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OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Jacqueline P. Minor, General Counsel

Board Meeting Date September 12, 2012

Subject **Substitute New Board Policy 5131.2 (Bullying) for the Existing Board Policy 5170**

Action Requested Approval of Board Policy 5131.2 (Bullying)

Background

A one paragraph explanation of the Board Policy is needed.

The State pass new legislation, effective July 1, 2012, (*i.e.*, AB 9 and AB 1156) regarding school districts' responsibilities in addressing bullying. The District's current BP 5170 is outdated and does not meet the requirements of the new law. The proposed BP 5131.2 is based upon the current CSBA model policy that addresses bullying. Administrative Regulation 5170 will also no longer be applicable and will be deleted.

Discussion

One paragraph summary of the Board Policy.

The replacement of BP 5170 with BP 5131.2 addresses the changes that are required by state legislation relating to bullying. The new policy includes a comprehensive and explicit definition of bullying: "No student or group of students shall, through physical, written, verbal, or other means, harass, sexually harass, threaten, intimidate, cyberbully, cause bodily injury to, or commit hate violence against any other student or school personnel. As examples only, bullying may include, but is not limited to, the following: *Physical* (pinches, slaps, hits, damage to belongings); *Verbal and Non-Verbal* (threats, insults, teasing, menacing); *Relational* (rumors, social exclusion); *Cyber Bullying* (defined more fully below); and/or *Retaliation* (intimidation, reprisal, or harassment directed against a person who witnesses, reports and/or aids in the investigation of bullying)."

Recommendation Approval of Board Policy 5131.2 (Bullying) and removal of AR 5170.

Fiscal Impact N/A

Attachments Current Board Policy 5170; Proposed Board Policy 5131.2.

~~OAKLAND UNIFIED SCHOOL DISTRICT~~ OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 5170—Student 5131.2 – Bullying

Students

~~The purpose of this policy is to promote consistency of approach to school bullying and to help create a learning climate in which all types of bullying behavior are regarded as unacceptable. The Board of the Oakland Unified School District~~

The Governing Board recognizes the harmful effects of bullying on student learning and school attendance and desires to provide safe school environments that protect students from physical and emotional harm. The Governing Board affirms that all students and staff have a right to safe and supportive school environments, free from threat, harassment, hazing, humiliation, intimidation or any type of bullying behavior. District employees shall establish student safety as a high priority and shall not tolerate bullying of any student.

~~Staff of the Oakland Unified School District must immediately report incidents of bullying to the principal or designee. Staff members are expected to immediately intervene when they see a bullying incident occur. Students should report incidents to any adult staff member. Reports of bullying will be promptly investigated. No student or group of students shall, through physical, written, verbal, or other means, harass, sexually harass, threaten, intimidate, cyberbully, cause bodily injury to, or commit hate violence against any other student or school personnel. As examples only, bullying may include, but is not limited to, the following: *Physical* (pinches, slaps, hits, damage to belongings); *Verbal* and *Non-Verbal* (threats, insults, teasing, menacing); *Relational* (rumors, social exclusion); *Cyber Bullying* (defined more fully below); and/or *Retaliation* (intimidation, reprisal, or harassment directed against a person who witnesses, reports and/or aids in the investigation of bullying).~~

~~If the District determines that bullying has occurred, it will act appropriately within District discipline codes and will take reasonable action to end the bullying. The District prohibits retaliatory conduct against any complainant or any participant in the complaint process, including witnesses. This policy applies to students on school grounds, while traveling to and from school or a school-sponsored activity, during the lunch period, whether on or off campus, and during a school-sponsored activity.~~

~~Bullying is defined as the use of aggression, intimidation and/or cruelty with the deliberate intent of hurting another person verbally, physically or emotionally. Bullying usually involves an abuse or imbalance of power, and results in pain and stress to the victim. Individuals or groups may be involved, and there is typically a repeated pattern of negative behavior.~~

~~Certain acts of bullying are covered under California Education Code Section 48900.4 which states: "In addition to the grounds specified in Section 48900 and 48900.2, a pupil enrolled in any of grades 4 through 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonable expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment."~~

~~Site administrators are responsible for an annual review of this policy with all staff, and will ensure that the policy is visibly posted and supported with training as needed.~~

~~07/14/04~~

~~(cf. 5131 - Conduct)~~

~~(cf. 5136 - Gangs)~~

~~(cf. 5145.3 - Nondiscrimination/Harassment)~~

~~(cf. 5145.7 - Sexual Harassment)~~

~~(cf. 5145.9 - Hate-Motivated Behavior)~~

Cyberbullying includes the transmission of harassing communications, direct threats, or other harmful texts, sounds, or images on the Internet, social media, or other technologies using a telephone, computer, or any wireless communication device. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage that person's reputation.

(cf. 5145.2 - Freedom of Speech/Expression)

Strategies for bullying prevention and intervention shall be developed with involvement of key stakeholders in accordance with law, Board policy, and administrative regulation governing the development of comprehensive safety plans and shall be incorporated into such plans.

(cf. 0420 - School Plans/Site Councils)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1220 - Citizen Advisory Committees)

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

(cf. 6020 - Parent Involvement)

Bullying Prevention

To the extent possible, District and school strategies shall focus on prevention of bullying by establishing clear rules for student conduct and strategies to establish a positive, collaborative school climate. Students shall be informed, through student handbooks and

other appropriate means, of District and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for perpetrators of bullying.

(cf. 5137 - Positive School Climate)

(cf. 6164.2 - Guidance/Counseling Services)

The District may provide students with instruction, in the classroom or other educational settings, that promotes effective communication and conflict resolution skills, social skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior.

(cf. 6163.4 - Student Use of Technology)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6142.94 - History-Social Science Instruction)

School staff shall receive related professional development, including information about early warning signs of harassing/intimidating behaviors and effective prevention and intervention strategies.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Based on an assessment of bullying incidents at school, the Superintendent or designee may increase supervision and security in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, and cafeterias.

Intervention

Students are encouraged to notify school staff when they are being bullied or suspect that another student is being victimized. In addition, the Superintendent or designee shall develop means for students to report threats or incidents confidentially and anonymously.

School staff who witness bullying shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

As appropriate, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators. He/she also may involve school counselors, mental health counselors, and/or law enforcement.

Complaints and Investigation

Students may submit to a teacher or administrator a verbal or written complaint of conduct they consider to be bullying. Complaints of bullying shall be investigated and resolved in accordance with site-level grievance procedures specified in AR 5145.7 -

Sexual Harassment.

When a student is reported to be engaging in bullying off campus, the Superintendent or designee shall investigate and document the activity and shall identify specific facts or circumstances that explain the impact or potential impact on school activity, school attendance, or the targeted student's educational performance.

When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages sent to them that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated.

If the student is using a social networking site or service that has terms of use that prohibit posting of harmful material, the Superintendent or designee also may file a complaint with the Internet site or service to have the material removed.

Discipline

Any student who engages in bullying on school premises, or off campus in a manner that causes or is likely to cause a substantial disruption of a school activity or school attendance, shall be subject to discipline, which may include suspension or expulsion, in accordance with district policies and regulations. Further, progressive discipline (including alternative to suspension) may also be applied when appropriate, to restore safety and repair the harm caused by bullying.

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

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

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

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

32282 Comprehensive safety plan

35181 Governing board policy on responsibilities of students

35291-35291.5 Rules

48900-48925 Suspension or expulsion

48985 Translation of notices

PENAL CODE

647 Use of camera or other instrument to invade person's privacy; misdemeanor

647.7 Use of camera or other instrument to invade person's privacy; punishment

653.2 Electronic communication devices, threats to safety

UNITED STATES CODE, TITLE 47

254 Universal service discounts (e-rate)

COURT DECISIONS

J.C. v. Beverly Hills Unified School District, (2010) 711 F.Supp.2d 1094

Lavine v. Blaine School District, (2002) 279 F.3d 719

Management Resources:

CSBA PUBLICATIONS

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010

Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Health Education Content Standards for California Public Schools: Kindergarten Through Grade Twelve, 2008

Bullying at School, 2003

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

Dear Colleague Letter: Harassment and Bullying, October 2010

WEB SITES

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

California Cybersafety for Children: <http://www.cybersafety.ca.gov>

California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/lss>

Center for Safe and Responsible Internet Use: <http://cyberbully.org>

National School Boards Association: <http://www.nsba.org>

National School Safety Center: <http://www.schoolsafety.us>

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

8/29/12

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 5170 - Student Bullying
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07/14/04

OAKLAND UNIFIED SCHOOL DISTRICT

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