

**Santa Monica-Malibu Unified School District
Board of Education Meeting
ADDENDUM TO THE AGENDA**

December 9, 2010

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SW

TO: BOARD OF EDUCATION

ACTION/MAJOR

12/09/10

FROM: RALPH MECHUR

ADDENDUM

RE: ADOPT RESOLUTION NO. 10-16 – IN SUPPORT OF THE DEVELOPMENT,
RELIEF, AND EDUCATION OF ALIEN MINORS (DREAM) ACT LEGISLATION

RECOMMENDATION NO. A.39

It is recommended that the Board of Education adopt Resolution No. 10-16 – In support of the DREAM Act Legislation.

COMMENT: At the special meeting on December 2, 2010, Board Member Ralph Mechur requested that this item be placed on the December 9 agenda.

According to www.dreamact.info, "The purpose of the Development, Relief and Education of Alien Minors Act, also called the DREAM Act, is to help those individuals who meet certain requirements, have an opportunity to enlist in the military or go to college and have a path to citizenship which they otherwise would not have without this legislation. Supporters of the DREAM Act believe it is vital not only to the people who would benefit from it, but also the United States as a whole. It would give an opportunity to undocumented immigrant students who have been living in the U.S. since they were young, a chance to contribute back to the country that has given so much to them and a chance to utilize their hard earned education and talents."

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

**SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION**

**RESOLUTION NO. 10-16 – IN SUPPORT OF THE DEVELOPMENT RELIEF AND
EDUCATION FOR ALIEN MINORS (DREAM) ACT LEGISLATION**

Whereas, The Santa Monica-Malibu Unified School District is committed to graduating 100% of our students;

Whereas, Currently there are over 900,000 undocumented students who live in the United States and are under 18 years of age;

Whereas, Each year, these students are denied access to and prevented from pursuing their dreams of going to college because they do not have legal residency status;

Whereas, Despite the fact that many of these children have grown up in the United States, attended local schools, and have demonstrated a sustained commitment to succeed in the educational system, immigration laws provide no avenue for these students to become legal residents;

Whereas, Undocumented immigrants throughout the United States already make substantial contributions to our economic, civic, and cultural life, but unjustly remain vulnerable to exploitation as long as they are denied legal immigration status and access to education;

Whereas, The State Supreme Court's recent ruling protected the benefits of the California Assembly Bill 540 for undocumented students, allowing them to pay in-state tuition at public colleges or universities;

Whereas, Access to higher education will allow these immigrants to make even greater contributions to our society, increase the educated workforce, improve our economy and decrease the numbers of those forced to live in poverty;

Whereas, The Development Relief and Education for Alien Minors (DREAM) Act, and the American DREAM Act, would remedy this situation by allowing undocumented students who have lived in the United States for at least five years and have graduated high school or received a graduate equivalency diploma to legalize their immigration status;

Whereas, Undocumented students have waited many years for this legislation to become law; and

Whereas, Both President Obama and United States Secretary of Education Arne Duncan have called upon Congress to promptly pass the DREAM Act;

Now Therefore Be It Resolved, That the Board of Education of the Santa Monica-Malibu Unified School District affirms its support of the DREAM Act and urges the United States Congress to pass this legislation before the end of the 111th Congress; and be it finally

Be it Further Resolved, That the Board instructs the Superintendent's Office to forward this resolution to Senator Dianne Feinstein (D-CA), Senator Barbara Boxer (D-CA), Senator Fran Pavley (District 23), and Assemblywoman Brownley (District 41).

Signed and Adopted by the Santa Monica-Malibu Unified School District Board of Education on this 9th day of December 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

President, Board of Education

Tim Cuneo, Superintendent

TO: BOARD OF EDUCATION

ACTION/MAJOR

12/09/10

FROM: TIM CUNEO / CHIUNG_SALLY CHOU

ADDENDUM

RE: REVISE BP 1312.3 – UNIFORM COMPLAINT PROCEDURES

RECOMMENDATION NO. A.40

It is recommended that the Board of Education revise Board Policy 1312.3 – Uniform Complaint Procedures.

COMMENT: There is a December 31 deadline for the Board of Education to take action on these changes.

Attachment:

- Board Policy 1312.3 – Uniform Complaint Procedures

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

UNIFORM COMPLAINT PROCEDURES

The Board of Education recognizes that the district is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures. (5 CCR 4620)

The district shall follow uniform complaint procedures when addressing complaints as well as the filing, investigation and resolution of a complaint alleging unlawful discrimination or harassment against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in ~~any~~ all district programs or activities when the district has received or benefited from federal or state financial assistance in any of its programs or activities. (5 CCR 4610)

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, and special education programs. (5 CCR 4610)

Complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, and teacher vacancies and misassignments shall be investigated pursuant to the district's Williams uniform complaint procedure (AR 1312.4).

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

The Board acknowledges and respects every individual's right to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.

The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.

The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

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

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32289 School safety plan, uniform complaint procedure

35186 Williams uniform complaint procedure

41500-41513 Categorical education block grants

48900.3 Suspension or expulsion for act of hate violence

48900.4 Suspension or expulsion for threats or harassment

48904 Liability of parent/guardian for willful student misconduct

48950 Freedom of speech

48985 Notices in language other than English

49020-49023 Athletic programs

49060-49079 Student records

49490-49590 Child nutrition programs

51006 – 51007 Equitable access to technological education programs

51500 Prohibited instruction or activity

51501 Prohibited means of instruction

52160-52178 Bilingual education programs

52300-52490 Career-technical education

52500-52616.24 Adult schools

52800-52870 School-based coordinated programs

54000-54028 Economic impact aid programs

54100-54145 Miller-Unruh Basic Reading Act

54400-54425 Compensatory education programs

54440-54445 Migrant education

54460-54529 Compensatory education programs

56000-56867 Special education programs

59000-59300 Special schools and centers

60044 Prohibited instructional materials

64000-64001 Consolidated application process

CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

PENAL CODE

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

6301-6577 Title I basic programs

6601-6777 Title II preparing and recruiting high quality teachers and principals

6801-6871 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283g Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

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 Section 504

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101 Nondiscrimination on the Basis of Disability

35.106 Notice

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 Prohibition of discrimination on basis of race, color or national origin

100.6 Compliance Information

104.7 Designation of responsible employee for Section 504

104.8 Notice Requirements

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.10 Rules against Age Discrimination

110.25 Designation of Responsible Employee, Notice, and Grievance Procedures

COURT DECISIONS

Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Management Resources:

OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, January, 1999

Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance, 59 FR 47, March, 1994

WEB SITES

U.S. Department of Education, Office of Civil Rights: <http://www2.ed.gov/policy/rights/reg/ocr/index.html>

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

California Department of Education: <http://www.cde.ca.gov>

**Policy SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
adopted: August 19, 2009 Santa Monica, California**

TO: BOARD OF EDUCATION

ACTION/MAJOR

12/09/10

FROM: TIM CUNEO / CHIUNG_SALLY CHOU

ADDENDUM

RE: REVISE BP 5145.3 – NONDISCRIMINATION IN EDUCATION PROGRAMS AND ACTIVITIES

RECOMMENDATION NO. A.41

It is recommended that the Board of Education revise Board Policy 5145.3 – Nondiscrimination in Education Programs and Activities.

COMMENT: There is a December 31 deadline for the Board of Education to take action on these changes.

Attachment:

- Board Policy 5145.3 – Nondiscrimination in Education Programs and Activities

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

NONDISCRIMINATION IN EDUCATION PROGRAMS AND ACTIVITIES

District programs and activities shall be free from discrimination, including harassment, with respect to a student's actual or perceived sex, gender, ethnic group identification, race, national origin, religion, color, physical or mental disability, age or sexual orientation. This includes verbal or physical conduct that denigrates or shows hostility or aversion toward an individual that has the purpose or effect of creating an intimidating, hostile or offensive work or academic environment that otherwise adversely affects an individual's academic performance.

The Board of Education shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The district may provide male and female students with separate shower rooms and sexual health and HIV/AIDS prevention classes in order to protect student modesty.

The 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.

Harassment includes but is not limited to taunting, epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts, such as stalking; or written or graphic material that denigrates or shows hostility or aversion toward an individual or group.

Students who harass other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion, and law enforcement notification. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

Employees who become aware of an act of harassment shall immediately report the incident to their site administrator.

The Board hereby designates the following position as Coordinator for Nondiscrimination to handle complaints regarding discrimination and inquiries regarding the district's nondiscrimination policies:

Assistant Superintendent, Human Resources
1651 16th Street
Santa Monica, CA 90404
310-450-8338

Any student who feels that he/she is being harassed should immediately contact the Coordinator for Nondiscrimination, the principal or any other staff member. Any student who observes an incident of harassment should report the harassment to a school employee, whether or not the victim files a complaint.

Employees who become aware of an act of harassment shall immediately report the incident to the Coordinator for Nondiscrimination. Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment. Where the

Coordinator finds that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim.

The Coordinator shall also advise the victim of any other remedies that may be available. The Coordinator shall file a report with the Superintendent or designee and refer the matter to law enforcement where required.

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 or 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

PENAL CODE

422.55 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

4621 District policies and procedures

4622 Notice requirements

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

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 Section 504

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101 Nondiscrimination on the Basis of Disability

35.106 Notice

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100.6 Compliance Information

104.7 Designation of responsible employee for Section 504

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OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, January, 1999

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 FR 47, March, 1994

WEB SITES

U.S. Department of Education, Office of Civil Rights: <http://www2.ed.gov/policy/rights/reg/ocr/index.html>

**Policy SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
adopted: August 19, 2009 Santa Monica, California**

TO: BOARD OF EDUCATION

INFORMATION

12/09/10

FROM: TIM CUNEO / CHIUNG_SALLY CHOU

ADDENDUM

RE: REVISION OF AR 1312.3 – UNIFORM COMPLAINT PROCEDURES

INFORMATION ITEM NO. I.02

This is to inform the Board of Education of revisions to AR 1312.3 – Uniform Complaint Procedures.

Attachment:

- AR 1312.3 – Uniform Complaint Procedures

UNIFORM COMPLAINT PROCEDURES**Compliance Officers**

The Board of Education designates the following compliance officer to receive and investigate complaints and to ensure district compliance with law:

Assistant Superintendent, Human Resources
1651 16th Street
Santa Monica, CA 90404
310-450-8338

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

Notifications

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge. (5 CCR 4622)

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies
4. Include statements that:
 - a. The district is primarily responsible for compliance with state and federal laws and regulations
 - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline
 - c. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination

- d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 days of receiving the district's decision
- e. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision

Procedures

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

Step 1: Filing of Complaint

Any individual, public agency, or organization may file a written complaint of alleged noncompliance by the district. (5 CCR 4630)

A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. (5 CCR 4630)

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

Step 2: Mediation

Within three days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information. If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631)

Step 3: Investigation of Complaint

The compliance officer is encouraged to hold an investigative meeting within five days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint. (5 CCR 4631)

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

The district's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

Step 4: Response

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below, within 60 days of the district's receipt of the complaint. (5 CCR 4631)

Step 5: Final Written Decision

The district's decision shall be in writing and sent to the complainant. (5 CCR 4631)

The district's decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

The decision shall include:

1. The findings of fact based on the evidence gathered (5 CCR 4631)
2. The conclusion(s) of law (5 CCR 4631)
3. Disposition of the complaint (5 CCR 4631)
4. Rationale for such disposition (5 CCR 4631)
5. Corrective actions, if any are warranted (5 CCR 4631)
6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal (5 CCR 4631)
7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies (Education Code 262.3); however, this does not apply to federal law.

If an employee is disciplined as a result of the complaint, the decision shall simply state that effective action was taken and that the employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

Appeals to the California Department of Education

If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district's decision. When appealing to the CDE, the complainant must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the district's complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 days of the date the complaint was filed with the district.

Civil Law Remedies

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the district has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622; however, this does not apply to federal law.

Regulation SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
Approved: August 19, 2009 Santa Monica, California

TO: BOARD OF EDUCATION

INFORMATION

12/09/10

FROM: TIM CUNEO / CHIUNG_SALLY CHOU

ADDENDUM

RE: REVISION OF AR 5145.3 – NONDISCRIMINATION IN EDUCATION
PROGRAMS AND ACTIVITIES

INFORMATION ITEM NO. I.03

This is to inform the Board of Education of revisions to AR 5145.3 – Nondiscrimination in Education Programs and Activities.

Attachment:

- AR 5145.3 – Nondiscrimination in Education Programs and Activities

NONDISCRIMINATION IN EDUCATION PROGRAMS AND ACTIVITIES**NONDISCRIMINATION/HARASSMENT**

District programs and activities shall be free from discrimination, including harassment, with respect to a student's actual or perceived sex, gender, ethnic group identification, race, national origin, religion, color, physical or mental disability, age or sexual orientation.

The Board of Education shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The district may provide male and female students with separate shower rooms and sexual health and HIV/AIDS prevention classes in order to protect student modesty.

The 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, and law enforcement notification. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

Employees who become aware of an act of harassment shall immediately report the incident to their site administrator. The site administrator shall complete a report and submit it to the Assistant Superintendent of Human Resources.

If a complaint is directed toward a District Employee, and if that complaint regards alleged unlawful discrimination, the individual should file a Uniform Complaint Form. This form can be accessed at the District website at www.smmusd.org or at the District's Office at 1651 16th Street, Santa Monica, 90404, 310 450-8338.

The Superintendent designates the following as the compliance officer to receive and investigate all complaints and ensure district compliance with the law:

Assistant Superintendent, Human Resources
Santa Monica-Malibu Unified School District
1651 16th Street
Santa Monica, CA 90404
(310) 450-8338

Site Administrator shall also advise the victim of any other remedies that may be available. The Administrator shall file a report with the Superintendent or designee and refer the matter to law enforcement where required.

Initial Response and Reporting Expectations

It is the responsibility of all employees, if they observe or become aware of an act of intimidation, to take immediate, appropriate steps to intervene. The employee shall report the incident to the school principal or designee.

The District expects students, parents and other community members who observe or become aware of a serious act of harassment/intimidation to report this act to a school administrator for further investigation.

Investigation and Response

Any incident, which may constitute an act of harassment/intimidation, which is reported to the principal, shall be thoroughly investigated by the site administrator or designee. Consequences shall be commensurate with the results of the investigation. This may include, but is not limited to, counseling, parent conference, detention, involuntary transfer, a formal suspension and /or expulsion of the offender. The parent or guardian shall be contacted and may be asked to attend a conference with school officials.

If the parent or guardian does not attend the conference, the site administrator shall send a letter informing the parent of the action under consideration and notifying parent of all data pertinent to the action. The administrator shall take appropriate steps to insure campus safety. This may include any or all of the following: implement an immediate safety plan; isolate and supervise involved students; provide staff support for involved students as necessary; report incident to law enforcement, if appropriate; notify the parents/guardians of both the offender and the victim and develop supervision plan with parents. If the act of harassment/intimidation is deemed to warrant a suspension, expulsion or involuntary transfer to another school, then the matter will be processed in accordance with Board Policy 5045.

Incidents of Harassment and Intimidation Related To Disability, Race or Sexual Harassment

Discrimination complaints, such as those based on race, color, national origin, sex, and disability, are resolved through the District's Uniform Complaint procedures. They can be found on the District's website at www.smmusd.org, or by contacting the District's Office at 1651 16th Street, Santa Monica, CA, 90404, 310 450-8338.

Discrimination complaints and questions related to sexual harassment should be directed to the Assistant Superintendent of Human Resources at 310 450-8338.

For more information about disability and Section 504 and student disability complaint procedures, contact the Chief Academic Officer at 310 450-8338.

Assessment and Intervention

An administrative contact will be made with the victim and offender prior to resuming a regular schedule of classes. If deemed necessary, the administrator or designee may convene a multidisciplinary team to further assess and determine the need for ongoing support for the victim or the offender.

Depending upon the severity of the harassment/intimidation, an investigation might include: review of school records; identification of parent and family issues; and interviews with student, parents, and school staff. A multi-disciplinary team consisting of school staff, counselor/psychologist, parent, student, and other agency personnel as appropriate, may develop a behavior support plan. The support plan may include any or all of the following: a

case manager, counseling services (site, district and/or community resources); parenting skills classes; and other additional support services as deemed appropriate. The case manager will maintain a record of the services provided.

School Follow-up

The case manager has a responsibility to follow up and evaluate the behavior support plan. The case manager will compile a report to the site administrator on the process, resources used, and the follow up procedure involving the victim and the offender.

A copy of the behavior plan and follow-up report will then be forwarded to the Director of Pupil and Special Services.

(Legal sources next page)

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 or 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

PENAL CODE

422.55 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

4621 District policies and procedures

4622 Notice requirements

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

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 28

35.101 Nondiscrimination on the Basis of Disability

35.106 Notice

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 Prohibition of discrimination on basis of race, color or national origin

100.6 Compliance Information

104.7 Designation of responsible employee for Section 504

104.8 Notice Requirements

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.10 Rules against Age Discrimination

110.25 Designation of Responsible Employee, Notice, and Grievance Procedures

COURT DECISIONS

Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Management Resources:

OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, January, 1999

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59

FR 47, March, 1994

WEB SITES

U.S. Department of Education, Office of Civil Rights: <http://www2.ed.gov/policy/rights/reg/ocr/index.html>

**Regulation SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
Approved: August 19, 2009 Santa Monica, California**