



PALO ALTO UNIFIED SCHOOL DISTRICT  
**EDUCATIONAL SERVICES DIVISION**

25 CHURCHILL AVENUE  
PALO ALTO, CALIFORNIA 94306  
(650) 329-3709 FAX (650) 326-7463

**DISCRIMINATION POLICY AND COMPLAINT PROCEDURE  
STAFF GUIDANCE MEMORANDUM**

The Governing Board is committed to creating a safe learning and working environment for all students and employees. The Governing Board recognizes the harmful effects of discrimination, including discriminatory harassment, intimidation and bullying, on student learning and school attendance and desires to provide safe school environments that protect students from physical and emotional harm. This Guidance Memorandum for employees is designed to summarize information relevant to understanding and accessing the Palo Alto Unified School District's (Hereinafter "District") discrimination policies and complaint procedures.

**1. District Policy:**

The District's policies prohibit unlawful discrimination, including discriminatory harassment, intimidation and bullying, based on actual or perceived characteristics of race or ethnicity, color nationality, national origin, ethnic group identification, age, religion, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or any other characteristic identified in Education Code 200 or 220, Penal Code 422.55, or Government Code 11135, or based on association with a person or group with one or more of these actual or perceived characteristics. (BP 5145.3 – Nondiscrimination/Harassment, Attached Exhibit A)

**2. Federal Civil Rights Guidance Letters:**

Some student misconduct that has been regarded generally as bullying may also may trigger the District's responsibilities under one or more of the federal and state antidiscrimination laws. Schools are responsible for responding promptly and effectively to discriminatory harassment, intimidation and bullying, and other forms of discrimination about which they know or should have known. It is imperative that the school community understands the relationship between bullying and unlawful discrimination and how schools should respond. Attached as Exhibits B and C are the October 2010 "Dear Colleague" Letter issued by the Office for Civil Rights that provides a discussion of this relationship and how schools should respond, and the August 2013 "Dear Colleague" Letter issued by the Office of Special Education and Rehabilitation Service that provides a discussion of school district responsibilities under IDEA with respect to bullying of children with disabilities.

**3. Prohibited Conduct:**

Students who are in the protected classes identified in section 1 are particularly vulnerable to bullying and harassment and are often targeted based on their protected status, for example on the basis of their disability. Below are some examples of conduct that could constitute unlawful discrimination:

- a. Verbal: Hurtful name-calling, teasing, gossiping, making threats, making slurs or epithets, making rude noises, or spreading hurtful rumors.
- b. Nonverbal: Posturing, making gang signs, leering, staring, stalking, destroying property, insulting or threatening

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- c. Physical: Hitting, punching, pushing, shoving, poking, kicking, tripping, blocking egress, strangling, hair pulling, fighting, beating, pinching, slapping, "pantsing," biting, spitting, or destroying property.
- d. Emotional (Psychological): Rejecting, terrorizing, extorting, defaming, intimidating, humiliating, blackmailing, manipulating friendships, isolating, shunning, ostracizing, using peer pressure, or rating or ranking personal characteristics.
- e. Cyber-bullying: Sending insulting or threatening messages by phone, e-mail, Web sites, or any other electronic or written communication. This policy pertains to cyberbullying that is related to school activity or attendance and is directed toward a pupil or school personnel.

Students who engage in discrimination, including discriminatory harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate discipline in accordance with applicable law and as provided in Board Policy and Administrative Regulation, up to and including counseling, suspension, and/or expulsion. Any employee who permits or engages in prohibited discrimination, harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal. Other possible responses include, but are not limited to, those listed in AR 1312.3 Section G – Remedial Action, such as counseling and academic support for the subject of the complaint, separating the subject of the complaint and the individual who engaged in the discrimination, and follow-up inquiries to ensure that the discriminatory conduct has stopped. Steps may also include training or other interventions for the larger school community.

Though an incident of alleged discriminatory harassment, intimidation, and/or bullying may occur outside of a district program or activity, if the effects of the incident result in harassment, intimidation, or bullying in a district program or activity that is sufficiently serious to interfere with or limit the targeted student's ability to participate in or benefit from the program or activity, the school must respond promptly and effectively to eliminate the harassment occurring in a district program or activity, prevent its recurrence, and address its effects. Such response may include discipline of the alleged harasser and other remedial actions as described above.

#### **4. Complaint Procedure:**

Any student, parent/guardian, third party or other individual or organization who believes that he/she or another student or group has been subjected to unlawful discrimination or who has witnessed such conduct, may report the conduct orally to any school employee or administrator, and/or file a formal written complaint. Any individual who reports discrimination must be notified that he or she can address the complaint through the District's discrimination complaint procedure and advised how to obtain a copy. The District's procedure for resolving discrimination complaints is the Uniform Complaint Procedure AR 1312.3 (UCP). Copies of the procedure may be obtained at/through \_\_\_\_\_.

- i. **Oral reports to any school employee or administrator;** .
  - a. A staff member who receives a report of unlawful discrimination must, within one school day of receiving the report, notify the site Principal/designee. In addition, any school employee who observes any incident of unlawful discrimination involving a student must, within one school day, report this observation to the Principal/designee, whether or not the victim makes a report.

- o Where an oral report is made of unlawful discrimination involving the Principal/designee to whom the report would ordinarily be communicated, the employee who receives the report or who observes the incident shall instead report to the Compliance Officer within one school day.
- b. Within one day of receiving an oral report of unlawful discrimination, the Principal/designee must inform the individual making the report of the resolution options under the UCP, including the right to file a written complaint. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)
- c. If the individual making the oral report does not want to be identified, or does not give names of the perpetrators, the district may still have a duty to respond in some way depending upon the seriousness of the allegations and the risk of future harm to the student or others.

## **ii. Formal written complaints under the UCP**

Complaints under the UCP may be filed with the District Compliance Officer.<sup>1</sup>

The following position is the designated Compliance Officer to handle UCP complaints regarding unlawful discrimination, including discriminatory harassment, intimidation, or bullying, and to answer inquiries regarding the district's nondiscrimination policies:

Associate Superintendent – Educational Services  
25 Churchill Avenue, Palo Alto, CA 94306  
650-329-3700

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 1312.3 - Uniform Complaint Procedures)*

If a written complaint is submitted to a school site administrator, the administrator shall, within two school days of receiving it, send the complaint to the District Compliance Officer.

Upon receiving a complaint of unlawful discrimination, the Compliance Officer will immediately investigate the complaint in accordance with the procedures specified in AR 1312.3 – Uniform Complaint Procedures

Complaints alleging unlawful discrimination based on a protected status must be filed within six (6) months from the date the alleged discrimination occurred or the date the complainant first obtained knowledge of the facts of the alleged discrimination, unless the time for filing is extended by the superintendent or his or her designee.

## **5. Interim Measures:**

After a report or complaint is made, the Principal/designee and/or the Compliance Officer shall determine whether interim measures are necessary to stop, prevent or address the effects of discrimination during and pending any informal resolution and/or investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher. Interim measures will be implemented in a manner that minimizes the burden on the individual who was the target of the discrimination.

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<sup>1</sup> While use of the District's UCP form is preferred, it not necessary for a student or parent/guardian to use the form to file a discrimination complaint.  
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## **6. Optional Informal Resolution at the Site Level:**

When a written complaint alleging unlawful discrimination against an individual is submitted under these procedures, with the consent of the individual who is the subject of the complaint and his/her parent/guardian, the site Principal/designee may engage in informal efforts to resolve the complaint. The Principal/designee will notify the District Compliance Officer that informal resolution has been requested. The informal resolution process must be completed within 10 days of receipt of the complaint. The complainant must be notified that he/she may request a formal investigation at any time.

## **7. Investigation Process:**

At the beginning of an investigation under the UCP, the Compliance Officer will describe the district's complaint procedure to the subject of the complaint and his/her parent or guardian, and discuss what actions are being sought in response to the complaint. The subject of the complaint must have an opportunity to describe the incident, identify witnesses who may have relevant information and provide other evidence or information leading to evidence of the alleged conduct. The Compliance Officer will interview individuals who have information relevant to the investigation, including, but not limited to, the subject of the complaint and, where appropriate, his or her parents/guardians, the person accused of unlawful discrimination, anyone who witnessed the reported conduct, and anyone mentioned as having relevant information. The Compliance Officer will also review any records, notes, or statements related to the complaint and may take other steps such as visiting the location where the conduct is alleged to have taken place.

## **8. Documentation:**

All reports and complaints regarding unlawful discrimination and the District's response must be documented in writing to ensure that they are appropriately addressed in a timely manner, whether the original report is made verbally or in writing. Records of the process used to investigate all complaints, including documentation of witness interviews and complaint resolutions, shall be maintained by the Compliance Officer.

## **9. Resolution Decisions:**

Within 60 calendar days of receiving the complaint, the Compliance Officer will conclude the investigation and prepare a written report of his/her findings. The Decision will include a statement of the issues raised, the findings of fact made on each issue, the District's conclusions on each issue and rationale for such conclusions, the corrective actions, if any, and notice of the right to appeal.

## **10. District Designee for Employee Questions:**

If any administrator or school site staff member has any questions regarding the applicability of this Guidance Memorandum to a particular situation and/or scenario, or other questions about the District's nondiscrimination policies and procedures, please contact the District Designee indicated below:

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Associate Superintendent – Educational Services  
25 Churchill Avenue  
Palo Alto, California 94306, (650) 329-3709

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