

VENTURA COUNTY BOARD OF EDUCATION

**ADMINISTRATIVE
REGULATIONS NO. 5145.9**

ADOPTED: 08/26/02

CLASSIFICATION: Students

REVISED:

SUBJECT: Hate Motivated Behavior

DEFINITION OF TERMS

A. Hate Motivated Incident

Hate motivated incident means an act or attempted act which constitutes an expression of hostility (including any sent by e-mail, Internet or other form of electronic communication), against a person or property or institution because of the victim's real or perceived race, religion, disability, gender, nationality, or sexual orientation.

Examples of such incidents may include:

1. Using bigoted insults, taunts, or slurs
2. Distributing or posting hate group literature or posters
3. Defacing, removing, or destroying posted materials or announcements
4. Posting or circulating demeaning jokes or leaflets

B. Definition of Hate Crime

Hate crime means an act or attempted act against the person or property of another individual or institution which in any way manifests evidence of hostility toward the victim because of his or her actual or perceived race, religion, disability, gender, nationality, or sexual orientation.

Examples of hate crimes include, but are not limited to:

1. Threatening telephone calls or hate mail (including any sent by e-mail, Internet or other form of electronic communication)
2. Physical Assault
3. Vandalism
4. Cross burning
5. Destruction of religious symbols

6. Fire bombings

Other examples of Hate Motivated Crimes/Incidents include but are not limited to:

1. Mutual combat that is hate motivated
2. Simple assault that is hate motivated
3. Unusually violent assaults which appear to be random
4. Bomb threats or explosions

C. Intimidating, Hostile or Offensive Educational Environment

Such an environment is created when the behavior is judged by a reasonable person of the same protected category as the victim to be sufficiently severe or pervasive to create an intimidating, hostile, or offensive educational environment. This type of discrimination may seem like minor incidents. However, the cumulative effect of a series of incidents may change the student's school environment to the extent that a reasonable person of the same protected category would find that environment intimidating, hostile or offensive

D. Negative Impact Upon the Victim's Academic Performance

Anything that the school administrator or designee believes a reasonable person of the same protected category as the victim would judge to be sufficiently severe or pervasive as to have a negative impact upon a person's academic performance.

RESPONSIBILITIES WHEN HATE MOTIVATED CRIMES/INCIDENT IS REPORTED BY A STUDENT

VCOE has the responsibility to all parties to undertake an adequate and thorough investigation in compliance with this Administrative Regulation and the applicable Uniform Complaint Procedures, if necessary. VCOE will afford all appropriate due process right to the accused when an investigation results in disciplinary action.

STEP 1 - INVESTIGATION

An adequate investigation of student hate motivated crimes/incidents involve the same steps as an adequate investigation of any student misbehavior at the Step 1 Level. The Step 2 Level shall be performed in accordance with the Uniform Complaint Procedures (Board Policy and Administrative Regulation 1312.3) and this Administrative regulation.

- A. The site level administrator or principal or designee shall promptly investigate any accusation of discrimination or harassment. This person shall act in an impartial and neutral manner. Notes should be taken during the investigation. All witnesses should be interviewed in the same manner and with the same diligence in order to avoid any bias during the investigation.

- B. Any student who believes he or she has been the victim of hate motivated violence or discrimination based on race, color, national origin, or disability by a student, teacher, administrator or other personnel of the VCOE, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the VCOE, is encouraged to immediately report the alleged acts to an appropriate VCOE official designated by this policy.

Any teacher, administrator, or other school employees or personnel who has or receives notice that a student has or may have been the victim of hate motivated violence or discrimination based on race, color, national origin, or disability by a student, teacher, administrator or other personnel of the VCOE, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the VCOE, is required to immediately report the alleged acts to an appropriate VCOE official designated by this policy.

Any other person with knowledge or belief that a student has or may have been the victim of hate motivated violence or discrimination based on sexual orientation, race, color, national origin, or disability as set forth above, is encouraged to immediately report the alleged acts to an appropriate VCOE official designated by this policy.

The VCOE encourages the reporting party or complainant to use the report form available from the principal or site administrator of each building or available from the Superintendent's office, but oral reports shall be considered complaints as well. Use of formal reporting forms is not mandated. Nothing in this policy shall prevent any person from reporting harassment directly to a Compliance Officer. The complaint must be forwarded from the person who receives the complaint to the site administrator or principal immediately.

- C. In the course of the investigation the complainant should be asked if he/she does not want his/her name revealed to the accused. The interviewer should explain to the complainant that refusal to divulge his or her name to the accused may prevent both a full investigation of the alleged hate crime/incident and formal disciplinary action (i.e., suspension, expulsion or dismissal) against the accused.
- D. The investigator shall interview the complainant, the accused, and all witnesses to clarify and determine whether the alleged has taken place.
- E. It is acceptable for the respective parties to be accompanied by a support person throughout the process.
- F. In the event that an accused student is enrolled in a special education program, an IEP team will be convened to determine if the behavior is a product of the student's handicapping condition, and if appropriate, what behavioral interventions are needed. The educational environment of the victim should be considered in the development of Individual Behavior Plans.

IV. APPROPRIATE ACTION

The results of the investigation are to be reported to the school administrator or designee, who will determine the appropriate consequence for the offense, if it is concluded that a hate motivated crime/incident has occurred. Consequences may include, but are not limited to, actions such as counseling, parent conferencing, detention, suspension, expulsion, dismissal from the program, or, in the case by an employee, disciplinary action up to and including dismissal.

Where it has not been possible to determine whether a hate motivated crime/incident has taken place, the complainant and the alleged shall be informed of the conclusion, telling the complainant to report any incidents in the future and indicating to the alleged the serious consequences of such behavior, if it should occur.

V. COMPLAINTS TO THE OFFICE FOR CIVIL RIGHTS

Individuals alleging hate crime/incident may complain directly to the Office for Civil Rights (O.C.R.), or they may file a complaint after filing a separate complaint with VCOE. A complainant is not required by law to use the organization's grievance procedures before filing a complaint with O.C.R. However, filing a complaint with O.C.R. may preclude any further use of the VCOE's grievance procedures. If the complainant uses the VCOE's grievance procedures and also files a complaint with O.C.R., the complaint must be filed with O.C.R. within 60 days after the last act of the VCOE's grievance process. To contact the Office for Civil Rights, write or call the following: U.S. Department of Education, 50 United Nations Plaza, #239, San Francisco, CA 94102, (415) 556-7000.

VI. STEP 2 - RIGHT OF APPEAL

A student or that student's parents or legal guardians, if not satisfied with the investigation of a discrimination/harassment charge may file a complaint of discrimination under the Uniform Complaint Procedures contained in Board Policy and Administrative Regulation 1312.3.

VII. APPEALS TO THE OFFICE FOR CIVIL RIGHTS

An appeal of a VCOE decision regarding a hate crime/incident complaint may be made with the Office for Civil Rights. To contact the Office for Civil Rights, write or call the following: U.S. Department of Education, 50 United Nations Plaza, #239, San Francisco, CA 94102, (415) 556-7000.

VIII. CIVIL LAW REMEDIES

An appeal of a VCOE decision may be made in court through civil law remedies. Complainants should consult an attorney for more information.

IX. RETENTION AND MAINTENANCE OF MATERIALS

All materials concerning the complaint including the written complaint, written responses, notes, letters, and legal papers, shall be maintained by the Department of Human Resources in a confidential, legal file for a period of five years after the completion of the investigation.

X. POSTING, DISSEMINATION AND INSERVICE TRAINING

All VCOE employees and pupils shall be notified of this policy and administrative regulations on an annual basis, and consistent with EC 212.6 and 48980. The organization shall communicate this policy to students in an appropriate manner. The organization shall also distribute written information on specific rules and procedures for reporting charges of hate crime/incident and assurances that students need not endure any form of hate/crime incident. A copy of the VCOE written policy on Hate Motivated Crimes/Incidents, as it pertains to students, shall be provided as part of any orientation program for new students.

This policy shall be displayed in a prominent location on the school campus or school site. Reference to this policy shall also appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures and standards of conduct for the institution.

To promote an environment free of hate crimes/incidents, the organization shall provide periodic staff in-service.