



DATE: May 2, 2018

TO: All Fremont Unified School District Staff

FROM: Denise Herrmann, Ed.D., Associate Superintendent, Instructional Services
Matthew Campbell, Ed.D., Director, Student Support Services

RE: Guidance Memorandum on Process of Acknowledging and Approving Requests for Accommodations and/or Modified or Alternative Assignments

Introduction

Pursuant to Title VI of the 1964 Civil Rights Act (42 U.S.C. § 2000d) (“Title VI”), “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” As a recipient of federal financial assistance, the Fremont Unified School District (“District”) is responsible for ensuring compliance with Title VI. Moreover, under related state laws, the District is responsible for ensuring compliance with laws that prohibit discrimination, including harassment and bullying, based upon, including but not limited to, race, color, national origin and religion. (See Ed. Code, §§ 200, 220, 234.1; Gov. Code, § 11135.)

Consistent with the District’s legal responsibility and commitment to nondiscrimination in District schools, programs and activities under state and federal law, this memorandum provides guidance to District staff regarding the District’s process of acknowledging and approving requests for accommodations and/or modified or alternative assignments, for academic or elective classes, including physical education.

Applicable District Policies and Regulations

The District maintains and is otherwise in the process of updating various Board Policies (“BP”) and Administrative Regulations (“AR”) that set forth policy and procedures for student attendance, excused absences, homework, dress and grooming, and modified or alternative assignments. These BPs and ARs include:

- BP and AR 5113—Student Attendance and Excused Absences;
- BP and AR 5132—Dress and Grooming;
- BP and AR 6152—Class Assignments; and
- BP and AR 6154—Homework

These District BPs and ARs are consistent with state and federal law, including Title VI and related state laws that prohibit discrimination based upon race, color, or national origin. None of these BPs or ARs are intended to permit discriminatory treatment of students based upon race, color, or national origin, and practices implementing these BPs and ARs must not in effect discriminate against students based upon race, color, or national origin.

Ensuring for Non-Discriminatory Implementation of District BPs and ARs

The District has established the following guidance to ensure that its process for acknowledging and approving requests for excused absences, accommodations, modified or alternative class assignments does not discriminate against any student due to race, color or national origin.

A. Excused Absences

District staff may from time to time be required to accommodate or modify aspects of the District general attendance policies, including with regard to excused absences, when students are absent from school for limited or extended periods due to their participation in religious exercises, observances or pilgrimages.

Under Education Code and AR 5113:

1. Students may, with the written consent of parents or guardians, be excused from school in order to participate in religious exercises or to receive moral and religious instruction at their respective places of worship or at other suitable place or places away from school property designated by the religious group (Ed. Code, § 46014);
2. An absence consistent with No. 1 shall not be deemed an absence in computing average daily attendance, when the student attends school for at least the minimum school day, and absence is for no more than four (4) days per month (AR 5113);
3. Additionally, students are entitled to an excused absence for “justifiable personal reasons” which include observance at a religious ceremony or religious retreat, so long as any absence for a religious retreat is no more than four (4) hours during a semester (Ed. Code, § 48205);
4. Additionally, if they obtain advance approval, students who may need to be away from school for purposes of religious observances, exercises and/or observances lasting five (5) or more consecutive school days, may be entitled to voluntarily enter into an independent study contract covering the period of the absence; and¹
5. For students absences related to religious exercises and/or observances lasting beyond ten (10) school days under this guidance that might otherwise trigger disenrollment and/or reassignment due to extended absences under District BP/AR 5113.1, before disenrollment and/or reassignment, site administrators must contact the District’s Director of Student Support Services as follows:

Director of Student Support Services
Fremont Unified School District
4210 Technology Drive
Fremont, CA 94538

¹ District BP/AR 6158 governs independent study.

B. Modified or Alternative Class Assignments

If a student misses class due an excused or *unexcused* absence, or an approved period of independent study, for purposes of a student's religious exercises, observances, and/or pilgrimages, District and site administrators, and instructors must comply with the following:

1. District staff will follow the guidance herein as to whether a student may be approved for an excused absence and/or independent study, and students will be entitled to an excused absence and/or the option of an independent study contract consistent with the guidance above;
2. If a student misses class because of an excused or *unexcused* absence, or an approved period of independent study, due to religious exercises, observances and/or pilgrimages, the student or parent/guardian may request a modified or alternative class assignment(s), including an alternative date upon which class assignment(s) will be due. Such requests for modified or alternative class assignment(s) may be made in advance of the student's absence from class, or following the student's return from the absence. Students are encouraged to make such requests in advance of their absence from class if possible. No student will be penalized or retaliated against for requesting modified or alternative assignments for the reasons described above.
3. Separate and apart from a student's absence from class or approved period of independent study, a student or parent/guardian *may otherwise request* (but may not always be granted) a modified or alternative class assignment for reasons relating to the student's race, color or national origin when based upon the student's shared ethnicity and ancestry, including religious exercises or observances.
4. Upon receipt of a request under No. 2 or 3 above, the site principal will approve or deny the request as soon as possible, and within no more than three (3) school days of the date on which the request is made by the student or student's parent/guardian.
5. If a request for modified or alternative class assignment(s) is approved, the student or student's parent/guardian will be notified within five (5) school days of date of the request as to the new due date for the subject class assignment(s), and/or the new due date for the modified and/or alternative assignment(s) chosen by the instructor, and the nature of the accommodation for which they have been approved.
6. If a request for a modified or alternative class assignment(s) is denied, the student or the student's parent/guardian may ask for a meeting and/or reconsideration of the request with a school or Director of Student Support Services with the Assistant Superintendent of Human Resources. The District will grant the student's or the student's parent request for a meeting, and/or issue a final decision in response to a request for reconsideration, within five (5) school days of the date on which the request for a discussion or reconsideration is made.

7. If a request is approved for modified or alternative class assignment(s) is approved, the student will not be penalized or retaliated against for requesting an accommodation for which they have been approved or for the work that is turned in by the new due date.
8. Make-up assignments for students who have been approved for such requests will not be more difficult or demanding than the assignment given to other students.
9. When computing a new due date for modified or alternative class assignments under this guidance, the site principal should attempt to follow BP/AR 6154, which provides that a student with excused absences is to be allotted the same number of days as of the student's absence to complete missed work.
10. Under these guidelines, the site principal shall also ensure compliance with AR 5113's directive that: "When a student is absent for a legally excused or a justifiable personal excused absence, that student shall be allowed to complete all assignments and tests missed during the absence that can be reasonably provided. Upon satisfactory completion within a reasonable period of time, the student shall be given full credit for assignments and tests completed. The teacher shall determine what tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments that the pupil missed during the absence. (Education Code 48205)[.]"
11. If any District staff member has questions regarding implementation of these guidelines, they must contact the District's Director of Student Support Services.

C. Dress and Grooming

If a student requests an accommodation with regard to the District's Dress and Grooming policy under BP/AR 5132, and/or with regard to dress requirements for courses such as physical education, and the request is based upon a student's actual or perceived shared race, ethnicity or national origin, including actual or perceived ancestry or ethnic characteristics, such an accommodation should be granted.

Conclusion

If any District staff member has questions regarding implementation of this guidance and Districts policies for excused absences, and approving requests or accommodations and modified or alternative class assignments, or accommodations related to District dress and grooming codes, please contact the District's Director of Student Support Services.

Enclosures: Board Policy and Administrative Regulation 5113—Student Attendance and Excused Absences;
Board Policy and Administrative Regulation 5132—Dress and Grooming;
Board Policy and Administrative Regulation 6152—Class Assignments; and
Board Policy and Administrative Regulation 6154—Homework