

**POWAY UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE PROCEDURE**

Originator: Assoc. Superintendent, LSS

Issue No: 4

Date: 6/24/13

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Reference: EC 200 *et seq.*, 48900;
PC 422.55; Article 1,
Section 28 California
Constitution

ARTICLE: 5.0 STUDENT PERSONNEL
**5.28 BULLYING, HATE HARASSMENT,
AND HATE BEHAVIOR**

SECTION 5.28.1 Bullying, Hate Harassment, and Hate Behavior

Scope

This Administrative Procedure applies to all allegations of hate-motivated behaviors and criminal actions toward any student in the academic environment of Poway Unified School District, including allegations relating to school sponsored activities. Any student, or person on behalf of any student, who believes a student has been the victim of bullying or hate-motivated behavior should be referred to this administrative procedure.

Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act; including, but not limited to, sexual harassment, hate violence, or harassment, threats, intimidation, or through an electronic act (cyberbullying), that has the effect or can reasonably be predicted to have the effect of placing a reasonable pupil in fear of harm to that pupil's or those pupils' person or property, causing a reasonable pupil to experience a substantial detrimental effect on his or her physical or mental health, causing a reasonable pupil to experience substantial interference with his or her academic performance, or causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

Definition of Hate-Motivated Behavior

Poway Unified School District Board Policy, supported by the California statute, defines hate-motivated behavior as an act, including an electronic act, or attempted act, motivated by hostility toward a victim's actual or perceived race, ethnicity, national origin, immigrant status, gender, sexual orientation, religious belief, age, disability, or any other physical or cultural characteristic, or association with a person or group with one or more of these actual or perceived characteristics. Hate-motivated behavior is elevated to a criminal act, defined as hate violence by the California Education Code Section 200.3 and Section 422.55 of the California Penal Code.

Disciplinary Actions Involving Hate-Motivated Harassment and Behavior

Factors to Consider

The determination of hate-motivated behavior is assessed from the point of view of a reasonable person of the alleged victim's position and takes into account the totality of circumstances.

Factors to consider in all cases may include, but are not limited to, the following:

- a. Nature and seriousness of the incident
- b. Frequency of the offensive conduct
- c. Age of the perpetrator
- d. Physically threatening or humiliating conduct
- e. Context in which the incident occurred

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- f. Relationship between the parties
- g. Impact on victim

Hate violence as defined in California Education Code Section 200.3 and California Penal Code Section 422.55

For incidents involving hate violence as defined in California Education Code Section 200.3 and California Penal Code Section 422.55, suspension or expulsion will be imposed upon the first offense.

Examples include, but are not limited to:

- § Assault, threatened assault, battery, or bodily injury.
- § Activities historically associated with threats of hostility toward an individual's actual or perceived protected characteristics (e.g., burning crosses, nooses, wearing or posting swastikas, wearing white sheets, hanging effigies, defacing symbols or images associated with a protected status).
- § Racial slurs, name calling, and bigoted epithets used in association with an intention to inflict injury and or damage.
- § The presence of organized group literature and/or posters which reference an organized hate group with an intention to present a threatening message or hostile educational environment.

Hate-motivated intimidation, harassment, remarks, and actions that create a hostile learning environment, absent of physical threat or criminal action

For incidents involving hate-motivated intimidation, harassment, remarks, and actions that create a hostile learning environment, absent of physical threat, and/or criminal act, suspension may be imposed upon the first offense.

Expulsion may be imposed when (1) other means of correction fail to bring about proper conduct, or (2) it is determined the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

Examples include, but are not limited to:

- § Name calling, racial slurs, or bigoted epithets (in absence of a physical threat).
- § The posting and circulation of demeaning jokes, or caricatures based on negative stereotypes of persons.
- § Harassment based upon an actual or perceived protected status which degrades an individual or negatively affects the individual's learning environment.
- § The presence of drawings or words considered offensive, such as graffiti, slurs, paintings, or printed clothing.
- § The defacing, removal, or destruction of posted materials, meeting places, memorials, etc.
- § Repeated insensitive or inappropriate remarks which continue after corrective or disciplinary action have been implemented by the school.

Insensitive or inappropriate remarks and behavior

For incidents involving insensitive or inappropriate remarks which are absent of hostility or malice, schools will provide guidance and/or appropriate support services to the victim, as well as take appropriate corrective or disciplinary action for students exhibiting inappropriate behavior.

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Suspension may be imposed when other means of correction fail to bring about proper conduct.

Examples include, but are not limited to:

- § Demeaning statements or degrading language stated between students in a manner wholly without malice.

Dissemination, Reporting, and Response Procedures

1. Annually, each school will provide students with age-appropriate instruction as to the definitions and examples of hate behavior and the steps to be taken to report such behaviors, whether directed at them or observed toward others. A well-publicized and accessible process for reporting hate behavior will be available to students.
2. Annually, each school will provide parents with a copy of the Board Policy and Administrative Procedure regarding Bullying, Hate Harassment, and Hate Behavior.
3. Staff will be provided training regarding identifying, reporting, and responding to hate-motivated behavior. This will include the need to report to their supervisor or principal all instances which have been reported to them or observed. Staff who witness an act of discrimination, harassment, intimidation, bullying, or hate behavior shall intervene when it is safe to do so.
4. Supervisors and principals are required to report incidents involving suspension or recommended expulsion for hate-motivated behavior to the District Office and to law enforcement.
5. The response to reports of hate-behavior shall include timely investigation, assurance of protection for the victim, notification of the victim's parents or guardians, and, as appropriate, disciplinary action for the perpetrator.
6. If the victim believes that the situation has not been remedied, he/she may file a complaint in accordance with District complaint procedures for discrimination or sexual harassment.

Educational and Other Programs

1. The District shall create and support programs for students and staff which are designed to promote understanding and appreciation of diversity, to instill the principles of justice and a comprehension of the rights, duties, and dignity of American citizenship and the meaning of equality and human dignity, including promotion of harmonious relations. These programs will also focus on fostering an environment that encourages pupils to realize their full potential, create a school environment that is free from discriminatory attitudes, practices, or events, and prevent acts of hate behavior, hate-related harassment, and hate violence.
2. The District shall create and foster an environment that is free from discriminatory attitudes and activities in order to prevent acts of hate violence.
3. The District shall adopt instructional materials which reflect diversity and discourage hate violence.
4. Each school shall undertake activities that address and discourage hate behavior and harassment.
5. The District shall provide appropriate support services to the victims of hate behavior. Additionally, along with appropriate disciplinary consequences, the District shall provide appropriate support services and training for students exhibiting hate-motivated behavior.