

STUDENT HARASSMENT AND BULLYING PREVENTION AND INTERVENTION (DIGNITY FOR ALL STUDENTS ACT)

POLICY 0115

Introduction/Statement of Purpose:

The Galway Central School District is committed to protecting its students, employees, and all members of our school community from bullying, harassment, or discrimination. The Board of Education believes that all students and employees are entitled to a safe, equitable, and harassment-free school experience. Bullying, harassment, or discrimination will not be tolerated and shall be just cause for disciplinary action. The GCSD bullying policy shall be interpreted and applied consistently with all applicable New York State Laws pertaining to bullying, harassment, and discrimination.

Definitions

Harassment

Harassment has been defined in various ways in federal and state law and regulation. The Board recognizes that these definitions are important standards, but the Board's goal is to prevent misbehavior from escalating in order to promote a positive school environment and to limit liability. The Dignity for All Students Act (§§10-18 of Education Law) defines harassment as 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 his or her 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, color, weight,
- national origin, ethnic group,
- religion, religious practice,
- disability,
- sex, sexual orientation, or
- gender (including gender identity and expression).

For the purpose of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

For purposes of meeting federal standards, harassment need not rise to the level of creating a hostile environment in order for the district to respond. Harassing behaviors may include verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful or humiliating.

Discrimination, harassment, hazing or bullying that takes place at locations outside of school grounds, such as cyberbullying, which creates or can be reasonably expected to create a material and substantial interference with the requirements of appropriate discipline in the operation of the school or impinge on the rights of other students are prohibited, and may be subject to disciplinary consequences.

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Bullying

Bullying, under the amended Dignity for All Students Act, has the same meaning as harassment (see above). In order to facilitate implementation, provide meaningful guidance and prevent behaviors from rising to a violation of law, this policy will use the term bullying (which is subsumed under the term “harassment”), which is understood to be a hostile activity which harms or induces fear through the threat of further aggression and/or creates terror. Bullying may be premeditated or a sudden activity. It may be subtle or easy to identify, done by one person or a group. Bullying often includes the following characteristics:

- Power imbalance - occurs when a bully uses his/her 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 any bullying increases, it becomes a “systematic violence or harassment used to intimidate and maintain dominance.”

There are at least three kinds of bullying: verbal, physical and social/relational.

- Verbal bullying includes name calling, insulting remarks, verbal teasing, frightening phone calls, violent threats, extortion, taunting, gossip, spreading rumors, racist slurs, threatening electronic communications (“cyberbullying”), anonymous notes, etc.
- Physical bullying includes poking, slapping, hitting, tripping or causing a fall, choking, kicking, punching, biting, pinching, scratching, spitting, twisting arms or legs, damaging clothes and personal property, or threatening gestures.
- Social or relational bullying includes excluding someone from a group, isolating, shunning, spreading rumors or gossiping, arranging public humiliation, undermining relationships, teasing about clothing, looks, giving dirty looks, aggressive stares, etc.

Cyberbullying

Cyberbullying is defined as harassment (see above) through any form of electronic communication.

Hazing

Hazing is an induction, initiation or membership process involving harassment which produces public humiliation, physical or emotional discomfort, bodily injury or public ridicule or creates a situation where public humiliation, physical or emotional discomfort, bodily injury or public ridicule is likely to occur.

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Discrimination

Discrimination is the act of denying rights, benefits, justice, equitable treatment or access to facilities available to all others, to an individual or group of people because of the group, class or category to which that person belongs (as enumerated in the Definitions section above). In some instances, bullying or harassment may constitute a violation of an individual's civil rights. The district is mindful of its responsibilities under the law and in accordance with district policy regarding civil rights protections.

Prevention:

The school setting provides an opportunity to teach children, and emphasize among staff, that cooperation with and respect for others is a key district value. A program geared to prevention is designed to not only decrease incidents of bullying but to help students build more supportive relationships with one another by integrating the bullying prevention program into classroom instruction. Staff members and students will be sensitized, through district-wide professional development and instruction, to the warning signs of bullying, as well as to their responsibility to become actively involved in the prevention of bullying before overt acts occur. The components of such an effort involve the following:

- Learning about and identifying the early warning signs and precursor behaviors that may lead to bullying.
- Gathering information about bullying at school directly from students (through surveys and other mechanisms); analyzing and using the data gathered to assist in decision-making about programming and resource allocation.
- Establishing clear school wide and classroom rules about bullying through a code of conduct developed in accordance with The Dignity Act and the revised regulations of the New York State Education Department (8 NYCCR 100.2(l)).
- Training adults in the school community to respond sensitively and consistently to bullying.
- Raising awareness among adults, through training, of the school experiences of marginalized student populations (as enumerated in the Definitions section above), social stigma in the school environment, gender norms in the school environment, and strategies for disrupting bullying, intimidation, harassment or other forms of violence.
- Providing adequate supervision, particularly in less structured areas such as in the hallways, cafeteria, school bus and playground.
- Raising parental awareness and involvement in the prevention program and in addressing problems. Providing examples of positive behaviors that are age appropriate.
- Instituting policies and practices that create a positive school climate
- Using educational opportunities or curriculum, including, if applicable, the Individual Educational Program (IEP), to address the underlying causes and impact of bullying.

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Intervention:

Intervention by adults and bystanders is an important step in preventing escalation and resolving issues at the earliest stages. Intervention will emphasize education and skill-building.

Successful intervention may involve remediation. Remedial responses to bullying and harassment include measures designed to correct the problem behavior, prevent another occurrence of the behavior and protect the target. Remediation may be targeted to the individual(s) involved in the bullying behavior or environmental approaches which are targeted to the school or district as a whole.

In addition, intervention will focus upon the safety of the target. Staff is expected, when aware of bullying, to either refer the student to designated resources for assistance, or to intervene in accordance with this policy and regulation.

Provisions for students who don't feel safe at school:

The Board acknowledges that, notwithstanding actions taken by district staff, intervention may require a specific coordinated approach if the child does not feel safe at school. Students who do not feel safe at school are limited in their capacity to learn and reach their academic potential. Staff, when aware of bullying, should determine if accommodations are needed in order to help ensure the safety of the student and bring this to the attention of the building principal. The building principal, other appropriate staff, the student and the student's parent will work together to define and implement any needed accommodations.

The district recognizes that there is a need to balance accommodations which enhance student safety against the potential to further stigmatize the targeted student. Therefore, each case will be handled individually, and the student, parent/guardian, and school administration will collaborate to establish safety provisions that best meet the needs of the targeted student. Follow-up discussion and/or meetings will be scheduled, as needed, to ensure that safety concerns have been adequately addressed and to determine when and if accommodations need to be changed or discontinued.

Training:

The Board recognizes that in order to implement an effective bullying prevention and intervention program, professional development is needed. The Superintendent will incorporate training to support this program. Training opportunities will be provided for all staff. Particular attention will be made on the importance and necessity of staff recognition of occurrences and their intervention.

After consulting with building principal(s), the Superintendent will recommend, for Board approval, an individual to be designated Dignity Act Coordinator (DAC) for each school in the district. The role of each DAC is to oversee and enforce this policy in the school to which they are assigned.

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In accordance with state law, the Superintendent shall ensure that the DACs are thoroughly trained in human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression), and sex in order to implement this policy.

If for any reason the position of DAC becomes vacant, a new DAC shall be appointed within 30 days of the vacancy.

Reporting and Investigation:

Students who have been bullied, parents whose children have been bullied or other students or staff who observe bullying behavior are encouraged and expected to make a verbal and/or written complaint to any school personnel in accordance with the training and guidelines provided. At all times, complaints will be documented, tracked and handled in accordance with the regulations and procedures accompanying this policy, or, the district's Code of Conduct. If a staff person is unsure of the reporting procedure, he/she is expected to inquire about how to proceed by speaking with their supervisor. Incidents will be included in the Violent and Disruptive Incident Reporting (VADIR) system when applicable.

There shall be a duty for all school personnel to report any incidents of student-to-student and staff-to-student bullying that they observe to their building principal or other administrator who supervises their employment. In addition, there shall be a further duty for all school personnel to report any incidents of student-to-student and staff-to-student bullying of which they are made aware by students to their building principals or other administrator who supervises their employment. All such reports must be made within one school day, and staff must fill out the district's reporting form within two school days. A district employee may be deemed to have permitted unlawful discrimination or harassment if he/she fails to report an observed incident, whether or not the target complains.

Supervisors will refer the information to appropriate district staff for investigation as designated in regulation. The results of the investigation shall be reported back to both the target and the accused in accordance with the accompanying regulation. If either of the parties disagrees with the results of the investigation, they can appeal the findings in accordance with the regulations that accompany this policy.

Disciplinary Consequences/Remediation:

While the focus of this policy is on prevention, bullying acts may still occur. In these cases, offenders will be given the clear message that their actions are wrong and the behavior must improve. Student offenders will receive in-school guidance in making positive choices in their relationships with others. If appropriate, disciplinary action will be taken by the administration in accordance with the district's Code of Conduct, as applicable. If the behavior rises to the level of criminal activity, law enforcement will be contacted.

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This policy is meant to promote progressive discipline and intervention, as opposed to a “zero tolerance” approach. Responses to student violation of the policy shall be age-appropriate and include both consequences and appropriate remedial responses to a student or staff member who commits one or more acts of bullying. Consequences for a student who commits an act of bullying shall be unique to the individual incident and will vary in method and severity according to the nature of the behavior, the developmental age of the student, and the student’s history of problem behaviors, and must be consistent with the district’s Code of Conduct.

Non-Retaliation:

All complainants and those who participate in the investigation of a complaint in conformity with state law and district policies, who have acted reasonably and in good faith, have the right to be free from retaliation of any kind.

Dissemination, Monitoring, Review, and Reporting

This policy, or a plain language summary, shall be published in student registration materials, student, parent and employee handbooks, and posted on the district’s website.

Each year, as part of the annual review of the Code of Conduct, this policy will be reviewed to assess its effectiveness and compliance with state and federal law. If changes are needed, revisions will be recommended to the Board for its consideration.

The district will ensure that reporting of information to the public in conjunction with this policy will be in a manner that complies with student privacy rights under the Family Educational Rights and Privacy Act (FERPA).

Cross-ref: 0100, Equal Opportunity and Nondiscrimination
 0110, Sexual Harassment
 4321, Programs for Students with Disabilities
 5300, Code of Conduct
 5710, Violent and Disruptive Incident Reporting
 9700, Staff Development

Ref: Dignity for All Students Act, Education Law, §10 – 18
 Americans with Disabilities Act, 42 U.S.C. §12101 et seq.
 Title VI, Civil Rights Act of 1964, 42 U.S.C. §2000d et seq.
 Title VII, Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.; 34 CFR §100 et seq.
 Title IX, Education Amendments of 1972, 20 U.S.C. §1681 et seq.
 §504, Rehabilitation Act of 1973, 29 U.S.C. §794
 Individuals with Disabilities Education Law, 20 U.S.C §§1400 et seq. Executive Law §290 et seq. (New York State Human Rights Law) Education Law §§313(3), 3201, 3201-a
 8 NYCRR §§100.2(c), (l), (jj), (kk); 119.6
 Tinker v. Des Moines Independent Community School Dist., 393 U.S. 503 (1969)
 Davis v. Monroe County BOE, 526 U.S. 629 (1999)
 Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)

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***Doninger v. Niehoff*, 527 F.3d 41 (2d. Cir. 2008)**

***Pollnow v. Glennon*, 594 F.Supp. 220, 224 *aff'd* 757 F.2d. 496 (1985)**

***Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)**

***Burlington Industries v. Ellerth*, 524 U.S. 742 (1998)**

***Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)**

***Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992)**

***Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986)**

***Appeal of K.S.* 43 *Ed. Dept. Rep.* 492**

***Appeal of Ravick* 40 *Ed. Dept. Rep.* 262**

***Appeal of Orman* 39 *Ed. Dept. Rep.* 811**

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