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To: Members of the Board of Education
From: Doug Larson
Re: First Readings
Date: July 5, 2017

Policy and Legal Services will present two policies for a First Reading during the next Board of Education meeting:

Article VIII.B.9. Prohibition of Bullying, Cyberbullying, Hazing, and Retaliation

This policy was modified in response to changes to the state bullying statute pursuant to HB 161, which among other things, changed definitions and removed “harassment” from the statute. The policy also adds abusive conduct to the list of prohibited acts pursuant to HB 62. This policy change will also be accompanied with additional notice to parents and students regarding reporting procedures, how to address prohibited conduct that may constitute a civil rights violation, and training and support that the District will provide to schools for compliance and for bullying prevention.

Article V.C.1. Prohibition of Anti-Discrimination, Harassment, and Retaliation Policy

This policy was modified partly in response to changes made to the bullying policy (above). Further, this modification consolidates multiple district policies related to discrimination and harassment—including sexual harassment—into one clear policy statement. Consolidation of policies under one broad heading avoids confusion and makes the Board’s policies more efficient.

Article VIII.B.9. Prohibition of Bullying, Cyberbullying, Hazing, and Retaliation

A. Statement of Purpose

The Board of Education recognizes that ~~school bullying, cyberbullying, hazing, and retaliation harassment and intimidation~~ are prohibited by federal and state laws and regulations and such conduct greatly reduces the likelihood ~~a students or employee's~~ ability ~~to will~~ achieve ~~be~~ successful in school or work. Indeed, bullying and related conduct may increase the risk among victims of mental health related issues, including depression and suicide. ~~In addition, bullying, hazing, harassment and intimidation can directly affect a student's or an employee's health and well-being, contributing to negative consequences in both academic and personal areas.~~ The purpose of this policy, therefore, is to stop and prevent bullying, cyberbullying, harassment, hazing, and retaliation or any other form of intimidation in District schools.

B. Definitions

1. "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

2. "Bullying" means intentionally committing a written, verbal, or physical act against a student or District employee that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:
 - a. causing physical or emotional harm to the student or District employee;
 - b. causing damage to the student's or District employee's property;
 - c. placing the student or District employee in reasonable fear of
 - i. harm to his/her physical or emotional well-being or
 - ii. damage to his/her property;
 - d. creating a hostile, threatening, humiliating, or abusive environment due to
 - i. the pervasiveness, persistence, or severity of the actions or
 - ii. a power differential between the bully and the target; or
 - e. substantially interfering with an student or employee having a safe environment necessary for performing duties or accessing programming, opportunities, or benefits.

1. ~~"Bullying" means intentionally or knowingly committing an act, regardless of whether the person against whom the conduct is committed directed, consented to or acquiesced in the conduct, that endangers the physical or emotional health or safety of a student or school employee through;~~

- a. ~~any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;~~
- b. ~~forced or involuntary consumption of any food, liquor, drug, or other substance;~~
- c. ~~forced or coerced actions or activities of a sexual nature or with sexual connotations;~~
- d. ~~other physical activity that endangers the physical health and safety of a school employee or student;~~
- e. ~~physically obstructing a student's or school employee's freedom to move;~~
- or
- f. ~~emotional intimidation or exposure to ridicule; and~~
- g. ~~is done for the purpose of controlling the student or school employee in some way or placing the student or school employee in fear of:~~
 - i. ~~physical or emotional harm to the student or school employee; or~~
 - ii. ~~harm to property of the student or school employee.~~

2.3. "Cyber-bullying" means using or causing another to use the Internet, a cell phone, or other device email, instant messaging, chat rooms, cell phones, or other forms of information technology to send or post text, video, or images to intentionally, knowingly, or recklessly harm, embarrass, threaten, or intimidate an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct or voluntarily accessed the electronic communication, deliberately harass, threaten, or intimidate someone for the purpose of controlling the student or school employee in some way or placing the student or school employee in fear of;

- a. ~~physical or emotional harm to the student or school employee; or~~
- b. ~~harm to property of the student or school employee.~~

4. "Hazing means a student or school employee intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward an individual for the purpose of initiation, admission, affiliation, holding office, or as a condition of membership, acceptance, or continued membership or acceptance in or into any school sponsored team, organization, program, club, or event regardless of whether the individual against whom the conduct is committed consented to, or acquiesced in the conduct, which also:

- a. endangers the mental or physical health or safety of a student or District employee;
- b. involves any brutality of a physical nature including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

- c. involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a student or District employee; or
- d. involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a student or District employee to extreme embarrassment, shame, or humiliation.

3. ~~“Hazing” means intentionally or knowingly committing an act of bullying, as defined in this policy, which is done for the purpose of:~~

- a. ~~initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or~~
- b.c. ~~if the person committing the act against a student or District employee knew that the student or District employee is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.~~

5. “Protected class” refers to any individual or group of individuals protected from discrimination under federal and state laws or regulations including:

- a. Title IV and Title VI of the Civil Rights Act of 1964, which prohibit discrimination on the basis of race, color, sex, religion, or national origin by public schools or any public program receiving federal financial assistance;
- b. Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex;
- c. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability; and
- d. Utah Antidiscrimination Act, which prohibits discrimination in employment practices.

4.6. “Retaliation” means an act or communication intended:

- a. as retribution against a person for reporting bullying, hazing, or cyber bullying; or
- b. to improperly influence the investigation of, or the response to, a report of bullying, hazing, or cyber-bullying; or-
- b.c. retribution for engaging in some other protected activity.

5.7. “School District employee” means:

- a. school teachers;
- b. school staff;
- c. school administrators; and
- d. all others employed or authorized as volunteers, directly or indirectly, by the school, school board, or school district.

~~C. Nature of Bullying, Cyberbullying, Harassment, Hazing, and Retaliation~~

- ~~1. Generally speaking, bullying, cyberbullying, harassment, hazing, and retaliation have common elements or characteristics:~~
 - ~~a. an intent to cause distress or harm;~~
 - ~~b. a relationship in which there is an imbalance of power or strength, and~~
 - ~~c. repeated acts, words, and gestures (or in some cases, one egregious act) of violence, intimidation, humiliation, or social isolation.~~
- ~~2. Bullying, cyberbullying, harassment, hazing, and retaliation may exist in various forms including, but not limited to, physical violence and aggression, verbal or written assaults or attacks, and/or social or psychological isolation, manipulation, or deprecation.~~
- ~~3. Although bullying, cyberbullying, harassment, hazing, and retaliation may involve direct and open attacks against a victim, such behavior can also be indirect or subtle in nature (e.g. spreading rumors or enlisting another student to engage in conduct).~~
- ~~4. Bullying, cyberbullying, harassment, and particularly hazing may exist in circumstances in which victims or targets acquiesce or consent to the conduct.~~
- ~~5. Bullying, cyberbullying, harassment, hazing, and retaliation may constitute civil rights violations in circumstances where a student or employee is targeted based on one or more Protected Classes.~~

D.C. Prohibitions

1. No student or school employee may engage in bullying or cyber-bullying a student or school employee;
 - a. on school property;
 - b. at a school related or sponsored event;
 - c. on a school bus;
 - d. at a school bus stop; or

- e. while the student or ~~school-District~~ employee is traveling to or from a location or event described above.
- 2. No student or ~~school-District~~ employee may engage in hazing a student or school employee at any time or in any location.
- 3. No student or ~~school-District~~ employee may engage in retaliation against ~~a-~~a student, ~~b-~~ a ~~school-District~~ employee, or ~~c-~~ an investigator ~~for~~, or a witness of, an alleged incident of bullying, cyber-bullying, hazing, or retaliation.
- 4. No student or ~~school-District~~ employee may make a false allegation of bullying, cyber-bullying, hazing, or retaliation against a student or ~~school-District~~ employee.
- 4.5. No student or patron of the District shall engage in abusive conduct toward any employee of the District.

E.D. Reporting

- 1. Any person who witnesses or believes he/she has been subjected to bullying, cyberbullying, hazing, retaliation, or abusive conduct involving a student, employee, or other person affiliated with the District may submit, personally or through a representative, a written or verbal report of the alleged prohibited conduct to school administrators, department supervisor, or another District administrator.
- 2. Administrators shall notify parents or guardians of alleged perpetrators and victims whenever students are involved in any incident(s) of bullying, cyberbullying, hazing, or retaliation.
 - a. The school shall create and maintain a record that verifies that parents or guardians of both the alleged victims and perpetrators have been notified of the incident(s).
 - b. The school shall disclose the record only as authorize in Utah Code, 53A-11a-203 and consistent with federal laws and regulations.
 - c. The school shall expunge the record after a student of his/her class has graduated and after a written request for expungement has been made consistent with Utah Code, 53A-11a-203.

F.E. Administrative Action

1. An administrator or a designee shall promptly investigate all reports of violations of this policy. Administrators shall take appropriate steps to eliminate the offending conduct, address its effects, and prevent its recurrence. Administrators shall work collaboratively with parents, guardians, and patrons to resolve issues at the lowest possible level.
2. ~~_____~~ With respect to the rights of an accused student or ~~school~~-District employee, the investigation shall include verbal or written notice of the allegations to the student or school employee and an opportunity to respond.
- 2.3. ~~_____~~ Appropriate action or discipline, to include participation of parents of accused students, shall be administered for the offending conduct. Any student who engages in bullying, cyberbullying, hazing, or retaliation may be subject to discipline up to and including parent/guardian conferences, suspension, alternative placement, or expulsion. Any employee who engages in such behavior may be subject to discipline up to and including termination. The District shall determine the appropriate corrective action for each complaint.
- 3.4. ~~_____~~ Prohibitions of this policy shall be enforced for conduct occurring outside of school, school hours, or school-related activities and events if the conduct materially disrupts the educational environment. ~~taken to correct the behavior~~stop and prevent recurrence of the conduct.
- 4.5. ~~_____~~ Information collected during investigations shall be kept confidential to the extent possible consistent with the District's legal obligations and the necessity to thoroughly investigate and take appropriate administrative action. The District retains the right to disclose the identity of parties and witnesses in appropriate circumstances.
- 5.6. ~~_____~~ Allegations of bullying, cyberbullying, hazing, or retaliation with criminal implications shall promptly be reported to law enforcement.

G.F. Civil Rights Violations

1. When conduct constituting bullying, cyberbullying, hazing, or retaliation is directed at an individual because of the individual's protected class or conformance or non-conformance with a real or perceived stereotype, it may constitute a violation of federal and state civil rights laws.
2. With respect to potential civil rights violations, administrators shall take additional administrative action.

- a. Administrators shall follow procedures outlined in District Policy, Article V.C.1., Prohibition of Discrimination, Harassment, and Retaliation.
 - b. Administrators shall take appropriate steps to report offending conduct with appropriate identifying information related to protected classes in the District's computer system for student discipline.
 - c. The District shall make reports of any civil rights violations to appropriate state and federal agencies.
3. If concerns cannot be resolved at the school or District levels, complaints of civil rights violations may be filed with the Office for Civil Rights, Region VIII, U.S. Department of Education, Federal Building, Suite 310, 1244 Speer Boulevard, Denver, Colorado 80204.

H.G. ~~Actions~~Information Disseminated by ~~Required of~~ Each School

- 1. Each school shall produce, establish and post, and/or make available:
 - a. this policy, or a short form of this policy, to students and patrons in registration materials and other locations;
 - b. a school-wide behavior plan that addresses prevention measures, strategies, potential consequences, and the overall school-level approach to, addressing bullying, cyberbullying, hazing and retaliation;
 - a-c. procedures for allowing for anonymous or in-person reporting bullying, cyberbullying, hazing, or retaliation; and
 - b-d. the names, and positions, and contact information for ~~of~~ at least two school employees to receive reports of bullying, cyberbullying, hazing, and retaliation.
- 2. Each School Community Council shall review school procedures, to include training of students and District employees, regarding bullying, cyberbullying, hazing, and retaliation and make recommendations consistent with state and federal law to the school administration.

H.H. ~~District Responsibilities~~Department of Student Services Responsibilities

The Superintendent shall assign and provide authority to District departments and/or committees, as needed, to ensure compliance ~~Together with School Services, to include building administrators, and in harmony with federal and state law, administrative rules and guidance, and related board~~ District policies related to ~~and administrative guidance, the Department of Student Services shall:~~ bullying, cyberbullying, hazing, and retaliation. The District will engage in compliance efforts including those referenced below.

1. The District shall collect a signed statement from employees, students, and parents/guardians indicating receipt of the District policy regarding bullying, cyberbullying, hazing, and retaliation.
2. The District shall provide additional resources for prevention and alternative means for reporting incidents of bullying, cyberbullying, hazing, and retaliation.
- 2.3. The District shall provide schools training, leadership, professional development, and other support in preventing bullying, cyberbullying, hazing, and retaliation. Provide and leadership to prevent and intervene in bullying, including awareness and intervention strategies for students and staff;
- 3.4. The District shall provide bullying, cyberbullying, and hazing prevention training to employees, volunteers, and students participating in school-sponsored athletic programs or in school-sponsored extracurricular programs. Such training shall be offered to new participants on an annual basis to all other participants every three years. Provide training specific to overt aggression that may include physical fighting such as punching, shoving and kicking, verbal threatening behavior such as name calling or both;
 4. Provide training specific to relational aggression or indirect, covert, or social aggression, including rumor spreading, enlisting others to assault a child and social isolation;
 5. Provide training specific to cyber bullying, including the use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;
- 6.5. The District shall conduct student surveys and collect data Provide for student assessment of the prevalence of regarding the prevalence of bullying, cyberbullying, and hazing in schools and identify including identification of better prevention strategies, student support and interventions, and locations where students are unsafe and additional supervision in physical locations where it may be needed, required, such as playgrounds, hallways or lunch areas;
- 7.6. The District shall involveinclude parents and other community members in the development of resources and the dissemination of materials and information.
7. The District shall maintain Develop a continuum of intervention strategies that emphasize education, multi-tiered systems of supports, and positive behavior intervention and supports to assist students whose conduct falls short of reasonable expectations.

8. The District shall take appropriate disciplinary action against District employees that engage in or fail to prevent or correct bullying, cyberbullying, hazing, and retaliation.

References

Utah Code, §53A-11-901 et seq., School Discipline and Conduct Plans

Utah Code, §53A-11A-201 et seq., Bullying, Hazing, and Cyber-Bullying Prohibited

Utah Admin. Code, R277-613, LEA Bullying, Cyber-Bullying, Hazing, and Harassment Policies and Training