

Regulation

BULLYING, INTIMIDATION AND HOSTILE OR OFFENSIVE CONDUCT

I. PURPOSE

To implement the policy of the Governance Council prohibiting bullying, intimidation and hostile or offensive conduct.

II. BACKGROUND

The Governance Council is committed to maintaining an environment conducive to learning in which students are safe from bullying, violence, threats, name-calling, intimidation, and unlawful harassment. Bullying, intimidation and hostile or offensive conduct of students impairs the proper atmosphere for education and creates an inequitable climate for learning. In addition to its negative effect upon education, bullying, intimidation and hostile or offensive conduct negatively affect the characters of young people.

III. NOTICE OF PROHIBITION AGAINST HARASSMENT OF STUDENTS BASED ON PROTECTED CHARACTERISTICS

- A. The Director or designee will provide notice of the Governance Council prohibition set forth in Council Policy against bullying, intimidation or hostile or offensive conduct by publication in any or all School student, staff and parent handbook, including in any student, staff and parent handbooks published by any school in the School as follows:

“It is the policy of the Anthony Governance Council to prohibit violence, threats, name-calling, bullying, unlawful harassment, intimidation, assault, battery, extortion, robbery, vandalism, and other victim-based misconduct that creates an intimidating, hostile, or offensive environment for students, regardless of motive or reason. Victim-based misconduct by students or employees will not be tolerated.”

The Anthony Governance Council policy prohibiting harassment against students based on protected characteristics is located on the School website at www.anthonycharterschool.k12.nm.us and designated as the Anti-Bullying Policy.”

- B. At each in-service training provided to School employees at the beginning of each school year, employees will be provided generalized training on the prohibition of Bullying Policy and their responsibilities under the Policy. Employees will be provided with a copy of the Anti-Bullying Policy during training or will be provided with the website address for their continued review of and access to the Policy.

IV. REPORTING POSSIBLE VIOLATIONS OF THE BULLYING POLICY

- A. Any student who believes he or she has been the victim of bullying, intimidation or hostile or offensive conduct by another student or by an employee of the School should immediately report any alleged violation of the Bullying Policy or any alleged acts which may constitute bullying, intimidation or hostile or offensive conduct to any employee of the School.
- B. Any School employee who witnesses, or is aware of conduct which may violate the Bullying Policy shall report it to the Director or assistant Director of the school where the employee works or to their immediate supervisor at his or her earliest opportunity. Any employee who receives any report, written or verbal, of possible bullying, intimidation or hostile or offensive conduct against a student, whether the report is given by a student, a parent, or another employee, or who himself or herself observes instances of bullying, intimidation or hostile or offensive conduct must notify his or her immediate supervisor; the Director or assistant Director of the school where the employee works or the Director, regardless of whether the employee receiving the report or observing the instance considers the matter credible or significant.
- C. Teachers and other school staff who witness acts of possible bullying, intimidation or hostile or offensive conduct by students shall have an affirmative duty and the authority to act in a reasonable manner within the disciplinary standards of conduct established for School employees to promptly stop such conduct, including but not limited to, taking custody of the alleged student-violator and removing the student from the educational environment for the purpose of immediately transferring custody of the student to a School District administrator for further review and action under this Regulation.
- D. Where possible, reports of violations of Bullying Policy may be submitted in writing using Form (Bullying, Intimidation and Hostile or Offensive Conduct Complaint Form). A copy of the submitted Form shall be immediately forwarded to Office of the Director for appropriate action and distribution within the Administration.
- E. Nothing in the Bullying Policy or in this Regulation shall prevent any person from reporting possible bullying, intimidation or hostile or offensive conduct against a student to the Director.

- F. No employee of the School District shall retaliate against any person for good faith reporting, or participating in the investigation of an alleged violation of the Bullying Policy.
- G. Employees or students who knowingly give false reports or information related to a complaint or report of an alleged violation of the Bullying Policy shall be subject to discipline, subject to any applicable procedural requirements.

V. INVESTIGATION

- A. All reports of bullying, intimidation or hostile or offensive conduct allegedly committed by a school employee in violation of the Bullying Policy shall be promptly investigated by the Director or his/her designee. Should a designee conduct the investigation, the Director's designee must be a licensed public school administrator.
- B. All reports of bullying, intimidation or hostile or offensive conduct allegedly committed by a student or by students in violation of the Bullying Policy shall be promptly investigated by the school Director or his/her designee of the school receiving the report or of the school in which the conduct allegedly occurred or pertains. Should a designee conduct the investigation, the school Director's designee must be a licensed public school administrator. No investigation shall be delayed more than three (3) school days without the knowledge and express permission of the Director of Schools.
- C. The investigator assigned to investigate alleged violations of the Bullying Policy shall prepare a final investigation report of his or her investigation, and the investigation shall contain or reference sufficient documentation to support any disciplinary or other action specified or recommended in the investigation report as a result of the investigation. The recommendation of the investigator shall have no binding effect on the final decision of the person imposing discipline or taking any other action related to the final investigation report.
- D. The investigator assigned to investigate alleged violations of the Bullying Policy shall initially contact the alleged victim(s) and their parents/guardians at the beginning of his or her investigation and shall provide periodic updates to the alleged victim(s) and their parents/guardians as to status of the investigation not to exceed three (3) school days between updates.
- E. At the conclusion of the investigation, the investigator assigned to investigate alleged violations of the Bullying Policy shall inform the alleged victim(s) and their parents/guardians whether the complaint or report was substantiated.

- F. Information provided to the alleged victim(s) and their parents/guardians shall be in compliance with the confidentiality provisions of state and federal law pertaining to the confidentiality of student information and records, including but not limited to, the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1417(c); 34 C.F.R. § 300.560, and the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. § 1232g; 34 CFR Part 99), as amended and re-codified in the future.
- G. With regard to the investigations of students, the investigative process must be concluded within a maximum of ten (10) school days of receipt of such complaints or reports.
- H. If the investigation of a student under this Regulation is conducted by an administrator other than the school Director, the school Director will respond in writing to the submission of the final investigation report within three (3) school days, approving the proposed action to be taken or directing further or different action.
- I. Requests for an extension of time of any of the time requirements under this Regulation must be submitted and approved in writing by the Director.
- J. Where violations of criminal law may have occurred, the school Director, report the matter to the appropriate law enforcement agency.
- K. Where violations of the New Mexico Children's Code may have occurred as to suspected abuse or neglect of a child, the school Director, shall report the matter to the appropriate state or tribal child protection agency and/or to the appropriate law enforcement agency.
- L. With regard to the investigations of School employees, the Director will coordinate his or her investigation with the applicable law enforcement agency, if applicable, and the investigation shall be concluded in the most expeditious manner possible. The final investigation report of the Director or designee shall be submitted to the Director for appropriate action, at the discretion of the Director, subject to any applicable procedural requirements.

VI. SANCTIONS

- A. Standard for Imposing Discipline: In assessing the existence of a violation of the Bullying Policy by students and the appropriate discipline to be imposed, the Director or designee shall consider the nature and extent of the conduct, the age of the student(s) involved, the context in which the alleged conduct occurred, and any prior history of conduct prohibited by the Bullying Policy on the part of the violator.

In assessing the existence of a violation of the Bullying Policy by employees and the appropriate discipline, the Director shall consider the nature and extent of the conduct, the age of the student(s) involved, the context in which the alleged conduct occurred, and best interests of the victim and the School District.

- B. Employees: Any employee found to have engaged in conduct that violates the Bullying Policy shall be subject to sanctions, including, but not limited to, warning or reprimand, suspension, discharge or termination, subject to any applicable procedural requirements.
- C. Students: Any student found to have engaged in conduct that violates this Policy shall be subject to discipline, including, but not limited to, suspension or expulsion, subject to any applicable procedural requirements, and to any applicable limitations imposed by state and federal disabilities law.

VII. CONFIDENTIALITY

The identities of those reporting violations of the Bullying Policy and those cooperating in the investigation of alleged violations shall be kept confidential to the extent consistent with the requirements of a full and fair investigation, the due process rights of persons charged with violations, and state and federal law.

VIII. GRIEVANCE PROCESS

- A. With regard to investigations of students, the alleged victim(s) and their parents/guardians who are not satisfied with the findings of the final investigation report as to whether the complaint or report was substantiated or wish to challenge the recommended discipline to be imposed by the school Director or designee shall have the right to grieve the matter under this Regulation.
- B. At the conclusion of the investigation when the investigator assigned to investigate alleged violations of the Bullying Policy informs the alleged victim(s) and their parents/guardians whether the complaint or report was substantiated, the investigator shall provide the alleged victim(s) and their parents/guardians a copy of this Regulation's grievance process and inform the alleged victim(s) and their parents/guardians of their rights to grieve the investigative process and/or the recommendation as to the imposition of discipline by the school Director.
- C. Any person grieving the investigative process as to its findings or the recommendation of the discipline to be imposed in the final investigation report shall submit to the school Director the grievance in writing using (Grievance Form) within three (3) calendar days of investigator's final contact with the alleged victim(s) and their parents/guardians. A copy of the submitted Form shall be immediately forwarded to Office of the Director for appropriate action.

- D. Within five (5) calendar days of the submission of the Form to the Director of Schools, the Director shall conduct an informal grievance hearing with the alleged victim(s) and their parents/guardians and the assigned investigator. The Grievant(s) shall specify the grounds on which they contend that the investigative process was flawed or mistaken and/or the discipline recommended to be imposed, is not sufficient or inappropriate and shall include a statement of facts that the Grievant(s) believe support their contentions. The investigator shall provide rebuttal information to the Director as the investigator deems relevant. However, the information presented and provided in the grievance hearing shall be in compliance with the confidentiality provisions of state and federal law pertaining to the confidentiality of student information and records, including but not limited to, the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1417(c); 34 C.F.R. § 300.560, and the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. § 1232g; 34 CFR Part 99), as amended and re-codified in the future.
- E. No record will be made of the proceeding, and the Director may require the attendance of other School District employees at the grievance hearing as the Director deems appropriate for the resolution of the grievance. The Grievant(s), however, shall have no right of legal representation at the hearing and shall not be allowed to have any other third parties in attendance. The Grievant(s) shall not be allowed or permitted to make a recording of the hearing. The School District shall provide for an appropriate interpreter, as necessary, to facilitate sufficient communication between the parties at the hearing, and the interpreter shall be allowed to attend the entire hearing, subject to the procedural requirements with regard to the confidentiality of the alleged victim's student information and records under the IDEA and FERPA.
- F. With regard to a grievance pertaining to the investigation of a student, the Director shall make a written determination on the grievance within fifteen (15) school days of the submission of a grievance under this Regulations approving the actions of the school Director or directing further or different action. The Director may extend the time for conducting the grievance hearing as the Director deems appropriate. However, the Director must conduct the grievance hearing and make his or her final determination of the grievance within the fifteen (15) day-deadline of this Regulation for a final determination.
- G. The Director of Schools shall be the final appeal authority on any such grievance under this Regulation.
- H. There shall be no grievance procedure under the Bullying Policy or this Regulation with regard to the investigations of employees for alleged violations of the Bullying Policy as all personnel decisions pertaining to employees shall remain within the sound judgment of the Director of Schools, subject to any applicable procedural requirements.

History: Revised July 13, 2015

Legal Reference: Title IV; IDEA, New Mexico Children's Code and FERPA



Governance Council - President

July 13, 2015
Date Approved



Dr. Abe Armendariz- Director

July 13, 2015
Date Approved