

MODESTO CITY SCHOOLS

Administrative Regulation

AR 5145.3

STUDENTS

Nondiscrimination in Education Programs and Activities

(Federal and State Law)

The Board of Education is committed to equal opportunity for all individuals in education. District programs and activities shall be free from discrimination, intimidation, bullying, and/or harassment,* based on actual or perceived ancestry, age, color, race, religion, ethnic background or national origin, language, gender, sexual orientation, gender identity, gender expression, economic status, physical or developmental disabilities, or other special needs, parental, pregnancy, family or marital status, or association with a person or group with one or more of these actual or perceived characteristics. This policy shall apply to all acts related to school activity or school attendance within a school under the jurisdiction of the Superintendent of Modesto City Schools. The Board is committed to the “Principles of Rights, Responsibilities, and Respect to Ensure a Safe School Environment.”

PURPOSE OF COMPLAINT PROCEDURE

The purpose of the complaint procedures is to ensure that no student shall be subjected to discrimination, intimidation, bullying, and/or harassment under any program, activity or service offered by the District.

DEFINITION OF TERMS

Title IX Coordinators--The Associate Superintendent, Educational Services is the Title IX Coordinator for student-to-student harassment, intimidation, bullying, and/or discrimination and is designated by the District to receive and process complaints under this procedure. The Associate Superintendent can be reached at Modesto City Schools District Office, 426 Locust Street, Modesto, CA 95351; (209) 574-1598.

The Deputy Superintendent, Human Resources is the Title IX Coordinator for any student harassment and/or discrimination complaints involving employees of the District. The Deputy Superintendent can be reached at Modesto City Schools District Office, 426 Locust Street, Modesto, CA 95351; (209) 574-1519.

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Complainant--A student and/or the student's parent/guardian who believes the student has been discriminated, intimidated, bullied, and/or harassed.

Respondent--The individual who allegedly discriminated, intimidated, bullied, and/or harassed the complainant.

**For the purposes of this administrative regulation, discrimination, intimidation, bullying, and/or harassment are considered written, verbal, or physical acts of a severe, persistent, or pervasive nature that affect a student's ability to participate in or benefit from an educational program or activity, or create an intimidating, threatening or abusive environment.*

REPORTING PROCEDURES

Any student, or the student's parent/guardian, who believes that he/she has been the victim of racial, sexual, or other forms of harassment, intimidation, bullying, and/or discrimination should immediately contact a school site administrator or other District administrator. Any District employee with knowledge or belief of conduct that may constitute harassment, intimidation, bullying, and/or discrimination toward any person shall immediately intervene when safe to do so. In addition, the employee shall report the alleged acts immediately to an appropriate District official designated by this policy.

1. **At Each School Site**: The principal/designee is the person responsible for receiving oral or written reports of harassment, intimidation, bullying, and/or discrimination at the school level.

A written statement will be forwarded by the principal/designee to the Associate Superintendent, Educational Services or the Deputy Superintendent, Human Resources. If the complaint involves the principal/designee, the complaint shall be filed directly with the Deputy Superintendent, Human Resources.

2. **In the District**: The Deputy Superintendent, Human Resources and the Associate Superintendent, Educational Services are designated as the District administrators who shall receive reports or complaints of harassment, intimidation, bullying, and/or discrimination.

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The Board of Education hereby designates the Superintendent to hear any complaint against Associate Superintendent, Educational Services and the Deputy Superintendent, Human Resources. If the complaint involves the Superintendent, the complaint shall be filed directly with the Board of Education.

3. Submission of a complaint or report of harassment, intimidation, bullying, and/or discrimination will not affect the complainant or reporter's future employment, grades, or work assignments.
4. Use of formal reporting forms is mandatory.
5. The District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible. Nevertheless, the District is legally obligated to investigate and take appropriate actions.
6. The appropriate Title IX Officer shall maintain a record keeping system to oversee the processing of harassment, intimidation, bullying, and/or discrimination complaints in order to monitor and track the receipt, investigation, and remedial action taken in response to complaints.

INVESTIGATION

1. The Associate Superintendent, Educational Services and the Deputy Superintendent, Human Resources will designate an administrator to conduct the investigation of harassment and/or discrimination complaints.
2. The District administrator, upon receipt of a report or complaint alleging harassment, intimidation, bullying, and/or discrimination, shall validate the school site investigation or authorize further investigations.

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3. An investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. An investigation may also consist of any other methods and documents deemed pertinent by the investigator.
4. An investigation will determine whether the alleged harassment, intimidation, bullying, and/or discrimination occurred or did not occur. If there is sufficient evidence to make a determination, the scope and severity of the behavior, identity of the perpetrator(s) if possible and, the harm to the victim(s) if any shall be documented.
5. In determining whether alleged conduct constitutes a violation of this policy, the District will consider the circumstances, the nature of the behavior, past incidents, patterns of behavior, the relationships between the parties, and the context in which the alleged incidents occurred.
6. The District may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged harassment, intimidation, bullying and/or discrimination. The investigation will be completed as soon as practical.
7. Upon completion of the investigation, a **written** determination shall be made whether the allegations have been substantiated as factual and whether they are violations of this policy.

DISTRICT ACTION

1. Upon completion of the investigation, if the District determines that action is necessary to resolve the complaint, the District will take appropriate action.

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2. The result of the District's investigation of any complaint filed under these procedures will be reported in writing by the District to the complainant.
3. Complainants who disagree with the findings or action taken as a result of their complaint may appeal in writing to the Superintendent/designee.

REPRISAL

The District will take appropriate action against any student/employee who retaliates against any person who reports alleged harassment, intimidation, bullying, and/or discrimination or any student/employee who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment. (Retaliation includes, but is not limited to, any form of intimidation, bullying, reprisal, or harassment.)

RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with other agencies, initiating civil action or seeking redress under State criminal statutes and/or Federal law. Individuals may also pursue complaints under the District's Uniform Complaint Procedures (Board Policy 1312.3) if they chose not to file under this complaint procedure. A copy of this policy is available at any school or at the District.

FALSE REPORTS

It is a violation of this policy to knowingly report false allegations of harassment, intimidation, bullying, and/or discrimination. Employees/students found to knowingly report or corroborate false allegations would be subject to appropriate discipline and/or legal action.

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DISSEMINATION OF POLICY AND TRAINING

1. This policy or a summary shall be conspicuously posted throughout the District's facilities in areas accessible to pupils, staff, parents, and community members.
2. This policy shall appear in the Student Conduct Code. The policy will also be distributed to all staff and faculty.

REVIEWED: January 13, 2003
October 1, 2012
December 8, 2014
February 29, 2016