

**DISABILITY HARASSMENT**

The Board of Education is committed to maintaining an educational environment that is free from harassment. The Board prohibits disability harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against any person who complains, testifies, assists, or otherwise participates in the complaint process established pursuant to this policy and the administrative regulation.

**Definition**

Disability harassment is intimidation or abusive behavior toward a student based on disability or being regarded as having such an impairment that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the District's programs or activities. A hostile environment is created when harassing conduct is sufficiently severe, persistent or pervasive. Disability harassment includes any unwelcome verbal, written or physical conduct, directed at the characteristics of a person's disabling or regarded as having such a disabling condition, such as imitating manner of speech or movement, or interference with necessary equipment, or exclusion from activities available to peers. Harassment of a student based on disability may decrease the student's ability to benefit from his or her education and amount to a denial of Free and Appropriate Public Education (FAPE). Failure to respond adequately to disability harassment constitutes discrimination, in violation of Section 504 of Rehabilitation Act of 1973 and Title II of Americans with Disabilities Act of 1990.

**Instruction/Information**

The Superintendent or designee shall ensure that all staff receive training about, and district students receive age-appropriate instruction and information on, disability harassment. Such training, instruction, and information shall include:

1. Acts and behavior which constitute disability harassment;
2. Disability harassment can occur any time and at any location at school, school-sponsored or related activities;
3. A clear message that students do not have to endure disability harassment;
4. Encouragement for persons subject to, and witnesses of, disability harassment to report incidents immediately, and assurance that they will be protected from retaliation; and
5. Name(s) or title(s) of the person(s) to whom a report of disability harassment should be given.

**Complaint and Investigation Process**

Any student who feels that he/she is being or has been harassed by a school/district employee, another student, or a non-employee on any location at school, school-sponsored or related activities should immediately contact his/her teacher or any other school employee. A school/district employee to whom a report is made shall, as soon as possible, but no later than 24 hours of receiving the report, notify the principal or designee. The principal or designee shall immediately notify the parents/guardians of the alleged victim that a report has been made.

Any school employee who observes any incident of disability harassment involving a student shall immediately report this observation to the principal or designee, whether or not the victim files a report of the incident. The principal or designee shall immediately notify the parents/guardians of the alleged victim that a report has been made.

The principal or designee shall investigate the report and should he/she find that disability harassment occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim and/or victim's parents/guardians of support and other resources that are available. The principal or designee shall submit all documentations to the Director of Student Services, who, in turn reports to the Assistant Superintendent of Human Resources (Non-Discrimination Coordinator).

In any case of disability harassment involving the principal or any other district employee to whom the report would ordinarily be made, the school employee who receives the student's report or who observes the incident shall report to the Superintendent or designee. The Superintendent or designee shall immediately notify the parents/guardians that a complaint has been made and investigate the incident.

The Principal or designee to whom a report of disability harassment by a school/district employee is made, shall immediately file the Confidential Incident Report form with the Assistant Superintendent of Human Resources (Non-discrimination Coordinator). The Assistant Superintendent shall determine who will investigate the incident in accordance with administrative regulation. When the Assistant Superintendent or designee finds that disability harassment occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim and/or victim's parents/guardians of any other resources that may be available. The principal or designee shall notify law enforcement as appropriate.

The Uniform Complaint Procedure can be used as an alternative path for the reporting of disability harassment.

### **Disciplinary Measures**

Any student who engages in disability harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades K-3, disciplinary action shall be age appropriate. For students in grades 4-12, disciplinary action may include loss of privileges or participation in activities, community service, suspension, opportunity transfer, and/or expulsion, provided that in imposing such discipline the entire circumstances of the incident(s) shall be taken into account.

Any school/district employee who engages in disability harassment is in violation of this policy and shall be subject to disciplinary measures in accordance with district policy.

### **Record-Keeping**

The Director of Student Services shall maintain a record of all reported cases of disability harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in its schools.

All reports of disability harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR [4964](#))

Subject to confidentiality laws, parents/guardians shall be notified of the actions taken by the District to resolve the complaint.

Each quarter (October, January, and April), the Superintendent shall inform the public via an Information Item in the Board Agenda regarding the number of reported student and employee disability harassment complaints for the previous quarter with total number of reported cases by site with those found to be violations of the policy and their respective resolutions.

**Legal Reference:**

**EDUCATION CODE**

233 Education Equity; Hate and Violence Prevention Act  
48900.3 Additional grounds for suspension or expulsion; hate crime  
48904 Liability of parent/guardian for willful student misconduct  
48980 Notice at beginning of term

**PENAL CODE**

422.55 Hate Crime

**CIVIL CODE**

51.7 Right to be Free from Violence or Threat of Violence  
51.13 Personal Rights; Discrimination  
52.1 - 52.4 Personal Rights; Discrimination Liability  
54 Blind and Other Physical Disabled Persons; Rights of an Individual  
54.1 Blind and Other Physical Disabled Persons; Full and equal Access  
54.3 Liability for Acts of Discrimination  
1714.1 Liability of parents/guardians for willful misconduct of minor

**CODE OF REGULATIONS, TITLE 5**

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

**UNITED STATES CODE, TITLE 42**

§ 12132, et seq., The Americans with Disabilities Act (ADA), Title II

**UNITED STATES CODE, TITLE 29**

§ 794, et seq., Section 504 of the Rehabilitation Act of 1973

**CODE OF FEDERAL REGULATIONS, TITLE 28**

Part 35, Regulations Implementing Title II of the ADA

**CODE OF FEDERAL REGULATIONS, TITLE 34**

Part 104, Regulations Implementing Section 504

**Management Resources:**

OFFICE FOR CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime: A Guide for Schools, January 1999

Reminder of Responsibilities under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Acts, July 2000

**WEB SITES**

OCR: <http://www.ed.gov/offices/OCR>

**Policy: SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT**

**Adopted: September 8, 2011**