

**HATE-MOTIVATED BEHAVIOR**

The Governing Board is committed to providing a safe learning environment that protects students from discrimination, harassment, intimidation, bullying, and other behavior motivated by a person's hostility towards another person's real or perceived ethnicity, national origin, immigrant status, sex, gender, sexual orientation, religious belief, age, disability, or any other immutable physical or cultural characteristic. The Superintendent or designee shall design strategies to promote harmonious relationships among students, prevent incidents of hate-motivated behavior to the extent possible, and address such incidents if they occur.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 3515.4 - Recovery for Property Loss or Damage)*

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5131.5 - Vandalism and Graffiti)*

*(cf. 5136 - Gangs)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5141.52 - Suicide Prevention)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

The Superintendent or designee shall, to the extent possible, collaborate with regional programs and community organizations to promote safe environments for youth. Such collaborative efforts shall focus on ensuring an efficient use of district and community resources, developing effective prevention strategies and response plans, providing assistance to students affected by hate-motivated behavior, and/or educating students who have perpetrated hate-motivated acts.

*(cf. 1020 - Youth Services)*

*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*

*(cf. 1700 - Relations Between Private Industry and the Schools)*

*(cf. 5148.2 - Before/After School Programs)*

As needed, the district shall provide students with age-appropriate instruction that includes the development of social-emotional learning, promotes their understanding of and respect for human rights, diversity, and acceptance in a multicultural society, and provides strategies to manage conflicts constructively.

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 6142.3 - Civic Education)*

*(cf. 6142.4 - Service Learning/Community Service Classes)*

*(cf. 6142.94 - History-Social Science Instruction)*

As necessary, the district shall provide counseling, guidance, and support to students who are victims of hate-motivated behavior and to students who exhibit such behavior.

*(cf. 6164.2 - Guidance/Counseling Services)*

## **HATE-MOTIVATED BEHAVIOR** (continued)

The Superintendent or designee shall ensure that the rules prohibiting hate-motivated behavior and procedures for reporting a hate-motivated incident are provided to students and parents/guardians.

The Superintendent or designee shall provide staff with training on recognizing and preventing hate-motivated behavior and on effectively enforcing rules for appropriate student conduct.

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

A student's use of hate speech shall be considered prohibited discrimination and a hate-motivated act, communicating a message of hate, intolerance, and discrimination due to the tension these words create, the actual or reasonably foreseeable substantial disruption they cause to the educational environment, and the negative psychological impact they have on other students. This policy shall also apply to off-campus speech, including expression on off-campus Internet web sites, when the speech has some nexus to the school or is reasonably foreseeable to reach the school, and the speech substantially disrupts or materially interferes with the school environment or activities, causes an administrator to reasonably forecast that it will cause a substantial disruption of or material interference with the school environment or activities, or collides with the rights of students to be left alone in the school environment.

*(cf. 5145.2 – Freedom of Speech/Expression)*

“Hate speech” is defined as abusive, threatening, insulting, harassing or intimidating speech, writing or symbols directed or targeted at another individual or group of individuals, which (1) infringes on their right to be secure or left alone at school; and, (2) which expresses prejudice against a particular group motivated by hostility towards the other individual's real or perceived characteristics, including, but not limited to, race, religion, ethnicity, national origin, sex, disability, sexual orientation, or gender identity.

As a general rule, any student who uses hate speech shall be first counseled about the use of hate speech, the history and social ramifications of the speech, and warned that messages of hate, intolerance, and discrimination are unacceptable at school and, if continued, could lead to further discipline, including possible expulsion.

Notwithstanding the general rule set forth above, suspension and expulsion for hate speech shall be implemented as appropriate and to the extent allowable by law. Suspension and expulsion shall be reserved for students whose use of hate speech has continued to occur after attempts to counsel and educate the student about appropriate speech and behavior; when the hate speech is

## **HATE-MOTIVATED BEHAVIOR** (continued)

unprovoked and targeted at other student(s) or staff; when the hate speech is linked to other serious misconduct; or when the behavior is severe or pervasive as defined in Education Code 48900.4.

### **Complaint Process**

A student or parent/guardian who believes the student is a victim of hate-motivated behavior is strongly encouraged to report the incident to a teacher, the principal, or other staff member.

Any staff member who is notified that hate-motivated behavior has occurred, observes such behavior, or otherwise becomes aware of an incident shall immediately contact the school's administration team (e.g. principal or assistant principal) who will then contact the district's compliance officer responsible for coordinating the district's investigation response to complaints and complying with state and federal civil rights laws. As appropriate, the administrator shall also contact law enforcement. It is the responsibility of the school site's administration team to promptly and appropriately respond to hate-motivated behavior while coordinating with the District's compliance officer.

*(cf. 3515.3 - District Police/Security Department)*

*(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)*

Any complaint of hate-motivated behavior shall be investigated and, if determined to be discriminatory, shall be resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures. If, during the investigation, it is determined that a complaint is about nondiscriminatory behavior, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

*(cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

*Legal Reference: (next page)*

## **HATE-MOTIVATED BEHAVIOR (continued)**

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 Prohibition of discrimination

32282 School safety plans

48900.3 Suspension for hate violence

48900.4 Suspension or expulsion for threats or harassment

#### PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

#### CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

#### CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

#### 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

110.25 Prohibition of discrimination based on age

#### COURT DECISIONS

C.R. v. Eugene School District 4J, (9th Cir. 2016) 835 F.3d 1142

Wymar v. Douglas County School District, (9th Cir. 2013) 728 F.3d 1062

Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

### *Management Resources:*

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Bullying at School, 2003

#### CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist

California K-12 Schools in Responding to Immigration Issues, April 2018

#### U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter: Harassment and Bullying, October 2010

Dear Colleague Letter: Prohibited Disability Harassment, July 2000

#### WEB SITES

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

California Association of Human Relations Organizations: <http://www.cahro.org>

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

California Office of the Attorney General: <http://oag.ca.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

U.S. Department of Justice: <https://www.justice.gov>

### **Policy**

adopted: August 21, 2001

revised: October 23, 2018

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### **VISALIA UNIFIED SCHOOL DISTRICT**

Visalia, California