

POLICY SERVICES ADVISORY

Volume 23, Number 2

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Policy Advisory Discussion

Policy Advisory No. 404. JICK, JICK-R, JICK-EA and JICK-EB — Student Violence/Harassment/Intimidation/Bullying

ASBA Policy Services presents this set of newly developed documents to provide school districts with compliance driven changes made to A.R.S. 15-341 by House Bill 2415 (Laws 2011, Chapter 195). Policy Services believes the new set of documents is particularly important as they address a high profile area in today's public education arena. Courts have been unfavorable to school systems when evidence was shown that policies had not been enforced and district staff not adequately trained. Because of this, policies should provide appropriate training for district staff that includes not only a comprehensive review of the requirements but also a clear understanding of the duty to be observant of inappropriate student behavior and to diligently respond to such behavior covered under the policies. Current ASBA policy language addresses student behavior in several instances as noted in cross references to policy JII. Cross referenced documents should be reviewed during staff training opportunities to gain a full understanding of district requirements.

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

Revised A.R.S. 15-341 contains expanded language related to bullying, harassment and intimidation. New language in the law addresses:

- use of electronic communication used to bully,
- availability of reporting forms,
- incident reporting by students,
- employee reporting and conditions for failure of reporting,
- dissemination of related information,
- documentation of reports,
- notice of student rights,
- disclosure of information related to investigations, and
- required record retention.

HB2415 assigns to districts responsibility for defining bullying, harassment, and intimidation for which document model JICK includes recommended definitions.

If there are questions, contact Policy Services at (602) 254-1100 or fax information to (602) 254-1177. Ask for James Deaton, Director of Policy Services; Dr. Terry Rowles, Policy Analyst; or Steve Highlen, Policy Analyst. E-mail addresses are, respectively, [jdeaton@azsba.org], [trowles@azsba.org], and [shighlen@azsba.org].

Note: This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

STUDENT VIOLENCE / HARASSMENT / INTIMIDATION / BULLYING

The Governing Board believes it is the right of every student to be educated in a positive, safe, caring, and respectful learning environment. The Board further believes a school environment inclusive of these traits maximizes student achievement, fosters student personal growth, and helps students build a sense of community that promotes positive participation as members of society.

The District, in partnership with parents, guardians, and students, shall establish and maintain a school environment based on these beliefs. The District shall identify and implement age-appropriate programs designed to instill in students the values of positive interpersonal relationships, mutual respect, and appropriate conflict resolution.

To assist in achieving a school environment based on the beliefs of the Governing Board, bullying, harassment or intimidation as defined by this policy will not be tolerated.

Definitions

Bullying: Bullying may occur when a student or group of students engages in any form of behavior that includes such acts as intimidation and/or harassment that

- has the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm or damage to property;
- is sufficiently severe, persistent or pervasive that the action, behavior, or threat creates an intimidating, threatening, or abusive environment in the form of physical or emotional harm;
- occurs when there is a real or perceived imbalance of power or strength:
or
- may constitute a violation of law.

Bullying of a student or group of students can be manifested through written, verbal, physical, or emotional means and may occur in a variety of forms including, but not limited to, the following:

- verbal, written/printed or graphic exposure to derogatory comments, extortion, exploitation, name calling, or rumor spreading either directly through another person or group or through cyberbullying;
- exposure to social exclusion or ostracism;
- physical contact including but not limited to pushing, hitting, kicking, shoving, or spitting;
- damage to or theft of personal property;

Cyberbullying: Cyberbullying is, but not limited to, any act of bullying committed by use of electronic technology or electronic communication devices, including telephonic devices, social networking and other internet communications, on school computers, networks, forums and mailing lists, or other District-owned property, and by means of an individual's personal electronic media and equipment.

Harassment: Harassment is intentional behavior by a student or group of students that is disturbing or threatening to another student or group of students. Intentional behaviors that characterize harassment include, but are not limited to, stalking, hazing, social exclusion, name calling, unwanted physical contact and unwelcome verbal or written comments, photographs and graphics. Harassment may be related, but not limited to, race, religious orientation, sexual preference, cultural background, economic status, size or personal appearance. Harassing behaviors can be direct or indirect and by use of social media.

Intimidation: Intimidation is intentional behavior by a student or group of students that places another student or group of students in fear of harm of person or property. Intimidation can be manifested emotionally or physically, either directly or indirectly, and by use of social media.

Prohibitions and Discipline

Students are prohibited from bullying on school grounds, school property, school buses, at school bus stops, at school sponsored events and activities, and through the use of electronic technology or electronic communication equipment on school computers, networks, forums, or mailing lists.

Disciplinary action may result for bullying which occurs outside of the school and the school day when such bullying results in a substantial physical, mental, or emotional negative effect on the victim while on school grounds, school property, school buses, at school bus stops, or at school sponsored events and activities, or when such act(s) interfere with the authority of the

school system to maintain order. All suspected violations of law will be reported to local law enforcement.

Reporting Incidents of Bullying

A student who is experiencing bullying, or believes another student is experiencing bullying, is to report the situation to the principal or another school employee. A school employee who becomes aware of or suspects a student is being bullied shall immediately notify the school administrator. School personnel shall maintain confidentiality of the reported information.

The initial notification of an alleged incident may be provided verbally. A detailed written description of the incident and any other relevant information must be provided on form(s) made available by the school and submitted to the principal within one (1) school day of the verbal report. Should the principal be the employee who observes, is informed of, or suspects a student is experiencing bullying the principal shall document the incident or concern in writing. Failure by an employee to report a suspected case of bullying may result in disciplinary action up to suspension without pay or dismissal pursuant to Board Policies GCQF and GDQF.

Reprisal by any student or staff member directed toward a student or employee related to the reporting of a case of bullying or a suspected case of bullying shall not be tolerated, and the individual(s) will be subject to the disciplines set out in applicable District policies and administrative regulations.

At the time a student reports alleged bullying the principal shall provide to the student who has allegedly been bullied a written copy of student rights, protections and support services available to the student and shall notify the student's parent(s) of the report.

The principal shall investigate *all* reports of bullying. If the principal determines that bullying has occurred, discipline will be administered pursuant to Board Policies JK, JKD, and JKE. Regardless of the outcome of the investigation the principal will meet with the involved students to review the findings of the investigation. Subject to the restrictions of the Family Educational Rights and Privacy Act (FERPA) set out in policy JR, the parent(s) or guardian(s) of the involved students shall also be informed of the findings of the investigation.

Documentation related to reported bullying and subsequent investigation shall be maintained by the District for not less than six (6) years. In the

event the District reports incidents to persons other than school officials or law enforcement all individually identifiable information shall be redacted. Restrictions established by FERPA on disclosure of personally identifiable student information must be observed at all times.

The Superintendent shall establish procedures for the dissemination of information to students, parents and guardians. The information will include, but not be limited to, Governing Board policies, incident reporting, support services (proactive and reactive) and student's rights. The dissemination of this information shall:

- occur during the first (1st) week of each school year,
- be provided to each incoming student during the school year at the time of the student's registration,
- be posted in each classroom and in common areas of the school, and
- be summarized in the student handbook and on the District website, and

The Superintendent shall establish procedures for the dissemination of information to District employees including, but not limited to:

- Governing Board policy,
- preventive measures,
- incident reporting procedures,
- available support services for students (both proactive and reactive), and
- student rights.

Information will be provided to staff members at the beginning of each instructional year and on the first day of employment for new employees.

The Superintendent shall establish procedures designed to protect the health and safety of students who are physically harmed as the result of bullying. These will include, when appropriate, procedures for contacting emergency medical services, law enforcement agencies, or both.

Knowingly submitting a false report under this policy shall subject the student to discipline up to and including suspension or expulsion. Where

disciplinary action is necessary pursuant to any part of this policy, relevant District policies shall be followed.

Law enforcement authorities shall be notified any time District officials have a reasonable belief that an incidence of bullying is a violation of the law.

Adopted: date of Manual adoption

LEGAL REF.: A.R.S. 13-1202
13-1203
13-1204
13-2916
13-2321
13-2921
13-3506.01
15-341
20 U.S.C. 7161
20 U.S.C. 7283

CROSS REF.: JI - Student Rights and Responsibilities
JII- Student Concerns, Complaints, and Grievances
JIC - Student Conduct
JK - Student Discipline
JKD - Student Suspension
JKDA - Removal of Students from School-Sponsored
Activities
JKE - Expulsion of Students
JR - Student Records

REGULATION**REGULATION****STUDENT VIOLENCE / HARASSMENT /
INTIMIDATION / BULLYING**

The District does not tolerate bullying in any form. Further, the District shall investigate each complaint of bullying and will take appropriate, timely, and responsive action.

Bullying: Bullying may occur when a student or group of students engages in any form of behavior that includes such acts as intimidation and/or harassment that

- has the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm or damage to property;
- is sufficiently severe, persistent or pervasive that the action, behavior, or threat creates an intimidating, threatening, or abusive environment in the form of physical or emotional harm;
- occurs when there is a real or perceived imbalance of power or strength:
or
- may constitute a violation of law.

Any student who feels he or she has been the victim of bullying or suspects other students of being bullied should file a complaint with the principal or the principal's designee or other school employee. The student's report may be provided verbally or in writing. A student's verbal report will be documented in writing by the employee receiving the report.

Any staff member who becomes aware of or suspects that a student is experiencing bullying shall immediately notify the principal or the principal's designee. Employees may initially give verbal notice to the principal or the principal's designee, but shall submit a written report to the principal or the principal's designee within one (1) school day of the verbal report.

Reprisal directed toward a student or employee for the reporting of a case of bullying or a suspected case of bullying will not be tolerated. Students involved directly or indirectly in reprisal will be disciplined pursuant to Board Policies JK, JKD, and JKE. Any suspected violation of the law will be reported to law enforcement authorities.

Investigation of submitted complaints shall be initiated by the principal or the principal's designee as soon as is feasible, but not later than two (2)

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school days after the initial report. Each investigation will be comprehensive to the extent determined appropriate by the principal or the principal's designee. In investigating the complaint, the principal or the principal's designee will maintain confidentiality to the extent reasonably possible, subject to the restrictions pertaining to disclosure of personally identifiable student information established in the Family Educational Rights and Privacy Act (FERPA).

Each investigation will be documented by the principal or the principal's designee. Documentation will be maintained by the District for at least six (6) years. In the event the District must report incidents to persons other than school officials or law enforcement, all individually identifiable information shall be redacted.

Should the principal or the principal's designee determine that bullying has occurred discipline will be administered pursuant to Board Policies JK, JKD, and JKE. Regardless of the outcome of the investigation the principal or the principal's designee will meet with the student who reported or was reported as being bullied to review the findings of the investigation. Additionally, the parent(s) or guardian(s) of the involved students will be informed of the findings of the investigation.

The Superintendent is responsible for determining the methods of information delivery to employees and students. The Superintendent shall provide to the school principals, supervisors and all other District employees the information necessary to comply with Governing Board policy JICK. The information related to bullying is to include but not be limited to preventive measures, incident reporting, related support services available (proactive and reactive), student rights, employee responsibilities, and the ramifications of not reporting a bullying incident or suspicion of bullying. The information shall be disseminated to District personnel at the beginning of each year and as the Superintendent otherwise determines to be appropriate.

The principal or the principal's designee is responsible to ensure information related to bullying is disseminated to students, and parents and guardians. The information shall include but not be limited to Governing Board policy, incident reporting, support services (proactive and reactive) and student's rights. The dissemination of this information will:

- occur during the first (1st) week of each school year,
- be posted in each classroom and in common areas of the school,
- be summarized in the student handbook and on the District website, and

REGULATION**REGULATION**

- be provided to each incoming student during the school year at the time of registration.

The principal or the principal's designee is also responsible to ensure information is disseminated to all students who report bullying, including, at the time the incident is reported, a written copy of student rights, protections and support services available to the student; a copy of the report shall also be given to the student's parent(s)/guardian(s).

The principal or the principal's designee is responsible for the maintenance of documentation related to bullying.

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EXHIBIT

STUDENT VIOLENCE / HARASSMENT / INTIMIDATION / BULLYING

COMPLAINT FORM

(To be filed with any School District employee who will forward this document to the principal or the principal's designee)

Please print:

Name _____ Date _____

Address _____

Telephone _____ Another phone where you can be reached _____

During the hours of _____

E-mail address _____

I wish to complain against:

Name of person(s) _____

Specify your complaint by stating the problem as you see it. Describe the incident, the participants, the background to the incident, and any attempts you have made to solve the problem. *Be sure to include all relevant dates, times, and places.* Additional pages may be attached if necessary.

[illegible]

EXHIBIT

[illegible]

Investigating official _____ Date _____

STUDENT VIOLENCE / HARASSMENT / INTIMIDATION / BULLYING

(To be displayed in school buildings
and in student handbooks)

The Governing Board of the _____ School District believes it is the right of every student to be educated in a positive, safe, caring, and respectful learning environment. The Governing Board further believes a school environment that is inclusive of these traits maximizes student achievement, fosters student personal growth, and helps a student build a sense of community that promotes positive participation as citizens in society.

To assist in achieving a school environment based on the beliefs of the Governing Board, bullying in any form will not be tolerated.

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- occurs when there is a real or perceived imbalance of power or strength; or
- may constitute a violation of law.

Bullying of a student or group of students can be manifested through written, verbal, physical, or emotional means and may occur in a variety of forms including, but not limited to, the following:

- verbal, written/printed or graphic exposure to derogatory comments, extortion, exploitation, name calling, or rumor spreading either directly through another person or group or through cyberbullying;
- exposure to social exclusion or ostracism;
- physical contact including but not limited to pushing, hitting, kicking, shoving, or spitting;
- damage to or theft of personal property;

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Disciplinary action may result for bullying which occurs outside of the school and the school day when such acts result in a substantial physical, mental, or emotional negative effect on the victim physically, while on school grounds, school property, school buses, at school bus stops, or at school sponsored events and activities, or when such act(s) interfere with the authority of the school system to maintain order. All suspected violations of law will be reported to local law enforcement.

Students who believe they are experiencing being bullied or expect another student is bullied should report their concern to any staff member of the School District. School personnel are to maintain appropriate confidentiality of the reported information.

Reprisal by any student directed toward a student or employee related to the reporting of a case or a suspected case of bullying shall not be tolerated, and the individual(s) will be subject to the disciplines set out in applicable District policies and administrative regulations.

Students found to be bullying others will be disciplined up to and including suspension or expulsion from school.

Knowingly submitting a false report under this policy shall subject the student to discipline up to and including suspension or expulsion. Where disciplinary action is necessary pursuant to any part of this policy, relevant District policies shall be followed.

Law enforcement authorities shall be notified any time District officials have a reasonable belief that an incidence of bullying is a violation of the law.