

# SECTION I ORGANIZATION OF THE DISTRICT SCHOOL SYSTEM

## 1.12 ANTI-BULLYING AND HARASSMENT

### A. Statement prohibiting bullying and harassment

It is the policy of the School Board of Clay County, Florida (hereinafter “Board” or “School Board”) that all of its students and school employees have an educational setting that is safe, secure, and free from harassment and bullying of any kind. The School Board will not tolerate bullying and harassment of any type. Conduct that constitutes bullying and harassment, as defined herein, is prohibited.

### B. Definitions

1. Bullying includes cyberbullying and means systematically and chronically inflicting physical hurt or psychological distress on one or more students or employees. It is further defined as unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture by a student or adult, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment, cause discomfort or humiliation, or unreasonably interfere with the individual’s school performance or participation, is carried out repeatedly and is often characterized by an imbalance of power. Bullying may involve, but is not limited to:
  - a. unwanted teasing
  - b. threatening
  - c. intimidating
  - d. stalking
  - e. cyberstalking
  - f. cyberbullying
  - g. physical violence
  - h. theft
  - i. sexual, religious, or racial harassment
  - j. destruction of school or personal property
  - k. social exclusion, including incitement and/or coercion
  - l. rumor or spreading of falsehoods
  
2. Harassment means any threatening, insulting, or dehumanizing gesture, using technology, computer software, or written, verbal or physical conduct directed against a student or school employee that:
  - a. places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;
  - b. has the effect of substantially interfering with a student’s educational or employee’s work performance, or either’s opportunities or benefits;

- c. has the effect of substantially negatively impacting a student's or employee's emotion or mental well-being; or
  - d. has the effect of substantially disrupting the orderly operation of a school.
3. Cyberstalking, as defined in Florida Statute 784.048(d), means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication directed at or about a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.
4. Cyberbullying means bullying through the use of technology or any electronic communication, which includes, but is not limited to, any transfer or signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system or photo-optical system, including but not limited to electronic mail, Internet communications, instant messages, or facsimile communications. Cyberbullying includes the creation of a webpage or weblog in which the creator assumes the identity of another person, or the known impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in the definition of bullying. Cyberbullying also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, (such as but not limited to blogs, social websites, chat rooms) if the distribution or posting creates any of the conditions enumerated in the definition of bullying. ~~Is defined as the willful and repeated harassment and intimidation of a person through the use of digital technologies, including but not limited to email, blogs, social websites (e.g., MySpace, Facebook), chat rooms, and instant messaging.~~
5. Bullying, Cyberbullying, and/or Harassment also encompass:
- a. Retaliation against a student or school employee by another student or school employee for asserting or alleging an act of bullying, harassment, or discrimination.
  - b. Retaliation also includes reporting a baseless act of bullying, harassment, or discrimination that is not made in good faith.
  - c. Perpetuation of conduct listed in the definition of bullying, harassment, and/or discrimination by an individual or group with intent to demean, dehumanize, embarrass, or cause emotional or physical harm to a student or school employee by:
    - 1) incitement or coercion;

- 2) accessing or knowingly and willingly causing or providing access to data or computer software through a computer, computer system, or computer network within the scope of the district school system; or
  - 3) through the use of data or computer software that is accessed at a non-school-related location, activity, function, or program or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying substantially interferes with or limits the victim's ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school, (this paragraph does not require a school to staff or monitor any non-school related activity, function or program), or
  - 4) acting in a manner that has an effect substantially similar to the effect of bullying, harassment, or discrimination.
6. Bullying, Cyberbullying, Harassment, and Discrimination (hereinafter referring to as bullying, as defined in Section B for the purpose of this policy) also encompass, but are not limited to, unwanted harm towards a student or employee in regard to their real or perceived sex, race, color, religion, national origin, age, disability (physical, mental, or educational), marital status, socio-economic background, ancestry, ethnicity, gender, gender identity or expression, linguistic preference, political beliefs, sexual orientation, or social/family background or being viewed as different in their education programs or admissions to education programs and therefore prohibits bullying of any student or employee by any Board member, District employee, consultant, contractor, agent, visitor, volunteer, student, or other person in the school or outside the school at school-sponsored events, on school buses, and at training facilities or training programs sponsored by the District.
  7. Accused is defined as any District employee, consultant, contractor, agent, visitor, volunteer, student, or other person in the school or outside the school at school-sponsored events, on school buses, and at training facilities or training programs sponsored by the District who is reported to have committed an act of bullying, whether formally or informally, verbally or in writing.
  8. Complainant is defined as any District employee, consultant, contractor, agent, visitor, volunteer, student, or other person who formally or informally makes a report of bullying, orally or in writing.

### C. Expectations

The School Board expects students and employees to conduct themselves in keeping with their levels of development, maturity, and demonstrated capabilities with a proper regard for the rights and welfare of other students and school staff, the educational purpose underlying all school activities, and the care of school facilities and equipment.

1. The School Board prohibits the bullying of any student or school employee as follows:
    - a. During any educational program or activity conducted by the School Board.
    - b. During any school-related or school-sponsored program or activity or on a School Board school bus.
    - c. Through the use of any electronic device or data while on school grounds or on a School Board school bus, computer software that is accessed through a computer, computer system, or computer network of the School Board. The physical location or time of access of a computer-related incident cannot be raised as a defense in any disciplinary action initiated under this section.
    - d. Through threats using the above to be carried out on school grounds. This includes threats made outside of school hours which are intended to be carried out during any school-related or school-sponsored program or activity or on a School Board school bus.
    - e. While the School Board does not assume any liability for incidents that occur at a bus stop or en route to and from school, a student or witness may file a complaint following the same procedures for bullying against a student and the school will investigate and/or provide assistance and intervention as the principal/designee deems appropriate, which may include the use of the School Resource Officer. The principal/designee shall document all reports and interventions.
  2. All administrators, faculty and staff, in collaboration with parents, students, and community members, will incorporate systemic methods for student and staff recognition through positive reinforcement for good conduct, self discipline, good citizenship, and academic success as seen in the required school plan to address positive school culture and behavior (a/k/a Discipline Plan).
  3. Student rights shall be explained as outlined in this policy and in the Student Code of Conduct.
  4. Proper prevention and intervention steps shall be taken based on the level of severity of infraction as outlined in the Student Code of Conduct and this policy.
- D. Training for students, parents, teachers, area/District staff, school administrators, student support staff, counseling staff, bus drivers, School Resource Officers/Deputies, contractors and school volunteers on identifying, preventing, and responding to bullying will be conducted.

At the beginning of each school year the school principal/designee and or appropriate area/District administrator shall provide awareness of this policy, as well as the process

for reporting incidents, investigation and appeal, to students, school staff, parents, or other persons responsible for the welfare of a pupil through appropriate references in the Student Code of Conduct, Employee Handbooks, the school website, and/or through other reasonable means.

E. Disciplinary sanctions (consequences) and due process for a person who commits an act of bullying under this policy.

1. Concluding whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances, followed by the determination of disciplinary sanctions appropriate to the perpetrator's position with the District.
  - a. Consequences and appropriate interventions for students who commit acts of bullying may range from positive behavioral interventions up to, but not limited to, suspension or expulsion, as outlined in the Student Code of Conduct and this policy.
  - b. Consequences and appropriate interventions for a school/District employee found to have committed an act of bullying will be instituted in accordance with District policies, procedure, and union contracts and agreements. Additionally, egregious acts of bullying by certified educators may result in a sanction against an educator's state-issued certificate (Rule 6B-1.006 F.A.C.).
  - c. Consequences and appropriate intervention for a visitor or volunteer found to have committed an act of bullying shall be determined by the school administrator after consideration of the nature and circumstances of the act, including reports to appropriate law enforcement officials.
  - d. These same actions will apply to persons, whether they are students, school employees, or visitors/volunteers/independent contractors, who are found to have made wrongful and intentional accusations of another as a means of bullying.

F. Report an act of bullying

1. At each school, the principal/designee is responsible for receiving oral or written complaints alleging violations of this policy, as with all infractions from the Student Code of Conduct.
2. All District faculty and staff are required and must report, in writing, any allegations of bullying or violations of this policy to the principal/designee or appropriate District administrator. Failure to report will result in action(s) or discipline consistent with the collective bargaining agreement provisions, up to and including termination of employment.

3. Any other members of the school community who have credible information that an act of bullying has taken place may file a report of bullying, whether a victim or witness.
4. Any student (and/or the parent on that complainant's behalf if the complainant is a minor) who believes he/she is a victim of bullying (or any individual, including any student who has knowledge of any incident(s) involving bullying of students) is strongly encouraged to report the incident(s) in writing to a school official. Complaints should be filed as soon as possible after the alleged incident and noted appropriately, but must be filed within sixty (60) school days after the alleged incident (i.e., within sixty (60) school days of the last act of alleged bullying). Failure on the part of the complainant to initiate and/or follow up on the complaint within this period may result in the complaint being deemed abandoned.
5. The principal of each school in the District shall establish and prominently publicize to students, staff, volunteers, and parents how a report of bullying may be filed and how this report will be acted upon.
6. A school District employee, school volunteer, contractor, student, parent, or other person who promptly reports in good faith an action of bullying to the appropriate school official, and who makes this report in compliance with the procedures set forth in this District policy, is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. Submission of a good faith complaint or report of bullying will not affect the complainant or reporter's future employment, grades, learning or working environment, or work assignments with the School Board.
7. Administrators/principal/designee(s) shall document in writing and/or via the specified data system all complaints regarding bullying, as with all infractions of the Code of Student Conduct, to ensure that problems are appropriately addressed in a timely manner, whether the report is made verbally or in writing.
8. Anonymous reports may be delivered to the school administration's front office or to the office of the Deputy Superintendent. Formal disciplinary action may not be based solely on the basis of an anonymous report.

#### G. Bullying Complaints and Resolution

1. The investigation of a reported act of bullying of a student, school-based employee, or other persons providing service to the school is deemed to be a school-related activity and begins with a report of such an act.
2. The principal/designee shall document all complaints in writing and/or through the appropriate data system to ensure that problems are addressed in a timely manner. Although this policy encourages students to use the formal written complaint process, school officials "should investigate all complaints and reports of harassment, whether or not the complaint is in writing," as stated by

the Office for Civil Rights in *Protecting Students from Harassment and Hate Crime: A Guide for Schools, Part II (1999)*.

3. If the complaint is about the principal or a District staff member's direct supervisor, then the Assistant Superintendent/designee or appropriate District administrator shall be asked to address the complaint.
4. Informal Resolution: where the administrator, along with the complainant and the accused/student may agree to informally resolve the complaint. The incident and the resolution must be documented on the appropriate data system.

If a mutual resolution has not been achieved, a formal written appeal must be filed within five (5) work days after the informal meeting and submitted to the principal or appropriate District supervisor.

5. Formal Resolution: the complainant/student/employee or parent(s) on behalf of the student may file a written complaint with the principal/designee or appropriate District administrator by utilizing the Clay County Public Schools Bullying Complaint Report Form. Said form is available on the School District's website, at each school's front office, or District/department site.

According to the level of infraction, parents will be promptly notified of any actions being taken to protect the victim via telephone or personal conference; the frequency of notification will depend on the seriousness of the bullying incident.

6. The resolution, all interviews and interventions that take place and the corresponding dates shall be documented in writing and/or noted in the District specified data system

#### H. Investigation requirements for reported acts of bullying under this policy

1. The procedures for investigating school-based bullying may include the principal/designee and/or the utilization of other designated personnel in the case of student-to-student bullying. The principal or designee and other designated personnel shall be trained in investigative procedures and interventions as outlined in this policy. For incidents at the District level, the appropriate administrator will be responsible for the investigation as outlined in this policy.
2. The investigator may not be the accused or the alleged victim.
3. The principal/designee or appropriate District administrator shall begin a thorough investigation and interviews with the complainant(s), accused, and witnesses within two (2) school days of receiving a notification of complaint. (The Florida Department of Education requires that school administrators/designees provide immediate notification to the parents of both the victim and the alleged perpetrator of an act of bullying or harassment.)

4. During the investigation, the principal/designee or appropriate District administrator may take any action necessary to protect the complainant, other students, or employees consistent with the requirements of applicable regulations, statutes and collective bargaining agreements.
  - a. In general, student complainants will continue attendance at the same school and pursue their studies as directed while the investigation is conducted and the complaint is pending resolution. Any legal order of a court will prevail.
  - b. When necessary to carry out the investigation or for other good reasons, and consistent with federal and state privacy laws, the principal/designee or appropriate District administrator also may discuss the complaint with any school District employee, the parent of the complainant or accused, if one or both is a minor (or has given consent or is an adult who has been determined to be incompetent or unable to give informed consent due to disability), and/or child protective agencies responsible for investigating child abuse.
  - c. During the investigation where an employee is the accused, the principal/designee or the appropriate District administrator may recommend to the Assistant Superintendent of Human Resources/designee any action necessary to protect the complainant or other students or employees consistent with the requirements of applicable statutes, State Board of Education Rules, School Board policies, and collective bargaining agreements.
5. Within ten (10) school days of the filing of the complaint, there shall be a written decision by the principal/designee or appropriate District administrator regarding the completion of the investigation. The principal/designee shall make a decision about the validity of the allegations in the complaint and about any corrective action, if applicable, consistent with the Code of Conduct.
6. The principal/designee or appropriate District administrator will inform all relevant parties in writing of the decision and the right to appeal. A copy of the decision will be sent to the originating school and be noted in all relevant data tracking systems, including but not limited to SESIR and the Statewide Report on School Safety and Discipline Data system.
7. If the accused is an employee, discipline may be taken consistent with any applicable collective bargaining agreement provisions to resolve a complaint of bullying. The supervisor/designee (e.g., principal/designee for school-based employees) of the employee shall discuss the determination and any recommended corrective action with the appropriate Director for school-based actions or the appropriate District supervisor for District actions, and the Assistant Superintendent of Human Resources.



8. No retaliation of any kind is permitted in connection with an individual's having made a bullying complaint; and if it occurs, it shall be deemed an additional act of bullying as stated in this policy.

I. Referral for Intervention

1. Referral of a student for consideration of appropriate services is made through the school problem-solving process by school personnel or parent to the principal/designee. Parent notification is required. When such a report of formal discipline or formal complaint is made, the principal/designee shall refer the student(s) to the collaborative problem-solving team for determination of need for counseling support and interventions.
2. Referral of school or district personnel to the Employee Assistance Program (EAP) for consideration of appropriate services will be made by the administrator.
3. School-based intervention and assistance will be determined by the collaborative problem-solving team and may include, but is not limited to:
  - a. counseling and support to address the needs of the victims of bullying
  - b. counseling interventions to address the behavior of the students who bully (e.g., empathy training, anger management)
  - c. intervention which includes assistance and support provided to parents
  - d. analysis and evaluation of school culture with resulting recommendations
4. Self referral for informal consultation: District staff, students or parents may request informal consultation with school staff (e.g., school social worker, school counselor, school psychologist, etc.) to determine the severity of concern and appropriate steps to address the concern of bullying (the involved students' parents may be included) orally or in writing to the principal/designee.
5. Any incident, investigation and consequence shall be recorded in the appropriate discipline file.

J. Incident reporting requirements

1. The procedure for including incidents of bullying in the school's report of safety and discipline data is required under F.S. 1006.09(6). The report must include each incident of bullying and the resulting consequences, including discipline, interventions and referrals. In a separate section, the report must include each reported incident of bullying or harassment that does not meet the criteria of a prohibited act under this policy with recommendations regarding said incident.

2. The School Board will utilize Florida' School Environmental Safety Incident Reporting (SESIR) Statewide Report on School Safety and Discipline Data, which includes bullying/harassment in its codes.
3. Discipline, referral data, investigations, interventions, and actions of discipline shall be recorded on the specified data system, as with other infractions from the Code of Student Conduct.

K. Process for referral for external investigation

1. If the act is outside the scope of the District and determined a criminal act, referral to appropriate law enforcement shall be made immediately, the parent will be notified, and the referral documented by the principal/designee in the specified data system.
2. While the District does not assume any liability for incidents that must be referred for external investigation, it encourages the provision of assistance and intervention as the principal/designee deems appropriate, including the use of the School Resource Officer and other interventions.

L. Appeals process

1. Appeal procedure for bullying by a student will follow the steps outlined in the Code of Student Conduct.
2. Appeal procedure for an accused/employee:
  - a. If the accused/employee wishes to appeal the action taken in resolution of the complaint, such appeal shall be filed either in accordance with School Board policy or pursuant to the relevant collective bargaining agreement.
  - b. In reaching a decision about the complaint, the following should be taken into account:
    - 1) School Board policy, Employee Disciplinary Guidelines; and
    - 2) Case law, state and federal laws and regulations, and the School Board's policies prohibiting bullying and discrimination, including this policy.

M. Confidentiality

1. To the greatest extent possible, all complaints will be treated as confidential and in accordance with School Board policy, F.S. §1002.22(3)(d), the Family Educational Rights and Privacy Act ("FERPA"), the Health Insurance Portability and Accountability Act ("HIPAA"), and any other applicable law, including F.S. §119.07(1), 1012.31(3)(a), or 1012.796(1)(c).

2. Limited disclosure may be necessary to complete a thorough investigation as described above. The District's obligation to investigate and take corrective action may supersede an individual's right to privacy.
3. The complainant's identify shall be protected, but absolute confidentiality cannot be guaranteed. The identity of the victim of the reported act shall be protected to the extent possible.

N. Retaliation Prohibited

1. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment in connection with filing a complaint or assisting with an investigation under this policy.
2. Retaliatory or intimidating conduct against any individual who has made a bullying complaint or any individual who has testified, assisted, or participated in any manner in an investigation is specifically prohibited, and as detailed in this policy shall be treated as another incidence of bullying.

O. Additional Referral

In all cases, the District reserves the right to refer the results of its own investigation to the State Attorney for the Fourth Judicial Circuit of Florida for possible criminal charges, whether or not the District takes any other action.

P. Constitutional Safeguard

This policy does not imply to prohibit expressive activity protected by the First Amendment of the United States Constitution or Article I, Section 4, of the Florida Constitution.

Q. Preclusion

This policy should not be interpreted as to prevent a victim or accused from seeking redress under any other available law, either civil or criminal.

R. Severability

If a provision of this policy is or becomes illegal, invalid, or unenforceable in any jurisdiction, that shall not affect the validity or enforceability in that jurisdiction of any other provision of this policy.

(F.S. 1006.147) (Adopted: 11/18/08) (Amended: \_\_/\_\_/\_\_)