



School Safety BP 06-15

Board Policy: Non-Discrimination, Harassment, Intimidation, and Bullying for Students and Employees

Gateway Community Charters (“GCC”) programs and activities shall be free from discrimination, harassment, intimidation and bullying. This policy applies to all acts related to school activity or school attendance occurring within a school under Gateway Community Charters. This policy is inclusive of instances that occur on any area of the school campus, at school-sponsored events and activities, regardless of location, through school-owned technology, and through other electronic means, consistent with this policy.

As used in this policy, “discrimination, harassment, intimidation, and bullying” describe the intentional conduct, including verbal, physical, written communication, or cyberbullying, that is based on actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. In addition, bullying encompasses any conduct described in the definitions set forth in this policy.

The GCC shall ensure equal opportunities for students in admission and access to educational programs, guidance and counseling programs, athletic programs, testing procedures, and other activities, regardless of a student's actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics. Lack of English language skills will not be a barrier to admission and participation in career technical education programs. Eligibility for cocurricular or extracurricular programs shall be determined on the basis of objective competencies. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision.

In some situations, the GCC may have to provide individualized accommodation to a student to protect him/her from discrimination, harassment and bullying based upon gender identity or gender expression. Such an accommodation may include providing a student adequate access to appropriate facilities, such as restrooms. The schools may also provide male and female students with separate sex education classes in order to respect student modesty. In physical education, when objective standards have an adverse effect on students because of their gender, race, ethnic group or disability, other standards shall be used to measure achievement and create comparable educational opportunities.

Policies and procedures related to the types of unlawful discrimination, including harassment,

intimidation and bullying described above must also be consistent with student free speech rights under the First Amendment and Education Code sections 48907 and 48950. Education Code section 48907 protects students' speech rights, except to the extent student speech is obscene, libelous, or slanderous, or constitutes speech that incites pupils as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. Education Code 48950 states that it does not prohibit discipline for harassment, threats or intimidation unless constitutionally protected. As a general rule, harassment, threats, intimidation and bullying directed at an individual or group are not constitutionally protected, and whether such speech might be entitled to constitutional protection will be determined on a case-by-case basis, with consideration for the specific words used and the circumstances involved. This assessment will also question whether the conduct is prohibited because it is based upon a person's actual or perceived disability, gender, gender identity, gender expression, nationality, race, ethnicity, color, ancestry, religion, sexual orientation, age, marital or parental status, or association with a person or group with one or more of these actual or perceived characteristics.

To the extent possible, GCC will make reasonable efforts to prevent students from being discriminated against, harassed, intimidated and/or bullied, and will take action to investigate, respond, and address any reports of such behaviors in a timely manner. GCC staff who witness acts of discrimination, harassment, intimidation, and bullying will take immediate steps to intervene, so long as it is safe to do so.

Definitions

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, and including one or more acts committed by a student or group of students that constitutes sexual harassment, hate violence or creates an intimidating or hostile educational environment, directed toward one or more students 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.
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 a substantial interference with his or her academic performance.
4. Causing a reasonable pupil to experience a substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by GCC.

Electronic act is the transmission by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer or pager, of a communication, including but not limited to, any of the following:

1. A message, text, sound, or image.
2. A post on a social network Internet Web site, including but not limited to:

- a. Posting to or creating a burn page. A “burn page” means an Internet Web site created for the purpose of having one or more of the effects as listed in subparagraph (1) above.
 - b. Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in subparagraph (1) above. “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.
 - c. Creating a false profile for the purpose of having one or more of the effects listed in subparagraph (1) above. “False profile” means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.
3. Notwithstanding subparagraphs (1) and (2) above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

Reasonable pupil is defined as a pupil, including, but not limited to, an exceptional needs pupil, who exercises 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.

Reporting

All staff are expected to provide appropriate supervision to enforce standards of conduct and, if they observe or become aware of discrimination, intimidation, harassment, or bullying, to intervene as soon as it is safe to do so, call for assistance, and report such incidents. The GCC Board requires staff to follow the procedures in this policy for reporting alleged acts of bullying.

All other members of the school community, including students, parents/guardians, volunteers, and visitors, are encouraged to report any act that may be a violation of this policy to the Superintendent/CEO or designee. While submission of a written report is not required, the reporting party is encouraged to use the report form available in the Main Office. However, oral reports shall also be considered. Reports may be made anonymously, but formal disciplinary action cannot be based solely on anonymous information.

Students are expected to report all incidents of discrimination, intimidation, harassment, bullying, teasing, or other verbal or physical abuse. Any student who feels she/he is a target of such behavior should immediately contact a teacher, counselor, principal, or staff person so that she/he can get assistance in resolving the issue consistent with this policy.

GCC acknowledges and respects every individual’s rights to privacy. To that end, consistent with legal requirements, all reports shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process to the greatest extent possible.

GCC prohibits any form of retaliation against any reporter in the reporting process, including but not limited to a reporter's filing of a complaint or the reporting of violations of this policy. Such participation shall not in any way affect the status, grades or work assignments of the reporter.

Investigation

Upon receipt of a report of harassment, intimidation, or bullying from a student, staff member, parent, volunteer, visitor or affiliate of GCC, the Superintendent/CEO or designee will promptly initiate an investigation. At the conclusion of the investigation, the Superintendent/CEO or designee will notify the complainant of the outcome of the investigation. However, in no case may the Superintendent/CEO or designee reveal confidential student information related to other students, including the type and extent of discipline issued against such students.

Complaints shall be investigated and resolved within thirty (30) school days, unless circumstances reasonably require additional time.

All records related to any investigation of discrimination, harassment, intimidation or bullying will remain in a secure location in the Main Office of GCC.

In those instances when the complaint filed under this policy also requires investigation under the Uniform Complaint Procedures, such investigation will be undertaken concurrently.

Appeal

Should the Complainant find the Superintendent/CEO or designee resolution unsatisfactory, he/she may within five (5) school days of the date of resolution, file an appeal with the Designated Appeals Committee. In such cases, at least three (3) certificated GCC employees who are unfamiliar with the case and who have been previously designated and trained for this purpose shall be assembled to conduct a confidential review of the Complainant's appeal and render a final disposition.

Consequences

Students or employees who engage in discrimination, harassment, intimidation or bullying may be subject to disciplinary action, up to and including suspension and/or expulsion as outlined in the Student Discipline Policy of GCC, and the GCC employee handbook.

Related Policies: BP 15-15 and BP 13-15

Board Adopted: 10/7/14

Revised: 03/03/15

HARASSMENT, INTIMIDATION, DISCRIMINATION & BULLYING COMPLAINT FORM

Your Name: _____ Date: _____

Date of Alleged Incident(s): _____

Name of Person(s) you have a complaint against:

List any witnesses that were present:

Where did the incident(s) occur?

Please describe the events or conduct that are the basis of your complaint by providing as much factual detail as possible (i.e. specific statements; what, if any, physical contact was involved; any verbal statements; what did you do to avoid the situation, etc.) (Attach additional pages, if needed):

I hereby authorize GCC to disclose the information I have provided as it finds necessary in pursuing its investigation. I hereby certify that the information I have provided in this complaint is true and correct and complete to the best of my knowledge and belief. I further understand providing false information in this regard could result in disciplinary action up to and including termination.

Signature of Complainant

Date: _____

Print Name

To be completed by GCC:

Received by: _____ Date: _____

Follow up Meeting with Complainant held on: _____