

ACEA Bullying

Definitions

For the purposes of this policy:

- *Bullying* is defined as conduct prescribed in NDCC 15.1-19-17.
 1. "Bullying" means:
 - a. Conduct that occurs in school, on agency premises, in a state or agency owned or leased vehicle, or at any school or residential sanctioned or sponsored activity or event and which:
 - i. Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;
 - ii. Places the student in actual and reasonable fear of harm;
 - iii. Places the student in actual and reasonable fear of damage to property of the student; or
 - iv. Substantially disrupts the orderly operation of the school or residence; or
 - b. Conduct that is received by a student while the student is in school, on agency premises, in a state or agency owned or leased vehicle, or at any school or residential sanctioned or sponsored activity or event and which:
 - i. Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;
 - ii. Places the student in actual and reasonable fear of harm;
 - iii. Places the student in actual and reasonable fear of damage to property of the student; or
 - iv. Substantially disrupts the orderly operation of the school or residence.
 - c. Conduct received or sent by a student through the use of an electronic device while the student is outside of school, off agency premises, and off state or agency owned or leased property which:
 - i. Places the student in actual and reasonable fear of:
 - i. Harm; or
 - ii. Damage to property of the student; and
 - ii. Is so severe, pervasive, or objectively offensive the conduct substantially interferes with the student's educational opportunities or substantially disrupts the orderly operation of the school or residence.
- *Conduct* includes the use of technology or other electronic media.

The Superintendent should place this definition, in its entirety, in student and staff handbooks and should develop guidelines to assist students and staff with identifying this conduct.

- *Protected classes* are classifications/characteristics protected from discrimination by NDCC 14-02.4-01 and federal law. The following classes are protected: race, color, religion, sex, national origin, age, disability (physical or mental), and status with regard to marriage or public assistance.

- *School property* or the term *on-campus* refers to all property owned or leased by the state, state and other vehicles, or any school or residential sponsored or school-sanctioned activity.
- *School-sanctioned activity* is defined as an activity that:
 1. Is not part of the NDSB/RC's curricular or extracurricular program; and
 2. Is established by a sponsor to serve in the absence of an NDSB/RC program; and
 3. Receives NDSB/RC support in multiple ways (i.e., not school facility use alone); and
 4. Sponsors of the activity have agreed to comply with this policy; and
 5. NDSB/RC has officially recognized as a school-sanctioned activity.
 6. Examples would include, but are not limited to, NDSB Summer Camps, Outreach Programs.
- *School-sponsored activity* is an activity that NDSB/RC has approved through policy or other action for inclusion in NDSB/RC's extracurricular program and is controlled and funded primarily by the NDSB/RC.
- *School staff* include all employees of NDSB/RC, volunteers, and sponsors of school-sanctioned activities.
- *True threat* is a statement that, in light of the circumstances, a reasonable person would perceive as a serious expression of an intent to inflict harm.

Prohibitions

While at a school, on agency premises, in a state or agency-owned or leased vehicle, or at any school or school district sanctioned or sponsored activity or event, a student may not:

1. Engage in bullying;
2. Engage in reprisal or retaliation against:
 - a. A victim of bullying;
 - b. An individual who witnesses an alleged act of bullying;
 - c. An individual who reports an alleged act of bullying; or
 - d. An individual who provides information/participates in an investigation about an alleged act of bullying.
3. Knowingly file a false bullying report with NDSB/RC.

Off-campus bullying that is received on state property is also prohibited.

Reporting Procedures for Alleged Policy Violations

1. Reporting requirements for school staff: Any employee with knowledge or suspicion of a violation of this policy or who has received an oral or written report of a violation of this policy from a student, community member, or anonymously shall contact the Superintendent to inform him/her as soon as possible. If the alleged violation implicates the Superintendent, the employee shall report it to the Business Manager. If the alleged

violation implicates the Superintendent and the Business Manager, the employee shall file it with the Department of Public Instruction – Human Resources Department.

Should school administration determine that an employee knew of or suspected a violation of this policy and failed to report it in accordance with the procedure above, the employee may be subject to disciplinary consequences or other corrective measures.

2. Reporting options for students and community members: Students and community members (including parents/guardians) shall report known or suspected violations of this policy using any of the following methods:
 - a. Completing a written complaint form: A complainant will have the option of including his/her name on this form or filing it anonymously. NDSD/RC will place the form in a variety of locations throughout the school and should inform students and staff of these locations. The form may be returned to any employee, filed in the main office, or placed in a designated drop box located in each school.
 - b. Complete and submit an online complaint form. A complainant will have the option of including his/her name on the form or submitting it anonymously.
 - c. File an oral report with any employee. A complaint filed anonymously may limit NDSD/RC's ability to investigate and respond to the alleged violations.

Reporting to Law Enforcement and Others Forms of Redress

Anytime an employee has reasonable suspicion that a bullying incident constituted a crime, s/he shall report it to law enforcement. Also, nothing in this policy shall prevent a victim or his/her family from seeking redress under state and federal law.

Documentation and Retention

NDSD/RC shall develop a form to report alleged violations of this policy. The form should be completed by employees when they:

1. Initiate a report of an alleged violation of this policy; or
2. Receive a report of an alleged violation of this policy.

All reports of an alleged violation of this policy received by NDSD/RC shall be forwarded to the Superintendent for investigation and retention. Report forms and all other documentation related to an investigation of an alleged violation of this policy shall be retained by NDSD/RC for six (6) years after a student turns 18.

Investigation Procedures

School administrators (i.e., Superintendent, Department Directors and Managers) are required to investigate violations of this policy (as prescribed under “Prohibitions”), when in receipt of actual notice of an alleged violation. Actual notice of an alleged violation occurs when alleged bullying, reprisal, retaliation, or false reporting is reported using the applicable method(s) prescribed in the reporting section of this policy.

Upon receipt of a report of an alleged policy violation, the designated Director shall first determine if the alleged policy violation is based on a protected class—whether actual or perceived. Reports involving a protected class shall be investigated in accordance with the NDS/RC’s harassment/ discrimination policy, including the timelines contained therein.

In all other cases, Directors and Managers shall determine the level of investigation necessary based on the nature of the alleged violation of this policy after considering factors such as, but not limited to: the identity of the reporter and his/her relationship to the victim/alleged perpetrator; the ages of the parties involved; the detail, content, and context of the report; whether this report is the first of its type filed against the alleged perpetrator. Based on the level of investigation the administrator deems necessary, investigations may include any or all of the following steps or any other investigatory steps that the administrator deems necessary:

1. Identification and collection of necessary and obtainable physical evidence (NOTE: In some cases, physical evidence may be unobtainable, e.g., a private social networking profile);
2. Interviews with the complainant, the victim, and/or the alleged perpetrator. At no time during an investigation under this policy shall the victim/complainant be required to meet with the alleged perpetrator;
3. Interviews with any identified witnesses;
4. A review of any mitigating or extenuating circumstances;
5. Final analysis and issuance of findings in writing to the parents/guardians of both the victim and alleged bully and, if applicable, implementation of victim protection measures and disciplinary measures under this or other applicable policies.

Investigations shall be completed within a reasonable timeframe. When the investigation extends beyond thirty (30) days, the Director or Manager must document good cause for extending this deadline. Such documentation should be sent to the parents/guardians of both the victim and alleged perpetrator during the investigation.

Disciplinary and Corrective Measures

Students that NDS/RC has found to have violated this policy shall be subject to disciplinary consequences and/or corrective measures. When determining the appropriate response to

violations of this policy, administration shall take into account the totality of circumstances surrounding the violation. Measures that may be imposed include, but are not limited to:

1. Require the student to attend detention;
2. Impose in- or out-of-school suspension or recommend expulsion. Due process procedures contained in the district's suspension and expulsion policy shall be followed;
3. Recommend alternative placement. This recommendation shall be submitted to the Superintendent for approval or denial. The Superintendent may approve such recommendations only if the student has been given notice of the charges against him/her and an opportunity to respond;
4. Create a behavioral adjustment plan;
5. Refer the student to a school or mental health counselor;
6. Hold a conference with the student's parent/guardian and classroom teacher(s), and other applicable school staff;
7. Modify the perpetrator's schedule and take other appropriate measures (e.g., moving locker) to minimize contact with the victim;
8. If applicable, contact the administrator of the website on which the bullying occurred to report it.
9. Referral to Law Enforcement

If the misconduct does not meet this policy's definition of bullying, it may be addressed under other district disciplinary policies.

For bullying initiated off-campus and received on campus (e.g. cyberbullying), NDSD/RC only has authority to impose disciplinary measures if the bullying substantially disrupted the educational environment or posed a true threat. In all other cases of off-campus bullying received on campus, NDSD/RC may only take corrective measures as described in items five through eight above.

If the perpetrator is an employee, NDSD/RC shall take appropriate disciplinary action including, but not limited to: a reprimand, modification of duties (only if allowed by applicable policy, the negotiated agreement, and/or the individual's contract), suspension, or a recommendation for termination/discharge in accordance with any applicable law.

Victim Protection Strategies

When NDSD/RC confirms that a violation of this policy has occurred, every reasonable effort shall be made to notify the victim's parents/guardians and NDSD/RC shall implement victim protection strategies. These strategies shall be developed on a case-by-case basis after administration has reviewed the totality of the circumstances surrounding the bullying incident(s) or other violations of this policy. Strategies may include, but not be limited to, the following:

1. Additional education for all students and applicable staff on implementation of this policy and/or bullying prevention.
2. Notice to the victim's teachers and other staff to monitor the victim and his/her interaction with peers and/or the assignment of a staff member to escort the student between classes.
3. Assignment of staff to monitor, more frequently, areas in the school where bullying has occurred.
4. Referral to counseling services for the victim and perpetrator.
5. Modification of schedules and other appropriate measures to minimize the perpetrator's contact with the victim.
6. Modification to schedules, alternative placement, and appropriate measures will first be applied to the perpetrator.

Prevention Programs and Professional Development Activities

In accordance with law, NDSB/RC shall develop and implement bullying prevention programs for all students and staff professional development activities.

End of NDSB/RC Policy ACEA

References: NDSB/RC original policy - #11 Behavior Management

Adopted:

Reviewed: