create a hostile environment by substantially interfering with or impairing an employee's work performance, opportunities, or benefits. A hostile environment means that the victim subjectively views the conduct as bullying behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying behavior.

- B. Bullying behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, gender identity, gender expression, socioeconomic status, academic status, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

2. Reporting Bullying Behavior

- A. Any District employee who believes that he or she has been bullied in violation of this administrative procedure should report such behavior to their immediate supervisor and/or the Vice President of Human Resources or designee.
- B. A District employee who has witnessed or has reliable information that an employee has been subject to any act of bullying behavior shall report the incident as follows:
 - 1) To the immediate supervisor of the alleged bully and/or the Vice President of Human Resources;
 - 2) Failure to report may subject the employee to disciplinary action.
- C. Any person may report an act of bullying anonymously. However, formal disciplinary action may not be taken solely on the basis of an anonymous report.

3. Investigation of Bullying Reports

- A. All complaints of bullying behavior made by employees shall be promptly reported to their immediate supervisor and/or the Vice President of Human Resources. If the complaint alleges the Superintendent/President is the bully, then the Vice President of Human Resources shall immediately notify the Board President. If the complaint alleges a Board member is the bully, then the Vice President of Human Resources shall immediately notify the Superintendent/President and the Board President. However, if the Board President is alleged as the bully, then another Board member may be notified instead.
- B. If the individual required to investigate a complaint made under this administrative procedure is the alleged bully, the investigation shall be conducted by an appropriate administrator as designated by the Superintendent/President. If the alleged perpetrator is the Superintendent/President, the Board shall designate an appropriate administrator or third party investigator to conduct the investigation. If the alleged perpetrator is a member of the Board, the Superintendent/President shall designate an appropriate third party investigator to conduct the investigation.

- C. Any student, employee, unpaid intern, or volunteer who believes that he/she has been bullied or retaliated against in violation of this policy should immediately report such incidents and such incidents shall be investigated as described above and by following the procedures described in AP 3435.
- D. If at any time during the investigation the individual investigating an employee allegation of bullying receives information alleging the bullying was based on sex or gender, the school official shall notify the Title IX Coordinator. In such cases, the procedures outlined in Board Policy 3540: Sexual and Other Assaults on Campus shall be followed. Further, in any case of alleged harassment or bullying, the District shall notify any other appropriate person or entity if required by law or Board Policy 3515-Reporting of Crimes.

4. **Disciplinary Action**

- A. The actions taken in response to evidence of bullying behavior should be reasonably calculated to end any bullying, eliminate a hostile environment if one has been created, and prevent bullying from occurring again. In addition to taking disciplinary action as necessary, the Superintendent/President or designee shall take appropriate remedial action to address the conduct fully.
- B. Violations of this administrative procedure shall be considered misconduct and will result in disciplinary action up to and including termination from employment.
- C. This administrative procedure may not be construed to allow District officials to punish student expression or speech based on an undifferentiated fear or apprehension of disturbance or out of a desire to avoid the discomfort and unpleasantness that may accompany an unpopular viewpoint.
- D. Nothing in this administrative procedure precludes the District from taking disciplinary action against an employee where the evidence does not establish bullying but the conduct otherwise fails to satisfy the District's high expectations for appropriate conduct.

This administrative procedure shall be widely published and publicized to administrators, faculty, staff, and students, particularly when they are new to the institution. They shall be available for students and employees in all administrative offices.