



# HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT

5832 Bolsa Avenue • Huntington Beach, California 92649  
(714) 903-7000 FAX (714) 372-8105

## Board of Trustees:

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Gregory S. Plutko, Ed.D., Superintendent of Schools

September 20, 2012

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

Re: Huntington Beach Union High School District's Response to 2011-12 Orange County Grand Jury Report, "Anti-Bullying Programs in Orange County Schools"

Dear Judge Borris:

In accordance with California Penal Code section 933.05, the Orange County Grand Jury has requested that the Huntington Beach Union High School District respond to Findings 1-4 and Recommendations 1-3, 6-7 in the 2011-12 Orange County Grand Jury Report entitled, "Anti-Bullying Programs in Orange County Schools."<sup>1</sup>

**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 section 48900(r) defined bullying by reference to sexual harassment (Education Code section 48900.2), hate violence (Education Code section 48900.3), and harassment, threats and intimidation (Education Code section 48900.4). The law did not contain a stand-alone definition of bullying. However, as of July 1, 2012, Education Code section 48900(r) provides a stand-alone definition of the term "bullying." (AB 1156.) School districts throughout California are bound by this statute.

<sup>1</sup> The Orange County Superintendent of Schools has been directed to respond to Recommendations 4 and 5.

*Our mission is to maximize learning for every student by providing an educational environment in which students thrive and become creative, responsible, and collaborative critical thinkers prepared for college, career and global citizenship.*

**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 section 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, is new as of July 1, 2012.<sup>1</sup> 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.

In regard to the finding that the District failed to post its anti-harassment policies in prescribed areas, the District disagrees with this finding. Anti-bullying policies and reporting procedures are posted.

**Finding 4: Based on witness testimony, confidentiality was not maintained in a bullying incident as prescribed in California Education Code section 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 county-wide 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: Confirmed acts of discrimination, harassment, and bullying are

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<sup>1</sup> Educ. Code § 234.1(d).

logged in the Huntington Beach Union High School District Student Information System. 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 county-wide 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 that the District is required by law to apply the definition of “bullying” contained in Education Code section 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 and bystanders’ confidentiality as stated in Education Code section 234.1**

**Response to Recommendation 3:** The District has adopted policies in regard to retaliation and confidentiality. Those policies state (see attached Board Policy 5144.3):

The identify 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 as follows:

- Posting Policy
- Staff Meetings

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

The Honorable Thomas J. Borris  
September 20, 2012  
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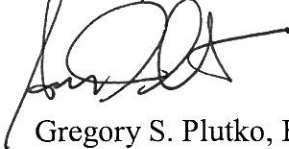
**Response to Recommendation 6:** This recommendation will not be implemented because it is not warranted and is not reasonable. The District tracks incidents of bullying as follows: Confirmed instances of discrimination, harassment, intimidation, and bullying are recorded in the Huntington Beach Union High School District Student Information System. 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 7: All schools post anti-bullying/anti-harassment policy in offices, staff lounges and student government meeting areas as prescribed in Education Code section 234.1**

**Response to Recommendation 7:** The District has implemented this recommendation.

If you have any further questions or need additional information, please contact me at 714-903-7000, extension 4200.

Sincerely,



Gregory S. Plutko, Ed.D.  
Superintendent

Enclosure: Board Policy 5144.3

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

GWP:ls



# Huntington Beach Union High School District Board Policies and Administrative Regulations

BP 5144.3  
Page 1 of 6

## Instruction

### Bullying

#### Introduction

The Governing Board believes every child is entitled to a safe school environment free from discrimination and bullying. Consistent with state and federal law, the District prohibits bullying and discrimination and provides a timely and effective complaint procedure for pupils who believe they have been the victim of bullying or discrimination. The District also is mindful that, at times, behavior that is rude or insensitive may nevertheless be constitutionally protected in the context of a public school environment. Such conduct can best be combated and prevented with effective strategies that involve pupils, parents and school employees in collaborative efforts to teach tolerance and ensure equal educational opportunities for all.

#### Applicability

This policy applies to all of the District's students. This policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the Superintendent of the Huntington Beach Union High School District. (EC § 234.1 (a)) This policy also reminds school personnel of their obligation to intervene when safe to do so as required by Education Code section 234.1 (b)(1).

#### Definitions

- A. "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in EC Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
- 1) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

Bullying (continued)

Definitions (continued)

- 2) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
- 3) Causing a reasonable pupil to experience substantial interference with his or her academic performance.
- 4) 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.

B. While not an exhaustive list, examples of bullying/cyberbullying might include:

- 1) Direct physical contact, such as hitting or shoving;
- 2) Threats to harm another person;
- 3) Oral or written assaults, such as teasing or name-calling;
- 4) Social isolation or manipulation;
- 5) Posting harassing messages, direct threats, social cruelty or other harmful texts, sounds or images on the Internet, including social networking sites;
- 6) Posting or sharing false or defamatory information about another person;
- 7) Posting or sharing information about another person that is private;
- 8) Pretending to be another person on a social networking site or other electronic communication in order to damage that person's reputation or friendships;
- 9) Posting or sharing photographs of other people without their permission;
- 10) Spreading hurtful or demeaning materials created by another person (e.g., forwarding offensive e-mails or text messages); and
- 11) Retaliating against someone for complaining that they have been bullied.

C. "Electronic act" means the transmission of a communication, including, but not limited to, a message, text, sound, or image, or a post on a social network Internet Web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer or pager.

D. "Reasonable pupil" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

## Bullying (continued)

### Prohibition Against Bullying

The District prohibits bullying as defined in this policy. This includes, but is not limited to, discrimination, harassment, intimidation and bullying based on the actual or perceived characteristics set forth in Penal Code section 422.55 and Education Code section 220, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. (EC §§ 234.1 (a); 48900(r)) [cf. Board Policy 0410 (Nondiscrimination in District Programs and Activities) and Board Policy 5145.7 (Sexual Harassment of Students)]

### Free Speech Protection

This policy shall not be construed to limit pupil rights to free speech as protected by the United States Constitution, the California Constitution, Education Code sections 48907 and 48950, and other applicable law.

### Duties and Responsibilities of School Employees

If school personnel witness an act of discrimination, harassment, intimidation, or bullying, he or she shall take immediate steps to intervene when safe to do so. (EC §234.1(b)(1))

### Reporting and Investigating Complaints: Complaint Officer

Any employee who has knowledge of discrimination, harassment, intimidation or bullying shall inform the site administrator of the concern as soon as possible. The site administrator shall notify the District's Nondiscrimination Officer within 24 hours. Students who have knowledge of discrimination, harassment, intimidation or bullying are encouraged to inform a teacher or school administrator as soon as possible. Students and parents may make such complaints anonymously by calling the Nondiscrimination Officer at the number below. Anonymous reports must provide sufficient corroborating evidence to justify the commencement of an investigation. Because of the inability of investigators to interview anonymous complainants, it may be more difficult to evaluate the allegations and, therefore, less likely to cause an investigation to be initiated.



Bullying (continued)

Reporting and Investigating Complaints: Complaint Officer (continued)

Formal complaints regarding violations of this policy shall be made pursuant to the District's Uniform Complaint Procedure, Board Policy/Administrative Regulation 1312.3.

Title: Assistant Superintendent, Educational Services  
Address: 5832 Bolsa Avenue, Huntington Beach, CA 92649  
Telephone Number: (714) 903-7000

The Nondiscrimination Officer is responsible for ensuring the District's compliance with nondiscrimination laws impacting California public school districts. The Nondiscrimination Officer shall notify the parents of the reported victim and the alleged perpetrator of the complaint and, if appropriate, law enforcement officials. The Nondiscrimination Officer may refer the victim, perpetrator and others to counseling and mental and other health services, as appropriate. The Nondiscrimination Officer shall maintain documentation of complaints and their resolution for a minimum of one CPM review cycle. (EC § 234.1(e))

Confidentiality

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.

Disciplinary Consequences

Students who violate this policy may be subject to discipline, including suspension and expulsion pursuant to the District's discipline policies and procedures, Board Policy/Administrative Regulation 5144.1.

Notifications

The District shall publicize this policy, including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board and the general public. The information shall be translated pursuant to Education Code section 48985. This policy shall be posted in all schools and offices, including staff lounges and pupil government meeting rooms. (EC § 234.1 (c) and (d))



Bullying (continued)

Anti-Bullying Education: Training for Educators

The District has an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity. The District shall undertake educational activities to prevent bullying and counter discriminatory incidents that impact the school environment and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity. (EC § 201 (g))

As part of its Educational Technology plan and Acceptable/Responsible Use Policy, the District educates pupils about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response. (Board Policy/Administrative Regulation 6163.4.) The District also educates pupils and teachers on the appropriate and ethical use of information technology in the classroom and Internet safety.

Interdistrict Transfers

A pupil who has been determined by personnel of either the district of residence or the district of proposed enrollment to have been the victim of an act of bullying committed by a pupil of the district of residence shall, at the request of the person having legal custody of the pupil, be given priority for interdistrict attendance under any existing interdistrict attendance agreement or, in the absence of an agreement, be given additional consideration for the creation of an interdistrict attendance agreement. (EC § 46600(b))

Bullying (continued)

Legal Reference:

EDUCATION CODE

201 (g)  
220  
234.1 (a), (b)(1), (c), (d), (e)  
46600 (b)  
48900 (r)  
48900.2, 48900.3, 48900.4  
48907  
48950  
48985

PENAL CODE

422.55

HBUHSD BOARD POLICIES/ADMINISTRATIVE REGULATIONS

0410  
1312.3  
5144.1  
5145.7  
6163.4

Policy adopted: 4/3/2012



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### **DISTRICT POLICY ON DISCRIMINATION, HARASSMENT, INTIMIDATION AND BULLYING**

Every student is entitled to a safe school environment free from discrimination, harassment, intimidation and bullying.

The District's Policies on discrimination, harassment, intimidation and bullying can be accessed on the District's website. Copies are available in the school office.

1. The District prohibits bullying. This includes, but is not limited to, discrimination, harassment, intimidation and bullying based on the actual or perceived characteristics set forth in Penal Code section 422.55 and Education Code section 220, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. Bullying is defined in Educ. Code section 48900(r).
2. School personnel must immediately intervene if they witness an act of discrimination, harassment, intimidation or bullying, provided it is safe to do so.
3. Acts of discrimination, harassment, intimidation or bullying should be brought to the attention of the principal.
4. You may make an anonymous complaint by contacting the principal or the District's Nondiscrimination/Anti-Bullying Coordinator.



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2. School personnel must immediately intervene if they witness an act of discrimination, harassment, intimidation or bullying, provided it is safe to do so.
3. Acts of discrimination, harassment, intimidation or bullying should be brought to the attention of the principal.
4. You may make an anonymous complaint by contacting the principal or the District's Nondiscrimination/Anti-Bullying Coordinator. If there is sufficient corroborating information, the District will commence an investigation.
5. Complaints will be considered confidential. However, it may be necessary to disclose certain information in order to effectively investigate.
6. Students who violate the District's policies on discrimination, harassment, intimidation and bullying may be subject to discipline, including suspension and expulsion.
7. The District prohibits retaliation against individuals who make complaints or provide information related to such complaints.
8. **Students and parents also may contact the District's Nondiscrimination/Anti-Bullying Coordinator: Don Austin, Assistant Superintendent, Educational Services at 714.903.7000 x 4401 or [daustin@hbuhd.edu](mailto:daustin@hbuhd.edu)**