

Duchesne County School District - Policy Proposal

5.0711.01 Bullying, Cyber-bullying, Hazing, Retaliation

Existing Policy	Proposed Policy
5.0711.01 Bullying and Hazing Purpose Bullying, cyber-bullying, hazing, and retaliation of students and employees are against federal law, state law, and District policy, and are not tolerated by the District or its schools. It is the intent of the District to respond to school-related incidents by implementing prevention efforts where victims can be identified and assessed, and perpetrators educated, in order to create safer schools that provide a positive learning environment. School officials have the authority to discipline students and employees for off-campus speech that causes or threatens a substantial disruption on campus, at school activities, or causes or threatens a significant interference with a student's educational performance or involvement in school activities. Definitions "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress). "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:	5.0711.01 Bullying, Cyber-bullying, Hazing, Retaliation Purpose Bullying, cyber-bullying, hazing, and retaliation of students and employees (regardless of legal status) are against federal law, state law, and District policy. It is the intent of the District to respond to school-related incidents by implementing prevention efforts where victims can be identified and assessed, and perpetrators educated, in order to create safer schools that provide a positive learning environment. School officials have the authority to discipline students and employees for off-campus speech that causes or threatens a substantial disruption on campus, at school activities, or causes or threatens a significant interference with a student's educational performance or involvement in school activities. Definitions (State Code 53G-9-601) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress. A single act does not constitute abusive conduct. "Bullying" means staff bullying and student bullying. "Staff Bullying" means a school employee, with the intent to cause harm, intentionally and repeatedly committing a written, verbal, or physical act against a student or another school employee, or engaging in a single egregious act toward another employee involving an imbalance of power, that: creates an environment that a reasonable person would find

1. causing physical or emotional harm to the school employee or student;
2. causing damage to the school employee's or student's property;
3. placing the school employee or student in reasonable fear of:
 - a. harm to the school employee's or student's physical or emotional well-being; or
 - b. damage to the school employee's or student's property;
4. creating a hostile, threatening, humiliating, or abusive educational environment due to:
 - a. the pervasiveness, persistence, or severity of the actions; or
 - b. a power differential between the bully and the victim; or
5. substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

"Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

"Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:

1. endangers the mental or physical health or safety of a school employee or student;
 - a. involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

hostile, threatening, or humiliating; and substantially interferes with a student's or employee's educational or professional performance, opportunities, or benefits.

"Staff bullying" does not mean instances of: 1. ordinary teasing, horseplay, argument, or peer conflict; 2. reasonable correction of behavior by a school employee; or 3. reasonable coaching strategies and techniques by a school employee who is a coach.

"Student bullying" means one or more students, with the intent to cause harm, repeatedly committing a written, verbal, or physical act against another student, or engaging in a single egregious act toward another student involving an imbalance of power, that: creates an environment that a reasonable person would find hostile; and interferes with a student's educational performance, opportunities, or benefits.

"Student bullying" does not mean instances of: 1. ordinary teasing, horseplay, argument, or peer conflict; 2. reasonable correction of behavior by a school employee; or 3. reasonable coaching strategies and techniques by a school employee who is a coach.

"Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

"Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:

- A. endangers the mental or physical health or safety of a school employee or student; or
- B. involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements; or

- b. involves consumption of any food, alcoholic product, drug, or other substance, or
 - c. involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and
2. is committed for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or
3. is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.

"Retaliate" or "retaliation" means an act or communication intended:

- 1. as retribution against a person for reporting bullying or hazing; or
- 2. to improperly influence the investigation of, or the response to a report of bullying or hazing.

Prohibited Conduct

No school employee or student may:

- 1. engage in any form of bullying or cyber-bullying a school employee or student, on or about school property, on a school bus, at a school bus stop, or while traveling to or from a school location or school event, or at

- C. involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or
 - D. involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation;
- and
- A. is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or
 - B. is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.

"Communication" means the conveyance of a message, whether verbal, written, or electronic.

"Retaliate" means an act or communication intended:

- 1. as retribution against a person for reporting bullying or hazing; or
- 2. to improperly influence the investigation of, or the response to, a report of bullying or hazing.

Prohibited Conduct

No school employee or student may:

- 1. engage in any form of bullying or cyber-bullying a school employee or student, on or about school property, on a school bus, at a school bus stop, or while traveling to or from a school location or school event, or at

any school-related or sponsored activity regardless of location or circumstance;

2. engage in hazing a school employee or student at any time or in any location;
3. engage in retaliation against a school employee; a student; or an investigator for, or witness of, an alleged incident of bullying, harassing, cyber-bullying, hazing; or
4. make a false allegation of bullying, cyber-bullying, hazing, or retaliation against a school employee or student.

No parent or student may engage in abusive conduct directed toward a school employee.

Investigation and Discipline

Each reported violation of the prohibitions noted previously shall be promptly investigated and discipline determined in accordance with this policy.

any school-related or sponsored activity, regardless of location or circumstance;

2. engage in hazing a school employee or student at any time or in any location;
3. engage in retaliation against a school employee; a student; or an investigator for, or witness of, an alleged incident of bullying, harassing, cyber-bullying, hazing; or
4. make a false allegation of bullying, cyber-bullying, hazing, or retaliation against a school employee or student.
5. share a recording of an act of bullying, cyber-bullying, hazing, abusive conduct, and retaliation. 53G-9-605(3)(e)
 - a. This restriction does not prevent a student from sharing a recording of an incident or of abusive conduct with a teacher or administrator as part of reporting the incident of abusive conduct or in response to a request from a teacher or administrator for the recording (Model Policy pgs. 8 and 9)
6. create or distribute sexually explicit or nonconsensual intimate images. 53G-9-605(3) and R277-613-4(1)(a)

No parent or student may engage in abusive conduct directed toward a school employee.

Any bullying, cyber-bullying, or hazing that is found to be targeted at a federally protected class is further prohibited under federal antidiscrimination laws and is subject to compliance regulations from the United States Department of Education, Office for Civil Rights (OCR) (Model Policy pg. 8)

Investigation and Discipline

Each reported violation of the prohibitions noted previously shall be promptly investigated and discipline determined in accordance with this policy and may include law enforcement-based involvement. R277-613-5(5) This policy does not permit disciplinary action based solely on an anonymous report. 53G-9-605(5)

The investigator shall:

1. investigate all allegations of incidents, keeping interviews confidential to the extent allowable to the law. R277-613-5(1)(a) and R277-613-5(2)(c)(i)
2. determine if an incident will be investigated as a civil rights investigation. R277-613-5(6)
3. interview the alleged subject and offender. R277-613-5(2)(a)

The investigator may:

1. interview parents, witnesses, school staff familiar with involved students, and other relevant individuals. R277-613-5(2)(a)
2. review disciplinary records, physical evidence consistent with search and seizure laws such as video, audio, notes, email, texts, social media, graffiti, etc. R277-613-5(4)(b)

Reporting Requirement

School employees who become aware of bullying, hazing, or related initiation activity, shall report such incident immediately to school administrators so that prompt and appropriate action can be taken. School personnel who fail to report incidents of bullying, or hazing to school or District administrators may face disciplinary action.

Students who observe hazing activities and fail to intervene or report the hazing to school officials may face disciplinary action for conspiring to engage in hazing.

Coordination with Other Policies

School employees who engage in any of these prohibited behaviors may be subject to individual investigation resulting in employment action. Bullying, cyberbullying, hazing or retaliation that is found to be based on a protected class is further prohibited under federal anti-discrimination laws and is subject to provisions of District policy.

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Parental Notification of Certain Incidents and Threats

A school administrator shall promptly notify a parent/guardian personally of:

1. a parent/guardian's student's threat to commit suicide; or
2. an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent/guardian's student as a victim or an individual who is alleged to have engaged in prohibited conduct.

Record Notification

When a parent/guardian has been notified by a school administrator of a threat or incident, the school administrator shall complete a Record of Parent Notification of Student Threat or Incident Form. This record shall be securely and confidentially maintained by the school consistent with state and federal law.

A school shall provide a student a copy of the Record of Parent Notification of Student Threat or Incident related to the student if the student requests a copy of the record; and expunge the record maintained in accordance with this section if the student has graduated from high school and requests the record be expunged.

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1. a parent/guardian's student's threat to commit suicide; or
2. an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent/guardian's student as a victim or an individual who is alleged to have engaged in prohibited conduct.

The school shall provide parents with suicide prevention materials and information to limit the student's access to fatal means when a student threatens suicide as well as provide information and resources on the healthy use of social media and online practices when involved in a cyberbullying incident. 53G-9-604(2)(a)(iv) and R277-613-4(c)(ii)(C)

Record Notification

When a parent/guardian has been notified by a school administrator of a threat or incident, the school administrator shall complete a Record of Parent Notification of Student Threat or Incident Form. This record shall be securely and confidentially maintained by the school consistent with state and federal law.

A school shall provide a student a copy of the Record of Parent Notification of Student Threat or Incident related to the student if the student requests a copy of the record; and expunge the record maintained in accordance with this section if the student has graduated from high school and requests the record be expunged.

School and/or District leaders shall follow up with the parents of all parties to:

(a) inform parents when an investigation is concluded;

(b) inform parents what safety measures will be in place for their child, as determined by the investigation;

(c) provide additional information about the investigation or the resolution consistent with the

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g; and

(d) inform parents of appeal options, if available, if the parents disagree with resolution of the investigation.

R277-613-5(11)

To the Student Subjected to the Incident

The school is to offer:

1. a response that addresses the student's needs including supportive measures to preserve access to educational services. 53G-9-605.5-2(b)9i) and 53G-9-605.5-2(b)(iv)
2. accommodations the student may need regarding decreased exposure with the student who caused the incident. 53G-9-605.5-2(b)(ii)
3. notification of plan to address the behavior of the student who caused the incident 53G-9-605.5-2(b)(ii)
4. access to other resources the parent requests. 53G-9-605.5-2(b)(v)

The action plan may not change the student's educational schedule, placement, or participation in school sponsored activities. 53G-9-605.5-3

To the Student Who Caused the incident

The school is to:

1. determine the cause of the incident and any resources needed including tailored consequences and supportive measures that preserve educational access while protecting other student's wellbeing. 53G-9-605.5-2(c)(ii)
2. remove the student from school in an emergency with a description of what the emergency is. 53G-9-605.5-2(c)(iv)
3. appeal for one or more of the consequences included in the action plan. 53G-9-605.5-4

Training

The school is to:

1. assess the prevalence of bullying, specifically locations where students are unsafe and additional supervision is required. R277-613-4(4)
2. train students, school employees, coaches, and volunteers on bullying, cyber-bullying, hazing, abusive conduct, retaliation, applicable civil rights, the right of free speech, safe digital citizenship, and when student or school employee discipline may be considered. R277-613-4(6)

A designated individual at the District level will provide training, supervise training, oversee action plans, monitor communication processes with a parent, act as a liaison to the state, and assist with case-specific needs. R277-613-5(1)(c)

Training by Schools and/or the District Specific to Participants in Public School Athletic Programs and School Clubs.

(1)(a) Before any student, employee, or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee, or coach shall participate in bullying, cyber-bullying, hazing, retaliation, and abusive conduct prevention training.

(b) A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

(2) The school and/or district shall inform student athletes and extracurricular club members of prohibited activities under this rule and potential consequences for violation of the law and this rule.

(3) The school and/or district shall maintain training participant lists or signatures, to be provided to the Board upon request.

Training Elements

Training elements include:

1. How bullying, cyber-bullying, hazing retaliation and abusive conduct are different from

Grievance Process for Incident of Abusive Conduct

A school employee who has experienced abusive conduct as defined in this policy and is not satisfied with initial efforts to resolve the issue, may file a grievance not later than thirty (30) days after the incident(s) in order to be effectively investigated and resolved, unless the time for filing is extended by the District for good cause shown.

Grievance Process: Step 1

1. The grievance must be in writing, dated, and signed by the grievant and delivered to the principal.
2. Within ten (10) business days, the principal shall meet with the grievant to discuss the grievance and possible resolutions.
3. Within ten (10) business days after the meeting, the principal will respond in writing explaining the principal's position and offer options for substantive resolution of the complaint.

Grievance Procedure: Step 2

discrimination and may occur separately from each other or in combination.

R277-613-6(b)(i)(C)

2. How bullying, cyber-bullying, hazing, retaliation, and abusive conduct are prohibited based upon race, color, national origin, sex, religion or disability. It will also include the right of free speech and how it differs for students, employees and parents.

R277-613-6(b)(i)(D)

3. Complement the suicide prevention program, school policies and school discipline plans which shall provide direction on dealing with bullying. R277-613-4(8)(b)

4. Informing student athletes of prohibitions and consequences regarding bullying.

R277-613-7(2)

5. The training is offered before any student, employee, or volunteer participates in clubs and to new school employees, coaches, and volunteers within the first year of employment and all school employees, coaches, and volunteers at least once every three years following. R277-613-7(1)

Grievance Process for Incident of Abusive Conduct

A school employee who has experienced abusive conduct as defined in this policy and is not satisfied with initial efforts to resolve the issue, may file a grievance not later than thirty (30) days after the incident(s) in order to be effectively investigated and resolved, unless the time for filing is extended by the District for good cause shown.

Grievance Process: Step 1

- A. The grievance must be in writing, dated, and signed by the grievant and delivered to the principal.
- B. Within ten (10) school days, the principal shall meet with the grievant to discuss the grievance and possible resolutions.
- C. Within ten (10) school days after the meeting, the principal will respond in writing explaining the principal's position and offer options for substantive resolution of the complaint.

4. If the response by the principal does not satisfactorily resolve the issue, the grievant may appeal the response in writing within ten (10) calendar days after receipt of the response to the school director.

5. Within ten (10) business days after receipt of the grievance, the school director will meet with the grievant to discuss the grievance and possible resolutions.

6. Within fifteen (15) calendar days after the meeting, the school director will respond in writing with a final resolutions of the grievance. The school director's written response shall be the final administrative action in the matter.

Grievance Procedure: Step 2

A. If the response by the principal does not satisfactorily resolve the issue, the grievant may appeal the response in writing within ten (10) school days after receipt of the response to the district director.

B. Within ten (10) school days after receipt of the grievance, the district director will meet with the grievant to discuss the grievance and possible resolutions.

C. Within fifteen (15) school days after the meeting, the district director will respond in writing with a final resolution of the grievance.

The district director's written response shall be the final administrative action in the matter.