

Anti-Bullying/Harassment Update

Due to a recent United States Supreme Court case, and numerous discussions, IASB has decided it is necessary to update the anti-bullying/harassment policy issued in May. Some of the language in the May policy that addressed the impact of bullying/harassment on a victim, while in question then, is in greater question now as a result of the recent “Bong Hits for Jesus” Supreme Court case. *Morse v. Frederick, 127 S.Ct. 2618 (2007)*. As a result, IASB has updated its policy to reflect those changes. The attached changes are minor amendments and boards should be able to update the policies at one board meeting unless local board policy states otherwise. The changes should help ensure that the policy is not so overly broad that it infringes on students’ First Amendment Free Speech Rights.

What exactly is being amended is the use of the terms “purpose” of the harassment, whether the harassment causes “discomfort”, etc. Iowa law does not have these terms as part of its new law. Since that language is now in serious doubt, and since the Iowa law doesn’t require those terms, we are eliminating that language.

We have also updated the complaint form and added a complaint disposition form to assist school districts in complying with the reporting procedures. See *Appendices B and D*. Both forms track the reporting form issued by the Iowa Department of Education to be used in the spring Basic Enrollment Data Survey (BEDS) report.

IASB has also decided to use the entire Anti-Bullying/Harassment policy as the sample student handbook provision to ensure the same message is used in all locations. While we understand student handbooks are already printed, we again recommend administrators ensure the full policy be communicated to students, parents, staff and volunteers.

IASB wishes to thank attorneys Sue Seitz and Ron Peeler, Ahlers Law Firm, for their donated assistance in updating this policy

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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 other students, by school employees, and by 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 the employee's 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,~~ which may include suspension ~~and~~ or 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~~ which may includeing, 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 which may include~~ing, exclusion from school grounds. "Volunteer" means an individual who has regular, significant contact with students.

When looking at the totality of the circumstances, 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 of a student by an employee 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 school district. 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"/>	<u>Physical/Mental Ability</u>	<input type="checkbox"/>	Sexual Orientation
<input type="checkbox"/>	Familial Status	<input type="checkbox"/>	Political Belief	<input type="checkbox"/>	Socio-economic Background
<input type="checkbox"/>	<u>Gender Identity</u>	<input type="checkbox"/>	<u>Political Party Preference</u>	<input type="checkbox"/>	Other – Please Specify:
<input type="checkbox"/>	Marital Status	<input type="checkbox"/>	Race/Color	<input type="checkbox"/>	
<input type="checkbox"/>	National Origin/Ethnic Background/Ancestry	<input type="checkbox"/>	Religion/Creed	<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)

	Age		Physical Attribute		Sex
	Disability		<u>Physical/Mental Ability</u>		Sexual Orientation
	Familial Status		Political Belief		Socio-economic Background
	<u>Gender Identity</u>		<u>Political Party Preference</u>		Other – Please Specify:
	Marital Status		Race/Color		
	National Origin/Ethnic Background/Ancestry		Religion/Creed		

Summary of
investigation: _____

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.