



# CAPISTRANO UNIFIED SCHOOL DISTRICT

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JOSEPH M. FARLEY, ED.D.

September 5, 2012

The Honorable Thomas J. Borris  
Presiding Judge  
Orange County Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

Re: Capistrano Unified School District's Response to 2011-12 Orange County Grand Jury Report, "Anti-Bullying Programs in Orange County Schools"

To the Honorable Thomas J. Borris:

In accordance with California Penal Code section 933.05, the Orange County Grand Jury has requested that the Capistrano Unified School District ("District") respond to Findings 1-4 and Recommendations 1-3 and 6-7 in the 2011-12 Orange County Grand Jury Report entitled, "Anti-Bullying Programs in Orange County Schools."

**Finding 1: Not all Orange County schools use the same technology, procedures, and codes to record bullying or harassment incidents.**

**Response to Finding 1:** The District agrees partially with this finding. The District agrees that not all Orange County schools use the same technology and procedures to record bullying or harassment incidents. Different districts use different databases and internal procedures to track bullying complaints. With regard to the codes used to record bullying or harassment incidents, prior to July 1, 2012, Education Code §48900(r) defined bullying by reference to sexual harassment (Education Code §48900.2), hate violence (Education Code §48900.3), and harassment, threats, and intimidation (Education Code §48900.4). The law did not contain a stand-alone definition of bullying. However, as of July 1, 2012, Education Code §48900(r) provides a stand-alone definition of the term "bullying," which is Assembly Bill (AB) 1156. School districts throughout California are bound by this statute.

**Finding 2: New legislation takes effect July 1, 2012, and broadens the definition of "Bullying."**

**Response to Finding 2:** The District agrees that AB 1156 provides a broader definition of "bullying" than was contained in prior law.

**Finding 3: Education Code §234.1 requiring posting of anti-bullying/anti-harassment policies in prescribed areas was not evident in all schools visited.**

**Response to Finding 3:** The District cannot comment on what policies are posted in all schools throughout Orange County, but can respond only on behalf of the District itself. Finding 3 combines the requirement to post anti-discrimination/anti-harassment policies in prescribed areas with the requirement to post anti-bullying policies. The requirement for school districts to post their anti-bullying policy in all schools and offices, including staff lounges and pupil government meeting rooms, was new as of July 1, 2012. Thus, the District disagrees with Finding 3, to the extent it reflects on the District's practice in regard to posting its anti-bullying policy in prescribed areas prior to July 1, 2012.

**Finding 4: Based on witness testimony, confidentiality was not maintained in a bullying incident as prescribed in California Education Code §234.1**

**Response to Finding 4:** The Grand Jury report does not contain sufficient information to enable the District to respond to this finding, nor does it identify which school district was involved in the alleged breach of confidentiality. Therefore, the District disagrees wholly with this finding.

**Recommendation 1: Recommend a countywide compatible information system for reporting incidents of bullying be explored by all school districts.**

**Response to Recommendation 1:** This recommendation will not be implemented because it is not warranted and is not reasonable. The District tracks incidents of bullying as follows: in accordance with Administrative Regulation 5.25 (Attachment 1). Different districts use different technology and procedures that reflect the unique needs of each district. While all districts will comply with state-mandated reporting, such as the California Longitudinal Pupil Achievement Data System (CALPADS), it is not necessary that each district use the same internal procedures and technology to track reported incidents of bullying.

**Recommendation 2: Recommend all countywide schools agree upon the same definition of bullying.**

**Response to Recommendation 2:** The District will not implement this policy because it is not warranted and is not reasonable. The District has no legal authority to obligate other school districts. However, it should be noted the District is required by law to apply the definition of "bullying" contained in Education Code §48900(r) in suspending and expelling students. The District also intends to use this definition of "bullying" in tracking complaints of bullying that are sustained.

**Recommendation 3: Each district review standardized procedures to protect a bully victim's and bystander's confidentiality as stated in Education Code §234.1**

**Response to Recommendation 3:** The District implemented this recommendation prior to July 1, 2012. The District has adopted policies in regard to retaliation and confidentiality.

Correspondence to The Honorable Thomas J. Borris, Presiding Judge, re: Capistrano Unified School District's Response to 2011-12 Orange County Grand Jury Report, "Anti-Bullying Programs in Orange County Schools"

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Those policies state: The identity of a complainant alleging discrimination, harassment, intimidation, or bullying shall remain confidential as appropriate within the dual contexts of the District's legal obligation to ensure a learning environment free from discrimination, harassment, intimidation, and bullying, and the right of the accused to be informed of the allegations. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the District will comply with requests for confidentiality to the extent possible. The District intends to remind its employees of these policies at the beginning of each school year.

**Recommendation 6: Recommend each district explore the development of a countywide standard information system for recording incidents of bullying.**

**Response to Recommendation 6:** This recommendation will not be implemented because it is not warranted and is not reasonable. The District tracks incidents of bullying in accordance with the attached District Administrative Regulation 5.25. Districts use different technology and procedures that reflect the unique needs of each district. While all districts will comply with state-mandated reporting, such as the California Longitudinal Pupil Achievement Data System (CALPADS), it is not necessary that each district use the same internal procedures and technology to track reported incidents of bullying.

**Recommendation 7: All schools post anti-bullying/anti-harassment policy in offices, staff lounges and student government meeting areas as prescribed in Education Code §234.1**

**Response to Recommendation 7:** The District implemented this recommendation prior to September 5, 2012, by posting anti-bullying/anti-harassment policy in all offices, staff lounges and student government meeting areas as prescribed in Education Code §234.1

If you have any further questions or need additional information, please contact Michael Beekman, Executive Director, Safety & Student Services, at 949-234-9267.

Sincerely,



Joseph M. Farley, Ed.D.  
Superintendent

Attachment

cc: Orange County Grand Jury  
700 Civic Center Drive West  
Santa Ana, CA 92701



**BULLYING**

*Bullying* as defined by California law and Board Policy involves severe or pervasive abusive actions. While being aware of children's teasing and acknowledging injured feelings are always important, District staff need to consider that bullying may be occurring when hurtful or aggressive behavior toward an individual or group appears to be unprovoked, intentional, and repeated.

Bullying actions may include:

- Hitting, tripping, shoving, pinching, and excessive tickling.
- Verbal threats, name calling, racial slurs, and insults.
- Demanding money, property, or some service to be performed.
- Stabbing, choking and burning.
- Humiliating target(s) in front of friends.
- Manipulating friends and relationships.
- Sending hurtful or threatening e-mail or notes.
- Blackmailing or terrorizing.
- Utilizing a Web site or social media to taunt, embarrass, or degrade a target.

**NOTIFICATIONS**

A copy of the District's Conduct policy and regulation shall:

1. be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code §48980).
2. be displayed in a prominent location in the main administrative building, the staff lounge, Student Government rooms or other area where notices of district rules, regulations, procedures and standards of conduct are posted.
3. be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester or summer session.
4. appear in any school or district publication that sets forth the school's or districts comprehensive rules, regulations, procedures and standards of conduct.
5. be provided to employees.
6. be provided to any student, parent or member of the public who requests said policy.

**BULLYING** (continued)

**TRAINING**

All staff must be trained in bullying prevention and intentions.

**INTERVENTIONS**

The following interventions may be considered. Appropriate interventions will depend on the nature and extent of the bullying.

- Take immediate action when bullying is observed.
- Respond in a timely manner to all reports of bullying.
- Provide protection for students who are bullied.
- Establish support programs and resources for both the target and bully.
- Develop policies that define bullying and provide appropriate responses to the problem.
- Apply school rules, policies, and sanctions fairly and consistently.
- Establish an effective system for reporting bullying, including adults who can be relied on to respond responsibly and sensitively.
- Teach parents to understand bullying and the consequences.
- Partner with law enforcement and mental health agencies to identify and address cases of serious bullying.
- Promote the norm for a bully-free school throughout the entire school community.
- Engage students to help promote the norm of a bully-free school.
- California Education Code §48900 (r) allows for the suspension or recommended expulsion of a student engaged in an act of bullying.
- A bully complaint form will be made available at the school's site which can be picked up and dropped off in the main administration office.

**INVESTIGATION**

1. The principal or designee shall promptly investigate all complaints of bullying and within two working days submit a Bullying Log, available on the District website, to the Executive Director, Safety and Student Services. In conducting the informal site level procedure, the principal generally will speak individually with:
  - a. The reporting student.
  - b. The person accused of the bullying.
  - c. Anyone who witnessed the reported conduct.
  - d. Anyone mentioned as having related information.

BULLYING (continued)

2. The reporting student shall have an opportunity to describe the incident, present witnesses and other evidence of the bullying, and put his/her report in writing.
3. The principal, when necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, may discuss the complaint with the following persons:
  - a. The Superintendent or designee.
  - b. The parent/guardian of the reporting student.
  - c. If the alleged harasser is a student, his/her parent/guardian.
  - d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth.
  - e. Law Enforcement.
4. When the reporting student and the alleged bully so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The reporting student shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree.
5. In reaching a decision about the complaint, the principal or designee may take into account:
  - a. The details and consistency of each person's account
  - b. Evidence of how the reporting student reacted to the incident
  - c. Evidence of any past instances of bullying by the alleged culprit
  - d. Evidence of any past reports of bullying that were found to be untrue
6. To judge the severity of the bullying, the principal or designee may take into consideration:
  - a. How the misconduct affected one or more students' education
  - b. The type, frequency and duration of the misconduct
  - c. The number of persons involved

BULLYING (continued)

- d. The age of the person accused of bullying
  - e. The subject(s) of bullying
  - f. The place and situation where the incident occurred
  - g. Other disciplinary incidents at the school
7. The principal or designee shall write a report of his/her findings, decision, and reasons for the decision. Within 10 working days, the principal or designee shall provide Executive Director, Safety and Student Services, or designee, a written report of the complaint and investigation on the Bullying Report form available on the CUSD website. If the principal or designee verifies that bullying occurred, this report shall describe the action he/she took to end the bullying, address the effects of the bullying on the person bullied, and prevent retaliation or further bullying.
  8. If an allegation of bullying involves discrimination or harassment based on a protected characteristic, a complaint may be filed under the District's Uniform Complaint Procedure. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination.

**ENFORCEMENT**

The Superintendent or designee shall take appropriate actions to reinforce the District's Conduct policy. As needed, these actions may include any of the following:

1. Taking appropriate disciplinary action which may include suspension or expulsion under Education Code §48900 (r). In addition, the principal or designee may take disciplinary measures against any person who is found to have made a complaint of bullying, which he/she knew, was not true.
2. Providing staff in-service training and student instruction or counseling.
3. Notifying parents/guardians of the actions taken to the extent permitted by law.
4. Notifying Law Enforcement for a criminal investigation.
5. In the event of multiple incidents within a two-year period, a record of those incidents will be established in the permanent cumulative file of the student found to have engaged in bullying.