

NONDISCRIMINATION/HARASSMENT

The Monterey County Board of Education (County Board) desires to provide a safe school environment that allows all students equal access and opportunities in the Monterey County Office of Education's (MCOE) academic and other educational support programs, services, and activities. The County Board prohibits, at any MCOE school or school activity, 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, or gender expression; 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. It is required that school personnel take immediate steps to intervene when it is safe to do so when he or she witnesses an act of discrimination, harassment, intimidation or bullying.

This policy shall apply to all acts related to school activity or to school attendance occurring within an MCOE school or program. In addition, cyberbullying can originate on or off the school site. Thus, for purposes of determining whether the conduct may be subject to suspension or expulsion, cyberbullying does not necessarily need to have been committed while at school, while coming to or from school, or during a school-sponsored activity. [Education Code (EC) 234.1 & 48900]

(cf. 0410 - Nondiscrimination in MCOE Programs and Activities)
(cf. 5131 - Conduct)
(cf. 5131.2 - Bullying)
(cf. 5137 - Positive School Climate)
(cf. 5145.9 - Hate-Motivated Behavior)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6164.6 - Identification and Education under Section 504)

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying includes: physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe or pervasive 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 or experience.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

The County Board also prohibits any form of retaliation against any student who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

Students who engage in discrimination, harassment, intimidation, bullying, or retaliation in violation of law, County Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion for behavior is severe or pervasive as defined in Education Code 48900.4.

(*cf.* 4118 - *Suspension/Disciplinary Action*)
 (*cf.* 4119.21/4219.21/4319.21 - *Professional Standards*)
 (*cf.* 4218 - *Dismissal/Suspension/Disciplinary Action*)
 (*cf.* 5144 - *Discipline*)
 (*cf.* 5144.1 - *Suspension and Expulsion/Due Process*)
 (*cf.* 5144.2 - *Suspension and Expulsion/Due Process (Students with Disabilities)*)
 (*cf.* 5145.2 - *Freedom of Speech/Expression*)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination*
48900 *Definition of bullying; cyberbullying*
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*
48985 *Translation of notices*
51500 *Prohibited instruction or activity*
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

432 *Student record*
4600-4687 *Uniform complaint procedures*
4900-4965 *Non-discrimination 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- *17 Title VI and Title VII Civil Rights Act of 1964, as amended*

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

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 for Title IX

106.9 Notification of nondiscrimination on basis of sex

COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

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

Adopted: 05/21/14

Revised: 11/04/15; 12/07/15