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OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Jacqueline Minor, General Counsel

Board Meeting Date March 13, 2013

Subject Amendment to Board Policy BP 5131.2

Action Requested Approval of updates to the Oakland Unified School District Board Policy BP 5131.2 Bullying

Background The revision to Board Policy 5131.2 incorporates the definition of bullying from Section 48000(r) of the Education Code. In addition, the revision addresses recent legislation that places limits on when students can be suspended. As a result, the proposed modifications align the board policy with the Education Code and provide clarity to schools about the definition of bullying.

Discussion The revision provides clarity regarding the definition of bullying, which will help schools respond to and investigate complaints of bullying. The modifications have been reviewed and vetted by the General Counsel.

The changes to the policy are shown on the attachment.

Recommendation Approval of modifications to the Oakland Unified School District Board Policy BP 5131.2 Bullying

Fiscal Impact Funding resource: no direct funding implications

Attachments

- Amendment to Board Policy BP 5131.2

File ID Number: 13-0444
Introduction Date: 3/13/13
Enactment Number: 13-0447
Enactment Date: 3/13/13
By: O.R.

OAKLAND UNIFIED SCHOOL DISTRICT Board Policy

BP 5131.2 – Bullying Students

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, 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.

Education Code 234.1 requires the Board to adopt a policy prohibiting discrimination, harassment, intimidation, and bullying.

Bullying is defined in Education Code 48900(r) as any severe or pervasive physical or verbal act(s) or conduct, including electronic communications, committed by a pupil(s) that has, or can be reasonably predicted to have, the effect of one or more of the following:

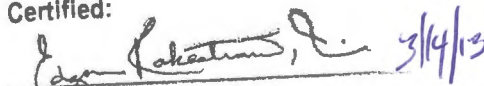
- (1) Reasonable fear of harm to person or property.
- (2) Substantially detrimental effect on physical or mental health.
- (3) Substantial interference with academic performance.
- (4) Substantial interference with the ability to participate in or benefit from school services, activities, or privileges.

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. Conduct rises to the level of bullying only if it is severe or pervasive. 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).

- (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

Certified:


Edgar Rakestraw, Jr., Secretary
Board of Education

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~~ AR 5131.2 Bullying.

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. School~~

administrators will respond to bullying with appropriate interventions and/or progressive discipline (including alternatives to suspension) to restore safety and repair the harm caused by bullying. Suspension shall be imposed only when other means of correction fail to bring about proper conduct except for cases involving violation of Education Code Section 48900 (a), (b), (c), (d), (e), (m), or (n). Education Code 48900.5.

~~To the extent possible other means of corrective discipline must have been tried and failed prior to any decision to suspend for first time offense. Unless pupil has violated EC 48900 (a), (b), (c), (d), or (e) or if the "pupil's presence causes a danger to person." EC 48900.5.~~

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(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/ls/ss>

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; 9/12/12A; [3/13/13A](#)

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 5131.2 – Bullying
Students

File ID Number: 13-0144
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Enactment Number: 13-0447
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By: o.a.

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- (1) Reasonable fear of harm to person or property.
- (2) Substantially detrimental effect on physical or mental health.
- (3) Substantial interference with academic performance.
- (4) Substantial interference with the ability to participate in or benefit from school services, activities, or privileges.

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. Conduct rises to the level of bullying only if it is severe or pervasive.

(cf. 5131 - Conduct)

(cf. 5136 - Gangs)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

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- (cf. 0450 - Comprehensive Safety Plan)
- (cf. 1220 - Citizen Advisory Committees)
- (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
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- (cf. 6164.2 - Guidance/Counseling Services)

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(cf. 5138 - Conflict Resolution/Peer Mediation)

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

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

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U.S. Department of Education, Office for Civil Rights:

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8/29/12; 9/12/12A; 3/13/13A