

This regulation sets forth detailed guidelines for reporting, investigating and remedying allegations of harassment, hazing and bullying.

Definitions

“Harassment” means the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional or physical well-being; (b) reasonably causes or would reasonably be expected to cause a student to fear for their physical safety; (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. The harassing behavior may be based on any characteristic, including but not limited to a person’s actual or perceived:

- Race (including traits historically associated with race, including, but not limited to, hair texture and protective hairstyles such as but not limited to braids, locks, and twists),
- color,
- weight,
- national origin,
- ethnic group,
- religion,
- religious practice,
- disability,
- sex,
- sexual orientation, or
- gender (including gender identity and expression).

Bullying, under the amended Dignity for All Students Act, has the same meaning as harassment. The accompanying regulation provides more guidance regarding the definition and characteristics of bullying to help the school community recognize the behavior. “Bullying” is a form of harassment that consists of inappropriate persistent behavior including threats or intimidation of others, treating others cruelly, terrorizing, coercing, or habitual put-downs and/or badgering others. Bullying can take at least three forms:

- *Physical* (including, but not limited to, hitting, kicking, spitting, pushing, taking personal belongings);
- *Verbal* (including, but not limited to, taunting, malicious teasing, name calling, making threats); and
- *Psychological* (including, but not limited to, spreading rumors; manipulating social relationships; or engaging in social exclusion, extortion, or intimidation).

Bullying is characterized by:

- *Power Imbalance* – occurs when a bully uses their physical or social power over a target;
- *Intent to Harm* – the bully seeks to inflict physical or emotional harm and/or takes pleasure in this activity;
- *Threat of Further Aggression* – the bully and the target believe the bullying will continue;
- *Terror* – when the bullying increases it becomes “systematic violence or harassment used to intimidate and maintain dominance.”

-Barbara Coloroso, *The Bully, The Bullied & The Bystander*

“Cyberbullying” is an attempt to display power and control over someone perceived as weaker. Cyberbullying involving district students/staff may occur both on campus and off school grounds and may involve the use of the district internet system or use of electronic devices while at school, through any form of electronic communications.

Cyberbullying includes, but is not limited to, the following misuses of technology: harassing, teasing, intimidating, threatening, or terrorizing another student or staff member by way of any technological tool, such as sending or posting inappropriate or derogatory e-mail messages, instant or direct messages, text messages, digital pictures or images, or website postings (including blogs).

Cyberbullying has the effect of:

- a) Physically, emotionally or mentally harming an individual;
- b) Placing an individual in reasonable fear of physical, emotional or mental harm;
- c) Placing an individual in reasonable fear of damage to or loss of personal property; and
- d) Creating an intimidating or hostile environment that substantially interferes with a student's educational opportunities or any other individual's opportunities.

“Hazing” is a form of harassment which involves committing an act against a student or coercing a student into committing an act that creates a risk of emotional, physical or psychological harm to a person, in order for the student to be initiated into or affiliated with a student organization, or for any other purpose. The fact that the victim may consent to the act does not excuse the behavior or lessen the offense.

Reporting Complaints

Any victim or person with knowledge of harassment, hazing, cyberbullying and/or bullying by a student, district employee or third party related to the school should report the complaint to the Building Principal or the Superintendent/designee as soon as possible after the incident so that it may be effectively investigated and resolved.

In order to assist investigators, individuals should document the harassment, hazing, cyberbullying and/or bullying as soon as it occurs and with as much detail as possible including: the nature of the incident(s); dates, times, places it has occurred; name of perpetrator(s); witnesses to the incident(s); and the victim's response to the incident.

Confidentiality

It is district policy to respect the privacy of all parties and witnesses to complaints of harassment, hazing, cyberbullying and/or bullying. To the extent possible, the district will not release the details of a complaint or the identity of the complainant or the individual(s) against whom the complaint is filed to any third parties who do not need to know such information. However, because an individual's need for confidentiality must be balanced with the district's legal obligation to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve the complaint, the district retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. The staff member responsible for investigating complaints will discuss confidentiality standards and concerns with all complainants.

If a complainant requests that their name not be revealed to the individual(s) against whom a complaint is filed, the staff member responsible for conducting the investigation shall inform the complainant that:

1. the request may limit the district's ability to respond to their complaint;
2. district policy and federal law prohibit retaliation against complainants and witnesses;
3. the district will attempt to prevent any retaliation; and
4. the district will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the investigator will take all reasonable steps to investigate and respond to the complaint consistent with the request, as long as doing so does not preclude the district from responding effectively to the harassment and preventing the harassment of other students or employees.

A. Initial (Building-Level) Procedure

Whenever a complaint of harassment, hazing, cyberbullying and/or bullying is received, whether verbal or written, it will be subject to a preliminary review and investigation. Except in the case of severe or criminal conduct, the Building Principal or Superintendent/ designee should make all reasonable efforts to resolve complaints informally at the school level. The goal of informal procedures is to end the harassment, hazing, cyberbullying and/or bullying and obtain a prompt and equitable resolution to a complaint.

As soon as possible, but no later than three working days following receipt of a complaint, the Building Principal or Superintendent/designee should begin an investigation of the complaint by:

1. reviewing any written documentation provided by the victim(s);
2. conducting separate interviews of the victim(s), alleged perpetrator(s), and witnesses, if any, and documenting the conversations; and by
3. providing the alleged perpetrator(s) a chance to respond and notify them that if objectionable behavior has occurred, it must cease immediately and that the individual may be subject to discipline.

Parents of student victims and accused students should be notified within one school day of allegations that are serious or involve repeated conduct.

Where appropriate, informal methods may be used to resolve the complaint, including but not limited to:

1. discussion with the accused, informing them of the district's policies and indicating that the behavior must stop;
2. suggesting counseling and/or sensitivity training;
3. conducting training for the department or school in which the behavior occurred, calling attention to the consequences of engaging in such behavior;
4. mediation;
5. requesting a letter of apology to the victim;
6. writing letters of caution or reprimand; and/or
7. separating the parties.

Appropriate disciplinary action shall be recommended and imposed in accordance with district policy, the applicable collective bargaining agreement or state law.

The Building Principal or the Superintendent/ designee shall report back to both the victim and the accused, notifying them in writing, and also in person as appropriate regarding the outcome of the investigation and the action taken to resolve the complaint. The victim shall report immediately if the objectionable behavior occurs again or if the alleged perpetrator retaliates against them.

If a complaint contains evidence or allegations of serious or extreme harassment, hazing, or bullying, the complaint shall be referred promptly to the superintendent/ designee. In addition, where the Building Principal has a reasonable suspicion that the alleged harassment, hazing or bullying incident involves criminal activity, he/she should immediately notify the Superintendent/ designee, who shall then contact the school attorney, appropriate child protection and law enforcement authorities.

Any party who is not satisfied with the outcome of the initial investigation by the Building Principal may request a district-level investigation by submitting a written complaint to the Superintendent/ designee within 30 days.

B. District-Level Procedure

The Superintendent/ designee shall promptly investigate and resolve all harassment, hazing and bullying complaints that are referred to them, as well as those appealed to the Superintendent/ designee following an initial investigation by a Building Principal. In the event the complaint involves the Superintendent/ designee, the complaint shall be filed with or referred to the Board President, who shall refer the complaint to an appropriate individual for investigation.

The district-level investigation should begin as soon as possible, but not later than three working days following receipt of the complaint by the Superintendent/ designee or Board President.

In conducting the formal district-level investigation, the district will endeavor to use individuals who have received formal training regarding such investigations or that have previous experience investigating such complaints.

If a district investigation results in a determination that harassment, hazing, or bullying did occur, prompt corrective action will be taken to end the misbehavior. Where appropriate, district investigators may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.

No later than 30 days following receipt of the complaint, the Superintendent/ designee (or in cases involving the Superintendent/ designee, the Board-appointed investigator) will notify the victim and alleged perpetrator, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Superintendent/ designee or Board-appointed investigator will

provide all parties with a written status report within 30 days following receipt of the complaint.

Where incidents involve violations of civil rights, the victim and the alleged perpetrator have the right to be represented by a person of their choice, at their own expense, during investigations and hearings. In addition, victims have the right to register complaints with the U.S. Department of Education's Office for Civil Rights.

Employee victims also have the right to register complaints with the federal Equal Employment Opportunity Commission and the New York State Division of Human Rights. Nothing in these regulations shall be construed to limit the right of the complainant to file a lawsuit in either State or federal court.

Retaliation Prohibited

Any act of retaliation against any person who has filed a complaint is prohibited and illegal, and therefore subject to disciplinary action. Likewise, retaliation against any person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of a complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls, and any other form of harassment. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension or termination.

Discipline/Penalties

Any individual who violates this policy by engaging in prohibited harassment, hazing, or bullying will be subject to appropriate disciplinary action. Disciplinary measures available to school authorities include, but are not limited to the following:

1. Students - Discipline may range from a reprimand, up to and including suspension from school, to be imposed consistent with the student conduct and discipline policy and applicable law.
2. Employees - Discipline may range from a warning, up to and including termination, to be imposed consistent with all applicable contractual and statutory rights.
3. Volunteers - Penalties may range from a warning, up to and including loss of volunteer assignment.
4. Vendors - Penalties may range from a warning up to and including loss of district business.

5. Other individuals: Penalties may range from a warning, up to and including denial of future access to school property.

Training

All students and employees shall be informed of this policy in student and employee handbooks and student registration materials.

All employees shall receive information about this policy and regulation at least once a year. Administrative employees who have specific responsibilities for investigating and resolving complaints of harassment, hazing and bullying shall receive training on this policy, regulation and related legal developments.

Principals in each school shall be responsible for informing students and staff on a yearly basis of the terms of this policy, including the procedures for filing a complaint and the impact of harassment, hazing, and bullying on the victim and other individuals involved.

Date of Board Adoption: June 22, 2021

Johnson City Central School District, Johnson City, New York