

# **Board Policy**

## **Nondiscrimination/Harassment**

BP 5452

### **Students**

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in academic, extracurricular, and other educational support programs, services, and activities. Unlawful discrimination against a Charter School student, including discriminatory harassment, intimidation, and bullying, is prohibited. Any form of retaliation against an individual who files or otherwise participates in the filing or investigation of a complaint or report regarding an incident of discrimination is also prohibited.

This policy shall apply to all acts related to school activity or to school attendance occurring within the Charter School, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

Unlawful discrimination includes physical, verbal, nonverbal, or written conduct based on a student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or the student's association with a person or group with one or more of these actual or perceived characteristics. Unlawful discrimination also includes the creation of a hostile environment when the prohibited conduct is so severe, persistent, 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.

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 the Charter School and any program, or activity, or the provision or receipt of educational benefits or services, such as prohibiting a student from enrolling in a class or course on the basis of the student's sex.

When, as permitted by law, the Charter School maintains sex-segregated facilities, such as restrooms and locker rooms, or sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs, students shall be allowed to access facilities and participate in programs and activities, class discussions, yearbook pictures, and field trips consistent with their gender identity. Each student's gender identity shall be the gender asserted by the student. Transgender and gender-nonconforming students shall be afforded the same rights, benefits, and protections as all Charter School students.

Complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation may be filed in accordance with the Charter School's uniform complaint procedures and the processes established by the Principal for investigating and resolving such complaints. Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action shall be taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, or bullying, or retaliation in violation of law, Charter School policy, or other related Charter School procedures shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4.

### **Charter School's Antidiscrimination Measures**

The Governing Board hereby incorporates by reference the policies, procedures, and measures implemented by the Principal to prevent or address unlawful discrimination in the Charter School, and any programs or activities, including, but not limited to, the following:

1. Designation of a coordinator/compliance officer to handle complaints alleging unlawful discrimination
2. Posting of information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status in a prominent and conspicuous location on the Charter School's web site, as required pursuant to Education Code 221.61
3. Publicizing of the Charter School's nondiscrimination policies and complaint procedures
4. Provision of training and information about the Charter School's nondiscrimination policies and complaint procedures, including information related to state and federal laws pertaining to the rights of transgender and gender-nonconforming students, to students, parents/guardians, Charter School employees, and others as applicable
5. Establishment of a complaint process that ensures a prompt and fair resolution of complaints
6. Provision of annual notification required by law
7. Maintenance of student records in accordance with law

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

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 49020-49023 Athletic programs

51500 Prohibited instruction or activity 51501 Prohibited means of instruction 60044 Prohibited instructional materials CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

432 Student record

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

12101-12213 Title II equal opportunity for individuals with disabilities UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973 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

6101-6107 Age Discrimination Act of 1975 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

106.9 Notification of nondiscrimination on basis of sex

110.25 Prohibition of discrimination based on age 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

Management Resources:

CSBA PUBLICATIONS

Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, July 2016

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

FIRST AMENDMENT CENTER PUBLICATIONS

Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Harassment and Bullying, October 2010 Notice of Non-Discrimination, Fact Sheet, August 2010

WEB SITES

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

California Department of Education: <http://www.cde.ca.gov> California Office of the Attorney General: <http://oag.ca.gov> California Safe Schools Coalition: <http://www.casafeschools.org> First Amendment Center: <http://www.firstamendmentcenter.org> National School Boards Association:

<http://www.nsba.org>

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

APPROVED:

10/20