



Policy Primer

IASB A Guide to Current Policy Issues

Anti-Bullying/Harassment Policy

The 2007 Iowa Legislature adopted a new law that requires school districts to have anti-harassment and anti-bullying policies. The bill comes in the wake of numerous stories legislators heard about bullying in schools and the inability to control it. IASB monitored the legislation as it was the association's belief that there were already adequate laws to protect students being bullied but it was more an issue of implementation and enforcement rather than the law.

The new law doesn't make major changes to policies school districts already have. One major change, made by IASB, is that we combined the employee and student harassment policies into one. There isn't a great difference, within the law, in how the two groups are treated so we decided it was easier to have one. We have also moved the policy to the 100 Series where it is applicable to both groups. So, remember when adopting this policy, that if you move it to the 100 Series, remember to repeal the one in the 400 Series and 500 Series. Boards should be aware that there is little optional language in this policy. Should boards want to amend the policy, it's strongly advised they check with legal counsel first.

Below is a summary of the legislation and the new policy requirements.

School Improvement Advisory Committee

While the bill mainly makes changes to a school district's harassment policy, it also requires a school district school improvement advisory committee to include "harassment or bullying prevention goals, programs, training and other

initiatives" in its list of mandatory items that need to be addressed. So, make sure your school improvement committee has this to discuss at their next meeting for inclusion in the next plan.

Policy Requirements

The law requires a board policy to include;

- A statement declaring harassment and bullying to be against state and school policy. The statement must include, but not be limited to, the following provisions:
 - School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.
 - School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or an individual who has reliable information about such an act of harassment or bullying.
- A definition of harassment and bullying.
- A description of the type of behavior expected from school employees, volunteers, parents, and students relative to prevention measures, reporting, and investigation of harassment or bullying.
- The consequences and appropriate remedial action for a person who violates the anti-harassment and anti-bullying policy.
- A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

- A procedure for the prompt investigation of complaints, either identifying the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this section.
- A statement of the manner in which the policy will be publicized.

Senate File 61, Section 3.

These policy provisions are all included in *Appendix A* and the *Student Handbook* provision is in *Appendix B*.

Protected Classes

The law makes significant changes to those classes specifically protected by law. This law protects students based upon a trait or characteristic of the student including, but not limited to, age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status or familial status. For employees the protected classes are the same except for the addition of sexual orientation. A separate bill passed this session, SF 427, which added sexual orientation to the Civil Rights Code as a protected class. As a result, sexual orientation needs to be added to the harassment policy for employees, as well. A separate *Policy Primer* will be issued that includes the term in other board policies.

Reporting

The law requires annual reporting, about bullying and harassment, to the Iowa Department of Education (DE). The law does not specify what types of bullying and harassment incidents will need to be reported. It's likely school districts will know this information by the start of the school year so the school district can begin documenting the incidents during this school year for reporting in the fall of 2008.

Training

The law does not mandate training unless funds were appropriated for that purpose. Since no

funds were appropriated, there is no mandatory training. But, training is strongly recommended. Since it's likely bullying and harassment incidents will be documented only when employees and volunteers know what bullying and harassment is, how to intervene and how to discipline the bully or harasser. As IASB has stated more than once, the real issue with bullying and harassment is not what the law requires but rather how it is implemented and enforced in specific incidents. Only when students, employees and volunteers understand how to recognize bullying and harassment, will they understand what they need to do to eradicate it.

Immunity

The law protects school employees, volunteers, students and students' parents or guardians from civil or criminal liability, if they report in good faith an incident of harassment or bullying to an appropriate school official.

Volunteers

The law requires volunteers to not only be reporters of bullying and harassment but also prohibits them from bullying or harassing students. The law defines volunteers as individuals who have "regular, significant contact with students." It, therefore, includes the parent who volunteers one day a week in the library but excludes a parent who volunteers to chaperon one field trip. While training, again, is not required, if training is implemented, it's recommended that volunteers meeting this definition be included.

Cyberbullying

The bill prohibits cyberbullying when it prohibits bullying or harassment by electronic means. This section is likely the most problematic of the bill due to the First Amendment Freedom of Speech implications. Since most cyberbullying takes place off school grounds, in order for an administrator to intervene and discipline, the administrator is going to need to make the determination that the cyberbullying affected the "good order of the school" and that, because of the cyberbullying, there is an imminent threat to the safety of school environment. It's strongly recommended that administrators contact their school attorney before taking disciplinary action against a student for cyberbullying.

Investigation/Investigator

The law requires the school district to investigate complaints made pursuant to this policy. It is also recommended the administration have the authority to investigate incidents where a formal complaint may not be filed. Should a parent mention a situation to an employee, even though the parent doesn't want "anything done" it should still be investigated. That parent has just put the school district on notice that there is an individual who may be violating the anti-harassment/bullying policy. Therefore, the school district has a duty to investigate the situation, whether or not a formal complaint was filed.

While school districts already have investigators appointed for harassment complaints, it is now mandatory. In appointing an investigator, it's recommended the board appoint an individual who has experience in the area. It is not uncommon for a school district's Level I investigator, for allegations of abuse of students by school district employees, to be the harassment investigator as well. This individual has training in investigatory techniques so may be well suited for the position.

Also, it's unlikely that the investigator would be the administrator of the building where the incident took place. This frees up that administrator to impose the discipline when it's determined to be necessary. But, the law is silent as to who should be an investigator so boards are free to choose whomever they determined would be appropriate.

Adoption Process

When adopting this new board policy, the board needs to involve parents, students, instructional and noninstructional professional staff and community members. It does not require the board to use a committee but all above must be involved pursuant to the educational standards. 281 I.A.C 12.3(6).

Publicity/Handbook Language

The law requires school districts to publicize the new board policy. The law does not state how the publicity is to occur but it's assumed it will likely be in handbooks or registration materials. As a result, IASB has also included sample language to use in the student or employee handbook or for publication with registration materials.

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CHECK IT OUT: Whether you are revising or developing a new board policy, review your collective bargaining agreement, consider the traditions and beliefs of your school district and contact your school attorney before adopting it.

ANTI-BULLYING/HARASSMENT POLICY

Harassment and bullying of students and employees are against federal, state and local policy, and are not tolerated by the board. The board is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. To that end, the board has in place policies, procedures, and practices that are designed to reduce and eliminate bullying and harassment as well as processes and procedures to deal with incidents of bullying and harassment. Bullying and harassment of students by students, school employees, and volunteers who have direct contact with students will not be tolerated in the school or school district.

The board prohibits harassment, bullying, hazing, or any other victimization; of students, based on any of the following actual or perceived traits or characteristics, including but not limited to, age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status. Harassment against employees based upon race, color, creed, sex, sexual orientation, gender identity, national origin, religion, age or disability is also prohibited.

This policy is in effect while students or employees are on property within the jurisdiction of the board; while on school-owned or school-operated vehicles; while attending or engaged in school-sponsored activities; and while away from school grounds if the misconduct directly affects the good order, efficient management and welfare of the school or school district.

If, after an investigation, a student is found to be in violation of this policy, the student shall be disciplined by appropriate measures up to, and including, 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 up to, and including, 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 up to, and including, exclusion from school grounds. "Volunteer" means an individual who has regular, significant contact with students.

Harassment and bullying mean any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

- Places the student in reasonable fear of harm to the student's person or property;
- Has a substantially detrimental effect on the student's physical or mental health;
- 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 the services, activities, or privileges provided by a school.

"Electronic" means any communication involving the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Electronic" includes but is not limited to communication via electronic mail, internet-based communications, pager service, cell phones, electronic text messaging or similar technologies.

Approved _____

Reviewed _____

Revised _____

ANTI-BULLYING/HARASSMENT POLICY

Harassment and bullying may include, but are not limited to, the following behaviors and circumstances:

- Verbal, nonverbal, physical or written harassment, bullying, hazing, or other victimization that have the purpose or effect of causing injury, discomfort, fear, or suffering to the victim;
- Repeated remarks of a demeaning nature that have the purpose or effect of causing injury, discomfort, fear, or suffering to the victim;
- Implied or explicit threats concerning one's grades, achievements, property, etc. that have the purpose or effect of causing injury, discomfort, fear, or suffering to the victim;
- Demeaning jokes, stories, or activities directed at the student that have the purpose or effect of causing injury, discomfort, fear, or suffering to the victim; and/or
- Unreasonable interference with a student's performance or creation of an intimidating, offensive, or hostile learning environment.

Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

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

In situations between students and school officials, faculty, staff, or volunteers who have direct contact with students, bullying and harassment may also include the following behaviors:

- Requiring that a student submit to bullying or harassment by another student, either explicitly or implicitly, as a term or condition of the targeted student's education or participation in school programs or activities; and/or
- Requiring submission to or rejection of such conduct as a basis for decisions affecting the student.

Any person who promptly, reasonably, and in good faith reports an incident of bullying or harassment under this policy to a school official, shall be immune from civil or criminal liability relating to such report and to the person's participation in any administrative, judicial, or other proceeding relating to the report. Individuals who knowingly file a false complaint may be subject to appropriate disciplinary action.

Retaliation against any person, because the person has filed a bullying or harassment complaint or assisted or participated in a harassment investigation or proceeding, is also prohibited. Individuals who knowingly file false harassment complaints and any person who gives false statements in an investigation shall be subject to discipline by appropriate measures, as shall any person who is found to have retaliated against another in violation of this policy. Any student found to have retaliated in violation of this policy shall be subject to measures up to, and including, suspension and expulsion. Any school employee found to have retaliated in violation of this policy shall be subject to measures up to, and including, termination of employment. Any school volunteer found to have retaliated in violation of this policy shall be subject to measures up to, and including, exclusion from school grounds.

ANTI-BULLYING/HARASSMENT POLICY

The school or school district will promptly and reasonably investigate allegations of bullying or harassment. The [state the title of the investigator] or designee will be responsible for handling all complaints by students alleging bullying or harassment. The [state the title of the investigator] or designee will be responsible for handling all complaints by employees alleging bullying or harassment.

It also is the responsibility of the superintendent, in conjunction with the investigator and principals, to develop procedures regarding this policy. [Optional, but strongly suggested that it be included and followed:] The superintendent also is responsible for organizing training programs for students, school officials, faculty, staff, and volunteers who have direct contact with students. The training will include how to recognize harassment and what to do in case a student is harassed. It will also include proven effective harassment prevention strategies. The superintendent will also develop a process for evaluating the effectiveness of the policy in reducing bullying and harassment in the board. The superintendent shall report to the board on the progress of reducing bullying and harassment in the board.

The board will annually publish this policy. The 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 web site,
- (other) _____,

and a copy shall be made to any person at the central administrative office at (street address).

Legal References: 20 U.S.C. §§ 1221-1234i (2004).
 29 U.S.C. § 794 (1994).
 42 U.S.C. §§ 2000d-2000d-7 (2004).
 42 U.S.C. §§ 12001 *et. seq.* (2004).
 Senate File 61, 1st Regular Session, 82nd General Assembly, (2007).
 Iowa Code §§ 216.9; 280.3 (2007).
 281 I.A.C. 12.3(6).
 Morse v. Frederick, 127 S.Ct. 2618 (2007)

Cross References: 502 Student Rights and Responsibilities
 503 Student Discipline
 506 Student Records

ANTI-BULLYING/HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Name of student or employee target: _____

Date of complaint: _____

Name of alleged harasser or bully: _____

Date and place of incident or incidents: _____

Nature of Discrimination or Harassment Alleged (Check all that apply)

<input type="checkbox"/>	Age	<input type="checkbox"/>	Physical Attribute	<input type="checkbox"/>	Sex
<input type="checkbox"/>	Disability	<input type="checkbox"/>	Political Belief	<input type="checkbox"/>	Sexual Orientation
<input type="checkbox"/>	Familial Status	<input type="checkbox"/>	Race/Color	<input type="checkbox"/>	Socio-economic Background
<input type="checkbox"/>	Marital Status	<input type="checkbox"/>	Religion/Creed	<input type="checkbox"/>	Other – Please Specify:
<input type="checkbox"/>	National Origin/Ethnic Background/Ancestry	<input type="checkbox"/>		<input type="checkbox"/>	

Description of misconduct: _____

Name of witnesses (if any): _____

Evidence of harassment or bullying, i.e., letters, photos, etc. (attach evidence if possible):

Any other information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____

Date: _____ / _____ / _____

ANTI-BULLYING/HARASSMENT WITNESS DISCLOSURE FORM

Name of witness: _____

Position of witness: _____

Date of testimony, interview: _____

Description of incident witnessed: _____

Any other information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____

Date: ____ / ____ / ____

DISPOSITION OF ANTI-BULLYING/HARASSMENT COMPLAINT FORM

Name of complainant: _____

Name of student or
employee target:: _____

Grade and building of
student or employee: _____

Name and position or grade of alleged perpetrator
/respondent: _____

Date of initial complaint: _____

Nature of discrimination or harassment alleged (Check all that apply)

<input type="checkbox"/>	Age	<input type="checkbox"/>	Physical Attribute	<input type="checkbox"/>	Sex
<input type="checkbox"/>	Disability	<input type="checkbox"/>	Political Belief	<input type="checkbox"/>	Sexual Orientation
<input type="checkbox"/>	Familial Status	<input type="checkbox"/>	Race/Color	<input type="checkbox"/>	Socio-economic Background
<input type="checkbox"/>	Marital Status	<input type="checkbox"/>	Religion/Creed	<input type="checkbox"/>	Other – Please Specify:
<input type="checkbox"/>	National Origin/Ethnic Background/Ancestry	<input type="checkbox"/>		<input type="checkbox"/>	

Summary of investi-
gation: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____

Date: _____ / _____ / _____

ANTI-BULLYING/HARASSMENT INVESTIGATION PROCEDURES

Individuals who feel that they have been harassed should:

- Communicate to the harasser that the individual expects the behavior to stop, if the individual is comfortable doing so. If the individual wants assistance communicating with the harasser, the individual should ask a teacher, counselor or principal to help.
- If the harassment does not stop, or the individual does not feel comfortable confronting the harasser, the individual should:
 - tell a teacher, counselor or principal; and
 - write down exactly what happened, keep a copy and give another copy to the teacher, counselor or principal including;
 - what, when and where it happened;
 - who was involved;
 - exactly what was said or what the harasser did;
 - witnesses to the harassment;
 - what the student said or did, either at the time or later;
 - how the student felt; and
 - how the harasser responded.

COMPLAINT PROCEDURE

An individual who believes that the individual has been harassed or bullied will notify _____, the designated investigator. The alternate investigator is _____. The investigator may request that the individual complete the Harassment/Bullying Complaint form and turn over evidence of the harassment, including, but not limited to, letters, tapes, or pictures. The complainant shall be given a copy of the completed complaint form. Information received during the investigation is kept confidential to the extent possible.

The investigator, with the approval of the principal, or the principal has the authority to initiate an investigation in the absence of a written complaint.

INVESTIGATION PROCEDURE

The investigator will reasonably and promptly commence the investigation upon receipt of the complaint. The investigator will interview the complainant and the alleged harasser. The alleged harasser may file a written statement in response to the complaint. The investigator may also interview witnesses as deemed appropriate.

Upon completion of the investigation, the investigator will make written findings and conclusions as to each allegation of harassment and report the findings and conclusions to the principal. The investigator will provide a copy of the findings of the investigation to the principal.

ANTI-BULLYING/HARASSMENT INVESTIGATION PROCEDURES

RESOLUTION OF THE COMPLAINT

Following receipt of the investigator's report, the principal may investigate further, if deemed necessary, and make a determination of any appropriate additional steps which may include discipline.

Prior to the determination of the appropriate remedial action, the principal may, at the principal's discretion, interview the complainant and the alleged harasser. The principal will file a written report closing the case and documenting any disciplinary action taken or any other action taken in response to the complaint. The complainant, the alleged harasser and the investigator will receive notice as to the conclusion of the investigation. The principal will maintain a log of information necessary to comply with Iowa Department of Education reporting procedures.

POINTS TO REMEMBER IN THE INVESTIGATION

- Evidence uncovered in the investigation is confidential.
- Complaints must be taken seriously and investigated.
- No retaliation will be taken against individuals involved in the investigation process.
- Retaliators will be disciplined up to and including suspension and expulsion.

CONFLICTS

If the investigator is a witness to the incident, the alternate investigator shall investigate.