

STATE COLLEGE AREA SCHOOL DISTRICT

SECTION: 100 Programs
TITLE: Nondiscrimination/Discriminatory Harassment - School and Classroom Practices
NUMBER: 103
ADOPTED: July 25, 2011
STATUS: Draft Revisions - PSBA Suggested Language

Current SCASD [policy 103](#)

Authority

The Board declares it to be the policy of this District to provide an equal opportunity for all students to achieve their maximum potential through the programs offered in the schools without discrimination on the basis of race, ethnicity, color, age, creed, religion, sex, sexual orientation, gender expression, ancestry, national origin, marital status, pregnancy or handicap/disability.

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The District strives to maintain a safe, positive learning environment for all students that is free from discrimination. Discrimination is inconsistent with the educational and programmatic goals of the District and is prohibited on school grounds, at school-sponsored activities and on any conveyance providing transportation to or from a school entity or school-sponsored activity.

The District shall provide to all students, without discrimination, course offerings, counseling, assistance, services, employment, athletics and extracurricular activities. The District shall make reasonable accommodations for identified physical and mental impairments that constitute handicaps and disabilities, consistent with the requirements of federal and state laws and regulations.

The Board encourages students and third parties who believe they or others have been subject to discrimination to promptly report such incidents to designated employees, even if some elements of the related incident took place or originated away from school grounds, school activities or school conveyances.

The Board directs that verbal and written complaints of discrimination shall be investigated promptly, and appropriate corrective or preventive action be taken when allegations are substantiated. The Board directs that any complaint of discrimination brought pursuant to this policy shall also be reviewed for conduct

which may not be proven discriminatory under this policy but merits review and possible action under other Board policies.

Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a complaint and the investigation shall be handled in accordance with this policy and the district's legal and investigative obligations.

Retaliation

The Board prohibits retaliation against any person for making a report of discrimination or participating in a related investigation or hearing, or for opposing practices the person reasonably believes to be discriminatory. A complaint of retaliation shall be handled in the same manner as a complaint of discrimination.

Definitions

Bullying and Harassment

Bullying and harassment are similar as they are both about:

- power and control
- actions that hurt or harm another person physically or emotionally
- an imbalance of power between the target and the individual demonstrating the negative behavior
- the target having difficulty stopping the action directed at them

Thus, while there are similarities, harassment is more specifically a course of conduct which annoys, threatens, intimidates, alarms, or makes a person concerned for their safety. Bullying is an often hidden effort occurring over time intended to cause hurt or harm to another person or group who feels helpless to respond and which will likely continue without outside intervention.

When harmful behavior is directed at a target based on a protected class, that behavior is then defined as discriminatory harassment.

The distinction between bullying and harassment is that when the bullying behavior directed at the target is also based on a protected class, that behavior is then defined as discriminatory harassment. For more information on bullying and cyberbullying see policy 249. [link]

Discriminatory Harassment

Harassment by students, employees or third parties on the basis of race, color, age, creed, religion, sex, sexual orientation, gender identity, ancestry, national origin, marital status, pregnancy, handicap/disability or for participation in reports or

investigations of alleged discrimination is a form of discrimination and is subject to this policy. A person who is not necessarily an intended victim or target of such harassment but is adversely affected by the offensive conduct may file a report of discrimination on his/her own behalf. [\[20\]](#)[\[21\]](#)[\[22\]](#)[\[23\]](#)[\[25\]](#)[\[25\]](#)[\[26\]](#)

For purposes of this policy, **harassment** shall consist of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related performance and which relates to an individual's or group's race, color, age, creed, religion, sex, sexual orientation, gender identity, ancestry, national origin, marital status, pregnancy or handicap/disability when such conduct is:

1. Sufficiently severe, persistent or pervasive; and
2. A reasonable person in the complainant's position would find that it creates an intimidating, threatening or abusive educational environment such that it deprives or adversely interferes with or limits an individual or group of the ability to participate in or benefit from the services, activities or opportunities offered by a school.

Sexual Harassment

Sexual harassment is a form of discrimination on the basis of sex and is subject to this policy. For purposes of this policy, **sexual harassment** shall consist of unwelcome sexual advances; requests for sexual favors; and other inappropriate verbal, nonverbal, written, graphic or physical conduct of a sexual nature when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of a student's status in any educational or other programs offered by a school; or
2. Submission to or rejection of such conduct is used as the basis for educational or other program decisions affecting a student; or
3. Such conduct deprives a student or group of individuals of educational aid, benefits, services or treatment; or
4. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant's position would find that it unreasonably interferes with the complainant's performance in school or school-related programs, or otherwise creates an intimidating, hostile, or offensive school or school-related environment such that it unreasonably interferes with the complainant's access to or participation in school or school-related programs.

Federal law declares sexual violence a form of sexual harassment. **Sexual violence** means physical or sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual may also be unable to give consent due to an intellectual or other disability. Sexual violence includes but is not limited to rape, sexual assault, sexual battery and sexual coercion. [For more information on sexual harassment and the provisions of Title IX see policy 248. \[link\]](#)

Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Human Resources Director as the District's Compliance Officer. All nondiscrimination notices or information shall include the name, position, and contact information of the Compliance Officer.

The Compliance Officer shall publish and disseminate this policy and complaint procedure at least annually to students, parents/guardians, employees and the public to notify them of where and how to initiate complaints under this policy.

The Compliance Officer is responsible to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the district's nondiscrimination procedures in the following areas:

1. Curriculum and Materials - Review of curriculum guides, textbooks and supplemental materials for discriminatory bias.
2. Training - Provision of training for students and staff to prevent, identify and alleviate problems of discrimination.
3. Resources - Maintain and provide information to staff on resources available to alleged victims in addition to the school complaint procedure, such as making reports to the police, available assistance from domestic violence or rape crisis programs and community health resources including counseling resources.
4. Student Access - Review of programs, activities and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.
5. District Support - Assurance that like aspects of the school program receive like support as to staffing and compensation, facilities, equipment, and

related areas.

6. Student Evaluation - Review of tests, procedures, and guidance and counseling materials for stereotyping and discrimination.
7. Complaints - Conduct investigations and/or monitor and provide technical assistance to building principals in processing complaints.

Legal

1. [20 U.S.C. 1681 et seq](#)
2. [22 PA Code 12.1](#)
3. [22 PA Code 12.4](#)
4. [22 PA Code 15.1 et seq](#)
5. [22 PA Code 4.4](#)
6. [24 P.S. 1301](#)
7. [24 P.S. 1310](#)
8. [24 P.S. 1601-C et seq](#)
9. [24 P.S. 5004](#)
10. [29 U.S.C. 794](#)
11. [42 U.S.C. 12101 et seq](#)
12. [42 U.S.C. 1981 et seq](#)
13. [42 U.S.C. 2000d et seq](#)
14. [43 P.S. 951 et seq](#)
19. [U.S. Const. Amend. XIV, Equal Protection Clause](#)
20. [29 CFR 1604.11](#)
21. [29 CFR 1606.8](#)
22. [Davis v. Monroe County Board of Education, 526 U.S. 629 \(1999\)](#)
23. [Franklin v. Gwinnett County Public Schools, 503 U.S. 60 \(1992\)](#)
24. [Office for Civil Rights - Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability \(Oct. 26, 2010\)](#)
25. [Office for Civil Rights - Resources for Addressing Racial Harassment](#)
26. [Office for Civil Rights - Revised Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties Title IX \(January 2001\)](#)

Resources:

Pacer's National Bullying Prevention Center

See also:

103.1

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248R

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