

MEMORANDUM

TO: NWABSD Board of Education
Members

DATE: August 30, 2023

NUMBER: 24-017

FR: Office of the Superintendent

SUBJECT: Approval of Proposed
Revisions to BP 5131.43,
Students, Harassment,
Intimidation and Bullying;
Second Reading

STRATEGIC PLAN/BOARD GOAL:

Improve Stakeholder Communication.

ABSTRACT:

Board policy revisions require Board approval.

ISSUE:

At issue is to approve the second reading of the proposed revisions to BP 5131.43, Students, Harassment, Intimidation and Bullying.

BACKGROUND AND/OR PERTINENT INFORMATION:

The Superintendent/designee presents drafts or suggestions for board policy revisions when changes in law occur or when specific need occurs. Policy revisions shall normally be given two readings prior to adoption by the Board. This is the second reading of the proposed revisions to BP 5131.43, Students, Harassment, Intimidation and Bullying.

No public comment was given on this board policy. The Board Policy Committee reviewed the proposed changes and recommends approval.

ALTERNATIVES:

1. Approve the second reading to the proposed revisions to BP 5131.43, Students, Harassment, Intimidation and Bullying as presented;
2. Do not approve second reading to the proposed revisions to BP 5131.43 as presented;
3. Take no final action.

ADMINISTRATION'S RECOMMENDATION:

The administration recommends the Board approve the second reading to the proposed revisions to BP 5131.43, Students, Harassment, Intimidation and Bullying as presented.

BP 5131.43 HARASSMENT, INTIMIDATION AND BULLYING

Note: ~~Districts must have~~ ~~In 2006, HB 482 was passed requiring districts to have in place by July 1, 2007~~ a policy prohibiting the harassment, intimidation, or bullying of any student. ~~-AS 14.33.200-.250.~~

The School Board is dedicated to providing a safe and civil learning environment. Harassment, intimidation and bullying disrupt a student's ability to learn and a school's ability to educate. Students and staff are expected to demonstrate positive character traits and values. Conduct and speech must be civil and respectful in order to promote harmonious and courteous relations in the school environment.

(cf. 5137 ~~--~~ *Positive School Climate*)

Note: Disability-based harassment or bullying may deny a student equal educational opportunities under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA). Harassment or bullying of a student with a disability, on any basis, may also adversely impact the school's provision of FAPE to the student, under the Individuals with Disabilities Education Act (IDEA) and under Section 504. (See Dear Colleague Letter, Office for Civil Rights, October 21, 2014). A school's inappropriate response to bullying or harassment of a student, based on a disability, may constitute a disability-based harassment violation, by the school, under Section 504 and the ADA. Schools should address all harassment and bullying of students with disabilities by taking prompt and effective steps reasonably calculated to end the bullying or harassment, eliminate the hostile environment, prevent it from recurring, investigate if the student's receipt of appropriate services may have been affected by the bullying (if student receives IDEA or Section 504 services) and, as appropriate, remedy its effects.

Students, staff and volunteers are prohibited from engaging in any form of harassment, intimidation, or bullying while on school property, on school buses, at the bus stop, or at school-sponsored activities or functions. Students who engage in such acts are subject to appropriate disciplinary action, up to and including suspension or expulsion. Staff who engage in acts of harassment, intimidation or bullying are also subject to appropriate disciplinary action up to and including suspension and termination. Volunteers who engage in such acts will be denied the opportunity to volunteer in the future.

To promote an environment free of harassment, intimidation, or bullying, the principal/administrator or designee shall take appropriate actions such as removing vulgar or offending graffiti, establishing site rules, and providing staff inservice and student instruction and counseling. Teachers shall discuss this policy with their students in age appropriate ways and assure students that they need not endure any form of harassment, intimidation, or bullying.

(cf. 5141.42 - Professional Boundaries for staff and students)

The district will provide parent and community information, and age-appropriate student instruction, on how to identify, respond to, and prevent harassment, intimidation, and bullying.

(cf. 5131.5 — Vandalism, Theft and Graffiti)

(c.f. 5144 - Discipline)

(c.f. 5144.1 — Suspension and Expulsion)

Harassment, Intimidation and Bullying Defined

Harassment, intimidation, or bullying means an intentional act, whether written, oral, electronic or physical, when the act is undertaken with the intent of threatening, intimidating, harassing, or frightening the student, and

1. physically harms the student or damages the student's property;
2. has the effect of substantially interfering with the student's education;
3. is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
4. has the effect of substantially disrupting the orderly operation of the school.

(c.f. 5145.3 — Nondiscrimination)

Cyberbullying

Note: Technological advances have expanded the ways in which harassment, intimidation, or bullying can occur, including the ability to bully with anonymity and to reach a much broader audience. This language notifies students and staff that cyberbullying is not permitted and will result in disciplinary action. It is a crime, (harassment in the second degree) to repeatedly send or publish an electronic communication that insults, taunts, challenges, or intimidates a person under 18 years of age in a manner that places the person in reasonable fear of physical injury, if done with intent to harass or annoy another person. (a)

All forms of harassment, intimidation or bullying via electronic means, commonly referred to as cyberbullying, are prohibited. Cyberbullying also includes, but is not limited to, other misuses of technology to threaten, harass, intimidate, or bully, including sending or posting inappropriate email messages, instant messages, text messages, digital pictures or images, or Web site postings, including blogs. An individual who redistributes a cyberbullying communication can be found in violation of this policy, even if the individual did not author or create the original communication or image.

The ~~district's~~ computer network, including access to the Internet via that network, whether accessed on campus or off campus, during or after school hours, may not be used for the purpose of harassment, intimidation, or bullying. Users are responsible for the appropriateness of the material they transmit over the system.

In situations in which the cyberbullying originates from a private (non-school) computer or other electronic device, but is brought to the attention of school officials, disciplinary measures may be imposed when the communication:

1. Is of a criminal nature, including but not limited to, ~~Contains~~ threats of violence or harm against staff members, students, or their property;
2. Suggests or advocates physical harm to staff members or students;
3. Causes a student or staff member to experience a substantially detrimental effect on his or her physical or mental health;
4. Causes a student or staff member to experience substantial interference with academic or work performance, or with his or her ability to participate in or benefit from district services or activities;
5. Threatens vandalism to school property; or
6. Creates a significant disruption to the ~~school's~~ educational mission, purpose or objectives.

Disciplinary action may include, but is not limited to, the loss of computer privileges, detention, suspension, or expulsion for those committing acts of cyberbullying. In addition, any kind of threat or hate crime will be reported to law enforcement officials.

Students and staff who believe they have been the victims of cyberbullying, as described in this policy, should not erase the offending material from the system. A copy of the material should be printed and a report made ~~under following~~ this policy.

(cf. 6161.4 ~~--~~ Internet)

(cf. 6161.5 ~~--~~ Web Sites / Pages)

Reporting

Note: A school employee, student or volunteer who makes a good faith report of harassment, intimidation, or bullying is entitled to statutory immunity from suit. The immunity extends to causes of action for damages arising from a failure to remedy the reported incident or for making the report. -AS 14.33.230.

Students or staff members who have witnessed or have reliable information that a student has been subjected to harassment, intimidation or bullying should report the incident immediately to the ~~principal~~ administrator or his/her designee, who shall promptly initiate an investigation. The investigation shall include an assessment of what actions should be taken, as appropriate, to protect the student who has been found to be the victim of harassment, intimidation or bullying. Such actions may include the

provision of support services necessary to permit the student to feel safe and secure in attending school. The Superintendent/Chief School Administrator shall develop procedures to implement this policy.

Response

In determining the appropriate response to students who commit one or more acts of harassment, intimidation or bullying, the following factors should be considered:

1. the development and maturity levels of the parties involved;
2. the level of harm;
3. the surrounding circumstances;
4. past incidences or past continuing patterns of behavior;
5. the relationships between the parties involved;
6. the level of disruption in or interference with the orderly operation of the school.

This policy should not be interpreted to prohibit a reasoned and civil exchange of opinions or debate that is protected by law and School Board policy.

(c.f. 5145.2 — Freedom of Speech/Expression)

Conduct that does not rise to the level of harassment, intimidation or bullying may still be prohibited by other policies or rules.

(cf. 5131 — Conduct)

(cf. 5131.4 — Campus Disturbances)

(cf. 5131.41 — Violent and Aggressive Conduct)

(cf. 5131.42 — Threats of Violence)

(cf. 5131.5 — Vandalism, Theft & Graffiti)

(cf. 5137 — Positive School Climate)

Legal Reference:

ALASKA STATUTES

[14.33.200](#) *Harassment, intimidation and bullying policy*

[14.33.210](#) *Reporting of incidents of harassment, intimidation or bullying*

[14.33.220](#) *Reporting, no reprisals*

[14.33.230](#) *Immunity from suit*

[14.33.250](#) *Definitions*

Harassment in the second degree

CODE OF FEDERAL REGULATIONS

, Title II of the Americans with Disabilities Act of 1990 (ADA)

, Section 504 of the Rehabilitation Act of 1973 (Section 504)

, Individuals with Disabilities Education Act of 1975 (IDEA)

Revised: January 29, 2008, *November 27, 2012, (Date of Revision)*

~~*November 27, 2012*~~

Adopted: March 27, 2007

Northwest Arctic Borough School District