

# **POLICY JICKA**

## **Board of Education Las Cruces Public**

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**Related Entries:** JICKA-RA, JICFA, JICFA-RA, JICFB, JICFB-RA  
**Responsible Office:** Associate Superintendent for Instruction

### **STUDENT HARASSMENT BASED ON PROTECTED CHARACTERISTICS**

#### **I. PURPOSE**

The purpose of this Policy is to require a school environment in which students feel safe and secure. The Board of Education is committed to maintaining an environment conducive to learning in which students are safe from an intimidating, hostile, or offensive environment.

Student harassment impairs the proper atmosphere for education, and creates an inequitable climate for learning. In addition to its negative effect upon education, student harassment negatively affects the characters of young people.

#### **II. POSITION**

- A. It is the policy of the Board of Education to prohibit discrimination against any student on the basis of race, color, religion, national origin, age, sexual orientation, sexual identity or disability (referred to herein as “protected characteristics”), on school premises, at any school-sponsored activities, or during any school-supplied transportation, by any students, employees, non-employee volunteers, or any other persons who are subject to the control of school authorities.
- B. The Board of Education prohibits retaliation against any person for good faith reporting, or participating in the investigation of an alleged violation of this Policy.
- C. The Board of Education prohibits employees or students from knowingly giving false reports or information under this Policy.
- D. School officials, employees and volunteers shall not permit or tolerate harassment and shall immediately report, intervene or stop harassment that is threatened, found or reasonably known or suspected to be occurring.

#### **III. DEFINITIONS**

##### **A. Definitions**

- 1. “Harassment on the basis of protected characteristics” is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, national origin, sexual orientation, sexual identity or disability, *and* that:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive school environment; and
- b. Has the purpose or effect of unreasonably interfering with the student's ability to benefit from any educational program or service provided by the School District; and
- c. Is so offensive or pervasive as to adversely affect the educational performance of the student.

#### **IV. REPORTING, INVESTIGATION AND STANDARDS**

##### **A. Reporting**

It is the express policy of the Board of Education to encourage students who feel they have been harassed based on protected characteristics by a school employee or by another student or students to report such claims. Reports of harassment based on protected characteristics may be reported on the appropriate School District forms. However, written reports of harassment are not required under this Policy.

##### **1. Reporting of Harassment by a Student or Students:**

Any student who believes he or she has been harassed based on protected characteristics by an employee, another student or other students, should report the incident to a teacher, counselor, principal or assistant principal, but may report incidents to any School District employee.

If a student who believes he or she has been harassed based on protected characteristics by an employee, another student or students, and who feels uncertain about who to tell, or feels uncomfortable telling any counselor or principal, the student should tell his or her parent(s) about the problem, and ask for the parent's(s') help in reporting the prohibited harassment to School District personnel.

If a student believes he or she has been harassed based on protected characteristics by a counselor or a principal, or by any other administrator, or any school employee, the student should seek the assistance of his or her parent(s) in reporting such prohibited harassment to the Superintendent. Students may also report the incident to any school employee.

##### **2. Reporting of Harassment by a School Employee:**

Any employee who witnesses or is aware of conduct which may violate this Policy shall report it to the principal or their immediate supervisor at his or her earliest opportunity. Any employee who receives any report of harassment of a student, whether the report is given by a student, a parent, or another employee, or who himself or herself observes instances of harassment must notify his or her immediate supervisor or the Superintendent, regardless of whether the employee

receiving the report or observing the instance considers the matter credible or significant.

B. Investigation

1. All reports of harassment on the basis of protected characteristics in violation of this Policy shall be promptly investigated by the school principal or his/her designee of the school receiving the report or of the school in which the conduct allegedly occurred or pertains. Should a designee conduct the investigation, the school principal's designee must be a licensed public school administrator.
2. The Superintendent of Schools shall promulgate regulations governing the investigation of complaints of violations of this Policy ensuring that all complaints of violations are properly and thoroughly investigated. The regulations shall require that the final investigation report created be sufficient to document the investigation and to support any disciplinary or other action specified or recommended in the investigation report as a result of the investigation. The regulations shall also provide specific provisions for communication with the alleged victims and their parents/guardians as to whether the complaint was substantiated and as to the progress of the investigation. The regulations shall provide that the investigation process must be concluded within a maximum of ten (10) school days of receipt of such complaints. The regulations shall also provide that if the investigation is conducted by an administrator other than the school principal, the principal will respond to the submission of the final investigation report within three (3) school days, approving the proposed action to be taken or directing further or different action. The regulations shall also provide that requests for an extension of this time requirements must be approved in writing by the Superintendent.
3. Parents and students to which the complaint pertains will be kept informed throughout the investigative process.
4. The Superintendent's regulations shall provide for a grievance procedure for parents and students (see regulation JICKA-RA) who are not satisfied with actions taken by or wish to appeal the initial findings of the school principal or designee. The regulations for the Policy shall provide that the Superintendent of Schools shall be the final appeal authority on any such grievance. Parents and students shall be informed of the availability of such a grievance process.
5. The regulations shall provide that the Superintendent shall make a determination on a grievance within fifteen (15) school days of the submission of a grievance under the regulations approving the actions of the school principal or directing further or different action.
6. The Board of Education prohibits any person from actively obstructing an investigation into an alleged violation of this Policy.
7. Where violations of criminal law may have occurred, the principal, in consultation with the Superintendent or his/her designee, shall report

the matter to the appropriate law enforcement agency.

C. Standard:

In assessing the existence of a violation of this Policy and the appropriate discipline, the principal or designee shall consider the nature and extent of the conduct, the age of the student(s) involved, the context in which the alleged conduct occurred, and any prior history of conduct prohibited by this Policy on the part of the violator.

**V. CONFIDENTIALITY**

The identities of those reporting violations of this Policy and those cooperating in the investigation of alleged violations shall be kept confidential to the extent consistent with the requirements of a full and fair investigation, the due process rights of persons charged with violations, and state and federal law.

**VI. SANCTIONS**

- A. Any employee who is found to have engaged in conduct prohibited by this Policy, or to have failed to discharge a duty imposed by this Policy, shall be subject to sanctions, including, but not limited to, warning or reprimand, suspension, termination, or discharge, subject to applicable procedural requirements.
- B. Any student who is found to have engaged in conduct prohibited by this Policy, shall be subject to discipline, including, but not limited to suspension or expulsion, subject to applicable procedural requirements, and to any applicable limitations imposed by state and federal disabilities law.

**VII. PUBLICATION**

This Policy shall be published in the Board's policies manual and on the School District's website. A summary of this Policy shall be published each year in all student and employee handbooks.

**VIII. REVIEW**

This policy shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process.

*JICKA Student Harassment Based on Protected Characteristics*

**History:** Formerly Policy 339; Formerly Policy JICK, Harassment, Intimidation, Bullying, and Hazing; Revised 1.7.06; Re-titled Jan. 08; REVISED 5.20.08

**Legal Reference:** 22-5-4.3 NMSA (1978) 30-20-13 NMSA (1978) 30-20-16 NMSA (1978) 30-20-18 NMSA (1978) 6.11.2.9 NMAC; Reviewed by Cuddy Jan. '08; REVISED 4.30.08; additional changes- 5.5.08-based on counsel review.

*Bonnie L. Votaw*

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*Board of Education, President*

May 20, 2008

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*Date Approved*