



Student Discrimination, Harassment, Bullying, Cyber-bullying, and Intimidation

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Approved by: Lizzette Gonzalez Reynolds, Commissioner	

A safe, civil, and supportive environment in school is necessary for students to learn and achieve high academic standards. In order to maintain that environment, acts of bullying, cyber-bullying, discrimination, harassment, hazing, or any other victimization of students are prohibited.¹ The ASD does not tolerate sexual harassment or sexual violence. This policy also prohibits conduct aimed at defining a student in a sexual manner and conduct impugning the character of a student based on allegations of sexual promiscuity.

This policy shall be disseminated annually to all school staff, students, and parents. This policy shall cover behavior by employees, third parties, and students towards any student or students while on school property, at any school-sponsored activity, on school-provided equipment or transportation, or at any official school bus stop. If the act takes place off school property or outside of a school-sponsored activity, this policy is in effect if the conduct is directed specifically at a student or students and has the effect of creating a hostile educational environment or otherwise creating a substantial disruption to the education environment or learning process.

Building administrators are responsible for educating and training their respective staff and students as to the definition and recognition of bullying/intimidation/harassment and discrimination.

Definitions

¹ Tenn. Code Ann. § 49-6-4503(a)

Bullying/Intimidation/Harassment - An act that sufficiently interferes with a student's educational benefits, opportunities, or performance, and the act has the effect of:

- Physically harming a student or damaging a student's property;
- Knowingly placing a student or students in reasonable fear of physical harm to the student or damage to the student's property;
- Causing emotional distress to a student or students; or
- Creating a hostile educational environment.

Harassment - Unwelcome conduct based on race, color, national origin, sex (including sexual harassment), and/or disability that is severe, pervasive, or persistent and creates a hostile environment.

Cyber-bullying - A form of bullying undertaken through the use of electronic devices. Electronic devices include, but are not limited to, telephones, cellular phones or other wireless telecommunication devices, text messaging, emails, social networking sites, instant messaging, videos, web sites, or fake profiles.

Discrimination - Unequal treatment on the basis of race, color, national origin, sex, and/or disability in admission to, access to, or operation of district programs, services, or activities.

Hazing - An intentional or reckless act by a student or group of students that is directed against any other student(s) that endangers the mental or physical health or safety of the student(s) or that induces or coerces a student to endanger their mental or physical health or safety. Coaches and other employees of the school district shall not encourage, permit, condone, or tolerate hazing activities.² "Hazing" does not include customary athletic events or similar contest or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.

Sexual harassment - Unwelcome conduct of a sexual nature that is sufficiently serious to deny or limit, on the basis of sex, a student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature including sexual violence.

Complaints and investigations

Parties of the above-referenced offenses shall report these incidents immediately to a teacher, counselor, or building administrator.³ Parties may also report sexual harassment to the school district's Title IX Coordinator by phone at 901- 416-4831 or at 1350 Concourse #434 Memphis, TN 38104. All school employees are required to

² Tenn. Code Ann. § 49-2-120

³ 20 USCA §§ 1681 to 1686

report alleged violations of this policy to the principal or their designee. All other members of the school community, including students, parents, volunteers, and visitors, are encouraged to report any act that may be a violation of this policy.

While reports may be made anonymously, an individual's need for confidentiality must be balanced with obligations to cooperate with police investigations or legal proceedings, to provide due process to the accused, to conduct a thorough investigation, or to take necessary actions to resolve a complaint, and the identity of parties and witnesses may be disclosed in appropriate circumstances to individuals with a need to know.

The principal or their designee at each school shall be responsible for investigating and resolving instances of bullying/intimidation/harassment by students. However, the ASD is responsible for ensuring Title IX complaints are investigated appropriately. Principals shall immediately report instances of bullying/intimidation/harassment, or discrimination by employees and third parties to the Tennessee Department of Education Director of Human Resources.

Once a complaint is received or the principal becomes aware of a potential incident of bullying/intimidation/harassment by students, the principal or their designee is responsible for determining whether the alleged act constitutes a potential violation of this policy warranting investigation. If it does, the principal or their designee shall initiate an investigation within forty-eight (48) hours of receipt of the report.⁴ If a report is not initiated within forty-eight (48) hours, the principal or their designee shall provide the director of schools with appropriate documentation detailing the reasons why the investigation was not initiated within the required timeframe.⁴ The investigation shall include a prompt, thorough, and complete investigation of each alleged incident. Parties shall have the opportunity to present witnesses and other evidence during the investigative process.

The principal or their designee shall notify the parent(s)/guardian(s) when a student is involved in an act of discrimination, harassment, intimidation, bullying, or cyber-bullying. The principal or their designee shall provide information on district counseling and support services. Students involved in an act of discrimination, harassment, intimidation, bullying, or cyber-bullying shall be referred to the appropriate school counselor by the principal or their designee when deemed necessary.^{1,4}

The principal or their designee is responsible for determining whether an alleged act constitutes a violation of this policy, and such act shall be held to violate this policy when it meets one of the following conditions:

- It places the student in reasonable fear or harm for the student's person or property;
- It has a substantially detrimental effect on the student's physical or mental health;
- It has the effect of substantially interfering with the student's academic performance; or

⁴ Tenn. Code Ann. § 49-6-4503(b)(6)

- It has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.

All investigations shall be completed and appropriate intervention taken within twenty (20) calendar days from the receipt of the initial report.⁴ If the investigation is not complete or intervention has not taken place within twenty (20) calendar days, the principal or their designee shall provide the director of schools with appropriate documentation detailing the reasons why the investigation has not been completed or the appropriate intervention has not taken place.⁴ Within the parameters of the federal Family Educational Rights and Privacy Act (FERPA) at 20 USCA § 1232g, notice of the outcome of the investigation will be delivered to the parents of the complainant, parents of the accused students, and to the director of schools.

Response and prevention

School administrators shall consider the nature and circumstances of the incident, the age of the violator, the degree of harm, previous incidences or patterns of behavior, or any other factors, as appropriate to properly respond to each situation. The school and/or school district will take steps to end the bullying or harassment and prevent its reoccurrence. Such steps may include (but are not limited to) separating the victim and the perpetrator; providing counseling for the victim and the perpetrator; taking disciplinary action against the perpetrator; conducting anti-bullying and anti-harassment training for students and/or staff; issuing new policies new procedures by which students, parents, and employees may report allegations of bullying and harassment; ensuring that students and their families know how to report any subsequent problems; conducting follow-up inquiries to see if there have been any new incidents or any instances of retaliation; responding promptly and appropriately to address continuing or new problems; and implementing other systemic measures at the site or department where the alleged harassment has occurred.

A substantiated charge against an employee shall result in disciplinary action up to and including termination. A substantiated charge against a student may result in corrective or disciplinary action up to and including suspension.

Any student disciplined for violation of this policy may appeal the decision in accordance with disciplinary policies and procedures.

Reports

When a complaint is filed alleging a violation of this policy where there is physical harm or the threat of physical harm to a student or a student's property, the principal or their designee of each middle school, junior high school, or high school shall report the findings and any disciplinary actions taken to the director of schools.

By July 1 of each year, the director of schools or their designee shall prepare a report of all of the bullying, cyber-bullying, intimidation, and harassment, cases brought to the attention of school officials during the prior

academic year. The report shall also indicate how the cases were resolved and/or the reasons they are still pending. This report shall be submitted to the state department of education by August 1.

The director of schools shall work with the Tennessee Department of Education to develop forms and procedures to ensure compliance with the requirements of this policy and Tenn. Code Ann.. § 49-6-4503.

Retaliation and false accusations

Retaliation against any person who reports or assists in any investigation of an act alleged in this policy is prohibited. The consequences and appropriate remedial action for a person who engages in retaliation shall be determined by the administrator after consideration of the nature, severity, and circumstances of the act.

False accusations accusing another person of having committed an act prohibited under this policy are prohibited. The consequences and appropriate remedial action for a person found to have falsely accused another may range from positive behavioral interventions up to and including suspension and expulsion.