

## **STUDENTS**

### **Nondiscrimination/Harassment**

The San Joaquin County Office of Education (SJCOE) desires to provide a safe school environment that allows all students equal access and opportunities in academic and other educational support programs, services, and activities. SJCOE prohibits unlawful discrimination, harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, gender non-conformance, or gender stereotyping; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

SJCOE recognizes it is legally responsible for addressing harassment incidents about which it knows or reasonably should have known. SJCOE employees shall take immediate and appropriate action to investigate or otherwise determine what occurred when put on notice that a student has been subjected to harassment. Complaints against SJCOE and/or an individual that alleges sexual harassment or related retaliation will be processed under 5145.7 – Sexual Harassment or AR 4031 – Complaints Concerning Discrimination in Employment. Complaints against SJCOE and/or an individual that relates to discrimination, harassment on other protected bases and/or related retaliation will be processed under 1312.3 – Uniform Complaint Procedure.

Prohibited discrimination, harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe, pervasive, or persistent that it affects a student's ability to participate in, or benefit from, an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Gender-based harassment is any form of harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility that is based on sex or sex-stereotyping. Thus, it can be sex discrimination if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity and femininity. An example of sex discrimination based on gender stereotypes would be a male student who is called names because he displays effeminate mannerisms, chooses nontraditional extracurricular activities, and apparel. SJCOE strictly enforces Title IX regulations, which prohibit gender-based harassment of all students, regardless of the actual or perceived sexual orientation or gender identity of the harasser or target.

SJCOE also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying. All complaints

alleging retaliation, except those related to sexual harassment, will be processed under 1312.3 – Uniform Complaint Procedure.

The Superintendent or designee shall provide age-appropriate training and information to student, parents/guardians, and employees regarding discrimination, harassment, intimidation, and bullying including, but not limited to, the SJCOE nondiscrimination policy, what constitutes prohibited behavior, how to report incidents, and to whom such reports should be made.

In providing instruction, guidance, supervision, or other services to SJCOE students, employees and volunteers shall carefully guard against segregation or stereotyping students.

The Superintendent or designee shall develop a plan to provide students with appropriate accommodations when necessary for their protection from threatened, potential harassing, or discriminatory behavior. If harassment occurs, SJCOE will take appropriate steps to end the harassment, prevent it from recurring, and address its effects on the target and the campus community. Appropriate steps may include separating the accused harasser and the target, providing counseling for the target and/or harasser, and/or taking disciplinary action against the harasser. Efforts to end the harassment and prevent harassment from recurring should not penalize the student who was harassed. The Superintendent or designee shall also make sure that any harassed student knows how to report any subsequent problems, conduct follow-up inquiries to see if there have been any new incidents or any instances of retaliation, and respond promptly and appropriately to address continuing or new problems.

Students who engage in discrimination, harassment, intimidation, bullying, or retaliation in violation of the law, SJCOE policy, or administrative regulation shall be subject to appropriate discipline, up to and including counseling, suspension, and/or expulsion. An employee who permits or engages in prohibited discrimination, harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

The Superintendent or designee shall take appropriate actions to reinforce the SJCOE nondiscrimination/harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti;
2. Providing staff in-service and student instruction or counseling about how to recognize harassment and how to respond;
3. Disseminating and/or summarizing SJCOE policies and procedures regarding nondiscrimination/harassment;
4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the response to parents/guardians and the community;

5. Notifying Child Protective Services;
6. Taking appropriate disciplinary action. In addition, the Director of Operations and Support Services or designee may take disciplinary measures against any person who is found to have made a complaint of discrimination and/or harassment that he/she knew was not true.

### **Complaint Procedures**

The Director Operations and Support Services is designated to handle complaints regarding discrimination, harassment, intimidation, or bullying, and to answer inquiries regarding SJCOE nondiscrimination policies:

Director of Operations and Support Services  
San Joaquin County Office of Education  
2901 Arch-Airport Road, Stockton, CA 95206 (physical)  
P.O. Box 213030, Stockton, CA 95213-9030 (mailing)  
(209) 468-9061

Any student, who feels that he/she has been subjected to discrimination, harassment, intimidation, or bullying should immediately contact the Director of Operations and Support Services, program administrator, or any other staff member. In addition, any student who observes any such incident should report the incident to the Director of Operations and Support Services, whether or not the victim files a complaint.

Any school employee who observes an incident of discrimination, harassment, intimidation, or bullying shall report the incident to the Director of Operations and Support Services or program administrator, whether or not the victim files a complaint.

In addition, the employee shall immediately intervene when safe to do so.

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying the Director of Operations and Support Services shall immediately investigate or designate an individual to investigate the complaint in accordance with the grievance procedures specified in AR 1312.3 – Uniform Complaint Procedure aside from complaints relating to sexual harassment or related retaliation will be processed under AR 5145.7 – Sexual Harassment or AR 4031 – Complaints Concerning Discrimination in Employment.

All gender-based harassment investigations will be conducted by individuals with knowledge of the applicable legal standards under Title IX, particularly as they pertain to conduct that is sufficiently severe, pervasive, or persistent to create a hostile environment, how to recognize and remedy such harassment, and the relevant SJCOE policies and complaint procedures. If an investigation of an allegation of gender-based harassment against an employee yields evidence

that a student was subjected to harassment by other students, or if an investigation of an allegation against other students yields evidence of harassment by an employee, SJCOE will pursue an investigation of that issue as well.

If dissatisfied with the decision made by SJCOE, the complainant may appeal in writing to the California Department of Education (CDE) within 15 days of receiving the decision. The complainant must specify the reason(s) for appealing 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 the decision.

The Superintendent or designee shall ensure that the student handbook clearly describes the SJCOE nondiscrimination policy, procedures for filing a complaint regarding discrimination, harassment, intimidation, or bullying, and the resources that are available to students who feel that they have been the victim of any such behavior. SJCOE policies and procedures shall also be posted on the County web site or any other location that is easily accessible to students.

When required pursuant to Education Code 48985, complaint forms shall be translated into the student's primary language.

*cf:* 0410 Nondiscrimination  
1240 Volunteers  
1312 Uniform Complaint Procedure  
1312.1 Complaints Concerning Personnel  
1312.3 Uniform Complaint Procedures  
4031 Complaints Concerning Discrimination in Employment  
4118 Suspension/Disciplinary Action  
4119.21/4219.21/4319.21 Professional Standards  
4131/4231/4331 Staff Development  
4218 Dismissal/Suspension/Disciplinary Action  
5131 Conduct  
5131.2 Bullying  
5144 Discipline  
5144.1 Suspension and Expulsion/Due Process  
5144.2 Suspension and Expulsion/Due Process (Students with Disabilities)  
5145.2 Freedom of Speech/Expression  
5145.7 Sexual Harassment  
5146 Married/Pregnant/Parenting Students  
6145 Extracurricular and Cocurricular Activities  
6163.4 Student Use of Technology

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48900.3 Suspension or expulsion for act of hate violence

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Policy Adopted: Nov. 17, 1993

Policy Amended: August 26, 2013

Board Approved: October 16, 2013

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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  
48985 Translation of notices  
49020-49023 Athletic 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 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

UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

UNITED STATES CODE, TITLE 42

2000d & 2000e et seq. Title VI & VII. Civil Rights Act of 1964 as amended

200h-2 et seq. Title IX, 1972 Education Act Amendments

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 Title IX

106.9 Notification of nondiscrimination on basis of sex

(4/13)