

Policy 0545: EQUAL EDUCATIONAL OPPORTUNITIES; PROHIBITION OF HARASSMENT, BULLYING, AND HAZING OF STUDENTS

Status: DRAFT

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Title Change: Remove Equal Educational Opportunities. New title to be; Prohibition of Harassment, Bullying, and Hazing of Students

Nondiscrimination. No student in the Urbandale Community School District shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in District programs on the basis of race, color, creed, sex, religion, marital status, ethnic background, national origin, disability, sexual orientation, gender identity, or socio-economic background. The policy of the District shall be to provide educational programs and opportunities for students as needed on the basis of individual needs, interests, abilities and potential.

The District prohibits unlawful discrimination against students, including discriminatory harassment on the basis of any protected class identified in state or federal civil rights laws, which has the purpose or effect of creating an intimidating, hostile, or offensive education environment, unreasonably interferes with academic performance or affects educational opportunities.

Sexual Harassment.

General. It is the policy of the Urbandale Community School District to maintain a learning environment that is free from sexual harassment. All employees, visitors and students must avoid any action or conduct which could reasonably be perceived as sexual harassment. It shall be a violation of this policy for any person to harass a student through conduct or communications of a sexual nature as defined in this policy.

Definition. Sexual harassment shall consist of unwelcome sexual advances, requests for sexual acts or favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of the student's educational opportunities or benefits; or
- Submission to or rejection of such conduct by a student is used as the basis for educational decisions affecting that student; or
- Such conduct has the purpose or effect of substantially interfering with a student's education by creating an intimidating, hostile, or offensive educational environment.

Sexual harassment may include, but is not limited to the following: requests or pressure for sexual activity; unwelcome touching; other verbal or physical conduct of a sexual nature, such as inappropriate jokes, symbols, signs or posters of a sexual nature; repeated remarks to or about a person with sexual or demeaning implications.

(Note: any sexual overtures made by a staff member to a student, whether welcomed or unwelcome, shall be grounds for discipline, including discharge of the staff member. See policy 519.)

Harassment and Bullying Prohibited. The District is committed to providing all students a safe and civil educational environment in which all are treated with dignity and respect. The District is also committed to promoting understanding and appreciation of the cultural diversity of our society. The District shall educate students about our cultural diversity and shall promote tolerance of individual differences.

Harassment and bullying of students is against the policy of the State of Iowa as well as of the Urbandale Community School District. The District shall promote procedures and practices to reduce and eliminate harassment and bullying. The District prohibits harassment and bullying of students by other students, by employees, and by volunteers while in school, on school property, and at any school function or school-sponsored activity. This includes harassment or bullying based on the student's actual or perceived trait or characteristic, including the student's actual or perceived race, color, creed, sex, age, religion, marital or familial status, ethnic background, national origin, ancestry, physical or mental ability or disability, sexual orientation, gender identity, physical attribute, political party preference, political belief, or socio-economic background. Acts of harassment or bullying may be treated as grounds for discipline. Discipline may include suspension or expulsion of a student, termination of an employee's contract, and/or exclusion of a volunteer from District activities or premises.

Definitions

For the purposes of this policy, the defined words shall have the following meaning:

- **“Electronic” means any communication involving the transmission of information by wire, radio, optic cable, electromagnetic, or other similar means. “Electronic” includes but is not limited to communication via electronic mail, internet-based communications, pager service, cell phones, and electronic text messaging.**
- **“Harassment” and “bullying” mean any repeated and targeted electronic, written, verbal, or physical act or conduct toward an individual that creates an objectively hostile school environment that meets one or more of the following conditions:**
 1. **Places the individual in reasonable fear of harm to the individual's person or property.**
 2. **Has a substantial detrimental effect on the individual's physical or mental health.**
 3. **Has the effect of substantially interfering with the individual's academic or career performance.**
 4. **Has the effect of substantially interfering with the individual's ability to participate in or benefit from the services, activities, or privileges provided by a school.**
- **“Volunteer” means an individual who has regular, significant contact with students.**

Definition. Harassment and bullying are defined as any electronic (such as emails or instant messages), written, verbal or physical act or conduct toward a student that is based on an actual or perceived trait or characteristic that creates or could reasonably be expected to create an objectively hostile school environment is prohibited. An objectively hostile school environment is created if the act or conduct:

- places the student in reasonable fear of harm to the student's person or property; or
- has a substantially detrimental effect on the student's physical or mental health; or
- has the effect of substantially interfering with the student's academic performance; or
- has the effect of substantially interfering with the student's ability to participate in or benefit from District services, activities, or privileges.

Electronic means of bullying and harassment must have a close connection – a nexus – to school order and management. This is determined on a case-by-case basis. Examples of prohibited behavior may include, but are not limited to the following:

- unwelcome touching;
- inappropriate or demeaning remarks, jokes, stories, activities, symbols, signs or posters;
- implied or explicit threats concerning grades, awards, property or opportunities;
- requiring, explicitly or implicitly, that a student submit to harassment or bullying as a term or condition of the student's participation in any educational program or activity.

Complaint Procedures. Any person alleging a violation of this policy may file a complaint using the Student Complaint Procedure of Policies 536 and 229. Employees who are aware of harassment or bullying shall file a written complaint or shall report the conduct to a principal or to the compliance officer. The complainant may bypass any step of the complaint procedure where the person to whom the complaint is to be lodged is the alleged perpetrator or otherwise has a conflict of interest. The complainant may file the initial complaint with the compliance officer, whose decision may be appealed to the Superintendent. Policy 519 shall govern the investigation of alleged cases of physical or sexual abuse, including sexual harassment, of students by staff members.

Complaints shall be filed within 90 days of the event giving rise to the complaint or from the date the Complainant could reasonably become aware of such occurrence. The Complainant will state the nature of the complaint and the remedy requested. The Complainant shall receive assistance as needed.

The complainant may be required to complete a written complaint form and to turn over copies of evidence of discrimination, harassment or bullying including, but not limited to, letters, emails, tapes, signs, and pictures. The investigator shall promptly commence an investigation and proceed to completion no later than 10 days following receipt of the complaint. If the investigator needs more time to process the complaint, they shall notify the parties and keep them apprised of the status of the investigation. Both the complainant and the alleged perpetrator will be given an opportunity to give a statement. Witnesses may also be interviewed. District employees, students and volunteers shall fully and fairly cooperate in the investigation.

Investigation. The school district will promptly and reasonably investigate allegations of bullying or harassment. The building administrator or designee (hereinafter “Investigator”) will be responsible for handling all complaints alleging bullying or harassment. The Investigator shall consider the totality of circumstances presented in determining whether conduct objectively constitutes bullying or harassment. The superintendent or the superintendent's designee shall also be responsible for developing procedures regarding this policy.

Decision. The investigator shall prepare a written report of findings and conclusions. If, after an investigation, a student is found to be in violation of this policy, the student shall be disciplined by appropriate measures, which may include suspension and expulsion. If after an investigation a school employee is found to be in violation of this policy, the employee shall be disciplined by appropriate measures, which may include termination. If after an investigation a school volunteer is found to be in violation of this policy, the volunteer shall be subject to appropriate measures, which may include exclusion from school grounds. Other corrective actions may be taken as appropriate.

A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of bullying or harassment, in compliance with the procedures in the policy adopted pursuant to this section, to the appropriate school official designated by the school district, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.

Individuals who knowingly file false bullying or harassment complaints and any person who gives false statements in an investigation may be subject to discipline by appropriate measures, as shall any person who is found to have retaliated against another in violation of this policy.

Grievance Procedure – Disability. The District has also established a grievance procedure to handle complaints of discrimination based on disability and to handle concerns regarding accommodations of disabled students. A parent, guardian, or student may utilize such grievance procedures.

Compliance Officer. The Director of Student Services and Equity shall be designated as the District's compliance officer to ensure that students are treated in accordance with District policy prohibiting discrimination, harassment and bullying. In the event the Director of Student Services and Equity is the alleged perpetrator, or otherwise has a conflict of interest, the Superintendent shall be the alternate compliance officer.

Confidentiality. The right to confidentiality, both of the complainant and of the accused, will be respected consistent with the District's legal obligations, and with the necessity to investigate allegations of misconduct and to take corrective action when this conduct has occurred.

No Retaliation. Retaliation Prohibited: Retaliation against any person because the person has filed a bullying or harassment complaint or assisted or participated in an investigation is prohibited. ~~No person shall retaliate against a student or other person because the student or other person has filed a discrimination or harassment or bullying complaint, assisted or participated in an investigation, or has opposed language or conduct that violates this policy, as long as the participation or action was done in good faith. Persons who engage in retaliation or who knowingly file false complaints or give false statements in an investigation shall be subject to discipline up to and including suspension, expulsion or termination of employment/service.~~

Corrective Actions. The District will take action to halt any improper discrimination, harassment or bullying and will take other appropriate corrective actions, including disciplinary measures which may include discharge, suspension, expulsion, or exclusion of a perpetrator, to remedy all violations of this policy.

Notification. Notice of this policy shall be communicated to staff, students, and parents of the District and to the District community. It shall be included in handbooks and shall be published in such other manner as the compliance officer shall determine.

Training. The District shall educate staff, parents and students about harassment and bullying, effective methods of prevention, and what to do in the event of such actions. The District shall participate in assessments of the effectiveness of this policy and education programs and shall make reports as required.

Other Agencies. Students and their parents may also contact the Iowa Civil Rights Commission and the Office of Civil Rights of the United States Department of Education for assistance.

Forms

- 545 Exh. A – Student Discrimination/Harassment Complaint Form
- 545 Exh. B – Witness Statement
- 545 Exh. C – Summary of Disposition of Discrimination/Harassment Complaint
- 545 Exh. D – Discrimination Grievance Procedure

Decision and Appeal

The complaint is closed after the administrator has issued the report, unless, within 10 working days of receiving the decision, either party appeals the decision to the Compliance Coordinator by making a written request detailing why they believe the decision should be reconsidered. Within 30 working days, the Compliance Coordinator shall affirm, reverse, or amend the decision. The Compliance Coordinator shall notify the Complainant and Respondent within 5 working days of the decision. Notification shall be by US mail, first class.

Publication of Policy

The board will annually publish this policy. This policy may be publicized by the following means:

Inclusion in the student handbook.

Inclusion in the employee handbook.

Inclusion in the registration materials.

Inclusion on the school or school district's website.

Legal Reference: 20 U.S.C. §§ 1221-1234i.
29 U.S.C. § 794.
42 U.S.C. §§ 2000d-2000d-7.
42 U.S.C. §§ 12101 2et. seq.
Iowa Code §§ 216.9; 279.82; 280.3; .28;
281 I.A.C. 12.3(11).
Morse v. Frederick, 551 U.S. 393 (2007)

Legal References: 216.9, 256.10(2), 256.11, 279.8, 280.3, 280.17, 280.28 708.10 Code of Iowa; 281 I.A.C. 12.1(1), 12.2, 12.3(6), 12.5(8), Chapter 102; Title IX of the Education Amendments of 1972, 42 U.S.C. 2000c et seq.; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et. seq. Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; Rehabilitation Act of 1973, 29 U.S.C. §794; Equal Pay Act of 1973, 29 U.S.C. 206 et. seq.; Title IX Educational Amendments, 20 U.S.C. 1681-1688; Individuals With Disabilities Education Act, 20 U.S.C. §1401 et. seq.; Americans With Disabilities Act 42 U.S.C. §12101, et. seq.; 34 C.F.R. Parts 100, 104 and 106
