

5.5 BULLYING, CYBERBULLYING, HARASSMENT, HAZING, RETALIATION AND ABUSIVE CONDUCT PROHIBITION AND PREVENTION

All students have the right to participate in all school activities without being subjected to conduct that is discriminatory, humiliating, demeaning, offensive or embarrassing. Harassment refers to sexual harassment, as well as ethnic, religious and general harassment. (Refer to Utah Code Subsection 53G-9-604 & 53G-9-605)

Definition:

Relational aggression or indirect, covert, or social aggression includes rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.

Sexual harassment includes an unwelcome sexual advance or sexual behavior, including verbal behavior, which is tied to or interferes with a student's educational benefits, opportunities or performance; or, a student's physical or psychological well-being; or, that is intimidating. Furthermore, sexual harassment consists of requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication that has the purpose or effect of substantially or unreasonably interfering with an individual's education or creating an intimidating, hostile or offensive educational or social environment on school property or at any school sponsored or related event or activity.

A student shall not engage in unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct relating to a person's sex, race, color, national origin, religion, height, weight, marital status, sexual orientation, or disability, i.e. sexual or racial comments, threats, or insults, unwanted touching, etc.

Sexual harassment such as sexual aggression or acts of a sexual nature or with sexual overtones which may include but is not limited to:

- Verbal harassment or abuse
- Subtle pressure for sexual activity
- Inappropriate patting or pinching
- Intentional brushing against another person's body
- Any sexually motivated, unwelcome touching
- Obscene gesture
- Technology/porn
- Written or graphic harassment or abuse

Ethnic intimidation and harassment may include but is not limited to:

- Slurs or verbal references
- Gestures
- Any behavior which tends to demean, humiliate, intimidate and/or threaten others on the basis of race, ethnic group or nationality

Religious and general harassment may include but is not limited to:

- Slurs or verbal references
- Gestures
- Any behavior which tends to demean, humiliate, intimidate and/or threaten others on the basis of creed, religion, or personal characteristics.

A student should report incidences of harassment to the Director with any supportive evidence that is available. The Director will examine the evidence and, if merited, speak directly to the person alleged to have harassed the complainant. **If a substantiated complaint is made or there is a danger or threat to other students, the student of the complaint may be placed on leave and may not be able to attend school in person or be on school property at any time. If proven, the Director will submit to the board a summary of findings. The board will** initiate the defined disciplinary process. This process may include:

- Have the offender sign a contract regarding appropriate behavior, and/or
- Refer the offender to an outside agency, and/or
- Initiate suspension/expulsion procedures Disciplinary action will be commensurate with the behavior and the developmental level of the student.

Definitions:

"Bullying" means intentionally or knowingly committing an act that:

1. Endangers the physical health or safety of a school employee or student;
 - a. Involves any brutality of a physical nature such as whipping, beating, punching, shoving, kicking, verbal threatening, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
 - b. Involves consumption of any food, liquor, drug, or other substance;
 - c. Involves other physical activity that endangers the physical health and safety of a school employee or student; or
 - d. Involves physically obstructing a school employee's or student's freedom to move; and
2. Is done for the purpose of placing a school employee or student in fear of:
 - a. Physical harm to the school employee or student; or
 - b. Harm to property of the school employee or student.
3. The conduct described above constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

"Civil Rights Violations" means bullying (including cyberbullying), harassing, or hazing that is targeted at a federally protected class.

"Cyberbullying" means:

1. The use of email, web pages, text messaging, instant messaging, social media and other networking sites, three-way calling or messaging, chat rooms, cell phones, or other electronic means for aggression inside or outside of school to;
 - a. Send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual;
 - b. Deliberately harass, threaten, or intimidate someone for the purpose of placing a school employee or student in fear of physical, emotional, or mental harm to the school employee or student;

- c. Harm to property of the school employee or student,
 - d. Demean, harass, defame, or impersonate a school employee or student.
2. The conduct described in Section 1 constitutes Cyberbullying regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

"Federally protected class" means any group protected from discrimination under federal law

1. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin.
2. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex.
3. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 prohibits discrimination on the basis of disability.
4. Other areas included under these acts include religion, gender identity, and sexual orientation, other physical or mental attributes and conforming or failure to conform with stereotypes. "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

"Hazing" means intentionally or knowingly committing an act that:

1. Endangers the health or safety of a school employee or student;
 - a. Involves 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. Involves consumption of any food, liquor, drug, or other substance;
 - c. Involves other physical activity that endangers the physical health and safety of a school employee or student; or
 - d. Involves physically obstructing a school employee's or student's freedom to move, and
2. Is done for the purpose of 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
3. If the person committing the act against a school employee or student knew that the school employee or student 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;
4. Regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

"Parent" includes a student's biological or adoptive parent or student's legal guardian.

"Retaliate" means an act or communication intended:

1. As retribution against a person for reporting bullying, hazing, harassment, or cyberbullying; or
2. To improperly influence the investigation of, or the response to, a report of bullying, harassment, cyberbullying, or hazing.

"School employee" means:

1. School teachers;

2. School staff;
3. School administrators; and
4. All others employed, directly or indirectly, by the school or school board.

Purpose:

Bullying, cyberbullying, harassment, and hazing of students and employees are against federal, state and local policy, and are not tolerated by Vanguard Academy Charter School. Vanguard Academy 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.

School officials have the authority to discipline students for off-campus speech that causes or threatens a substantial disruption on campus, including school activities, violent altercations, or a significant interference with a student's education performance and involvement in school activities. 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, suspension and expulsion, pursuant to Utah Code Ann. 53A-11-904 and in compliance with Utah Code Subsections 53G-9-604 & 53G-9-605 and/or in accordance with the U.S. Department of Education Office for Civil Rights. 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 including, termination.

The purpose of this policy is to eliminate all types of bullying, cyberbullying, hazing, harassment, and retaliation by and/or against students and employees of Vanguard Academy Charter School. This will be accomplished through awareness efforts, training, identification, and disciplinary action (both students and employees) against those who violate this Policy.

A secondary purpose is to provide clear standards and a safe and accessible reporting process for victims of bullying, hazing, cyberbullying, harassment, and retaliation.

Prohibitions:

1. No school employee or student may engage in bullying, hazing, cyberbullying, or harassment of a school employee or student on school property, at a school related or sponsored event, on a school bus, at a school bus stop; or while the school employee or student is traveling to or from a location or event described above.
2. No school employee or student may engage in hazing or cyberbullying a school employee or student at any time or in any location.
3. No school employee or student may engage in retaliation against a school employee, a student, or an investigator for, or witness of, an alleged incident of bullying, cyberbullying, hazing, harassment, or retaliation. Otherwise, strong responsive action will be taken.
4. No school employee or student may make a false allegation of bullying, cyberbullying, hazing, harassment or retaliation against a school employee or student. False allegations will be investigated and corrective action taken as appropriate.
5. Any bullying, harassing, or hazing that is found to be targeted at a federally protected class is further prohibited under federal anti-discrimination laws and is subject to compliance regulations from the Office for Civil Rights.

Actions Required of the School:

1. The bullying policy will be available as part of the school policy manual and will include procedures allowing for anonymous reporting of bullying, cyberbullying, hazing, harassment or retaliation;
2. In addition to the published procedures and notification above, the Director shall establish procedures and plans for following it.

1. Administrative Rule:

1. Involving parents or guardians of a perpetrator or victim of bullying, cyberbullying, hazing, harassment, suicide threat, or retaliation in the process of responding to, and resolving, conduct prohibited in this Policy;
2. Referring a victim of bullying, cyberbullying, harassment or hazing to counseling following parental notice and consent;
3. To the extent permitted by federal and state law, including the federal Family Educational Privacy Right Act of 1974, as amended, informing the parents or guardians, as soon as is reasonably possible by email, phone, or text, of a student who is a victim of bullying, cyberbullying, harassment or hazing of the actions taken against the perpetrators of the bullying, cyberbullying, harassment or hazing;
4. Publicizing this policy, preferably including electronic publication and availability, to school employees, to students, and parents/guardians of students; and training school employees and students to recognize and prevent bullying, cyberbullying, harassment, hazing, or retaliation.

2. Actions Required if Prohibited Acts are Reported:

- i. Each reported complaint shall include:
 1. Date
 2. Offender(s)
 3. Victim(s)
 4. Time & location
5. Description of occurrence
6. Notification method of parent
7. Referral to Administration

All complaints will be reviewed and considered for appropriate action. Records will be maintained according to student record retention requirements.
- ii. Each reported violation of the prohibitions noted previously shall be promptly investigated by a school administrator or an individual designated by a school administrator. Formal disciplinary action is prohibited based solely on an anonymous report of bullying, cyberbullying, harassment, hazing, or retaliation.
- iii. Verified violations of the prohibitions noted previously shall result in consequences or penalties. Consequences or penalties will be in accordance with the Discipline Code Policy for students or the Employee Misconduct Policy for staff.
- iv. Compliance with the Office for Civil Rights when Civil Rights Violations are Reported:
 - a. Once Vanguard Academy knows or reasonably should know of possible student-on-student bullying, cyberbullying, harassment or hazing, the school must take immediate and appropriate action to investigate or otherwise determine what occurred.
 - b. If it is determined that the bullying, cyberbullying, harassment or hazing did occur as a result of the student-victim's membership in a protected class, Vanguard Academy shall take prompt and effective steps reasonably calculated to (1) end the bullying, cyberbullying, harassment, or hazing; (2) eliminate any hostile environment; and (3) prevent its recurrence.

- c. These duties are Vanguard Academy's responsibilities even if the misconduct also is covered by a separate anti-bullying policy and regardless of whether the student makes a complaint, asks the school to take action, or identifies the bullying, cyberbullying, harassment or hazing as a form of discrimination.
3. Actions may include, as appropriate:
- a. Procedures for protecting the victim and other involved individuals from being subjected to (1) further bullying, harassment or hazing, and (2) retaliation for reporting the bullying, harassment or hazing,
 - b. Prompt reporting to law enforcement of all acts of bullying, harassment, hazing, or retaliation that constitute suspected criminal activity,
 - c. Prompt reporting to the Office for Civil Rights of all acts of bullying, harassment, hazing, or retaliation that may be violations of student(s)' or employee(s)' civil rights,
 - d. Procedures for a fair and timely opportunity for the accused to explain the accusations and defend his actions prior to student or employee discipline,
 - e. Procedures for providing due process rights under Section 53A-8-102 (licensed staff), local employee discipline policies, or Section 53A-11-903 and local policies (students) prior to long term (more than 10 days) student discipline or employee discipline.

Parental Notification of Certain Incidents and Threats:

1. The Director or other authorized school employee will provide timely notification via phone call to or face-to-face meeting with:
 - a. a parent if the parent's student threatens to commit suicide; or
 - b. the parents, as soon as reasonably possible, of each student involved in an incident of bullying, cyberbullying, hazing, harassment, or retaliation, of the incident involving each parent's student.
 - c. a parent when student is a victim
 - d. a parent when student is alleged to have engaged in prohibited conduct
2. If the Director or other authorized school employee notifies a parent of an incident or threat required to be reported as stated above, the school will produce and maintain a record in a secure file that verifies that the parent was notified of the incident or threat. Further, the school shall provide a student a copy of a record maintained in accordance with Utah Code Subsection 53G-9-604 that relates to the student if the student requests a copy of the record; and expunge a record maintained in accordance with this section that relates to a student if the student has graduated from high school and requests the record be expunged.
3. The school may disclose a record as described above, including any information obtained to prepare the record to (1) the parent or the parent's student, or (2) to a person if required to disclose the record or information to a person pursuant to the terms of a court order.
4. The school will not:
 - a. Disclose a record as described above, including any information obtained to prepare the record, to a person other than a person authorized to receive the record as stated in Paragraph 3 above; or

- b. Use a record as described above, including any information obtained to prepare the record, for the school's own purposes, including (1) for a report or study, (2) for a statistical analysis, or (3) to conduct research.

The Director will take appropriate action in alignment with R277-613 to protect the victim of substantiated bullying, cyberbullying, harassment or hazing reports, regardless of the student's legal status. The Director will also notify parents of and report any significant incidents to appropriate local and state authorities. At the request of a parent, the Director may provide information and make recommendations related to an incident of bullying, cyberbullying, harassment, hazing, retaliation or threat of suicide.

Investigations

Vanguard Academy will promptly and reasonably investigate allegations of bullying, cyberbullying, harassment, and/or hazing. At least two school employees (preferably one male and one female) in appropriate positions of authority shall be identified to receive reports through Administrative rule of this policy and will be responsible for handling all complaints by students and employees alleging bullying, cyberbullying, harassment, or hazing. If a false report is made, school will retain all written statements and subsequent investigative documents in a locked file and all involved students, parents, and school personnel will be notified of false report and further investigation and/or conversation with regards to the allegation will be cancelled.

It is Vanguard Academy's policy, in compliance with state and federal law, that students have a limited expectation of privacy on the school's Internet system, and routine monitoring or maintenance may lead to discovery that a user has violated policy or law. Also, individual targeted searches will be conducted if there is reasonable suspicion that a user has violated policy or law. Personal electronic devices of any student suspected of violation of the above policy will be confiscated for investigation and may be turned over to law enforcement.

Training

1. The training of school employees shall include training regarding bullying, cyberbullying, harassment, hazing, overt aggression, sexual aggression, suicide prevention and retaliation.
2. The training should include training on civil rights violations and compliance when civil rights violations are reported.
3. The training should also include procedure and resources for the reporting of civil rights violations to the appropriate entities and taking other appropriate action.
4. In addition to training for all students and school employees, students, employees, and volunteer coaches involved in any extra-curricular activity shall (1) participate in bullying, cyberbullying, harassment and hazing prevention training prior to participation; (2) repeat bullying, cyberbullying, harassment and hazing prevention training at least every three years; and (3) be informed annually of the prohibited activities list provided previously in this policy and the potential consequences for violation of this Policy.
5. Training may take place through an online program provided that there is documentation to prove participation.
6. Students will have the option to take part in a Student Assessment of the prevalence of bullying, cyber-bullying, hazing, and harassment in the school.

This policy allows for due process and actions taken under this policy may be appealed, first to the Director, and then to the Board of Directors.

Additional Notes

1. 53A-11a-301 requires that this policy be developed with input from (1) students, (2) parents, (3) teachers, (4) school administrators, (5) school staff, or (6) law enforcement agencies.
2. Responsibilities, activities, and disciplinary action will be consistent with professional standards of R277-515.
3. Nothing in this policy is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

Approved: 08/15/2015

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