

Descriptor Term:	Descriptor Code:	Issued Date:
PROHIBITING HARASSMENT, INTIMIDATION OR BULLYING, CYBERBULLYING, SEXTING, SEXUAL HARASSMENT (FOR STUDENTS)	409	2-21-2017
	Rescind:	Reference:
		SOP 1200-022

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**Board Policy**

**Message from the Board of Education:**

The Department of Education (DOE) does not condone or tolerate acts of sexual misconduct perpetrated against our students. Public education is grounded in public trust. In upholding that trust, we remain committed to creating and maintaining a public school system where no student will be fearful of coming to school or assigned worksite. Students must feel safe and secure at all times. DOE is committed to providing a supportive, secure and safe learning environment and workplace that is free of all forms of harassment and sexual misconduct.

Whereas, it is the Board’s intent to ensure students are free of sexual misconduct and harassment within the public school system as follows:

**I. PURPOSE**

It is the policy of the Guam Education Board to ensure that students who attend the Department of Education (DOE) are safe, secure, and can count on being treated with respect. Schools shall be free from harassment, intimidation or bullying, cyberbullying, sexting and sexual harassment and shall provide an environment that is conducive to learning. School administrators shall ensure that the school environment is free of any threat while attending school and all school sponsored activities. This requires a fundamental change in the way administrators and employees in the DOE view harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment, sexual misconduct and fraternization.

The school principal must recognize that minor events, which do not rise to the level of violations of school rules or a crime, may still create an environment which makes students feel uncomfortable or even terrified at the prospect of attending school. This policy is to allow students active participation in school affairs without fear and threat of harassment, intimidation or bullying, cyberbullying, sexting, sexual harassment.

This policy will also follow federal anti-discrimination laws enforced by the Office of Civil Rights (OCR). The statutes that OCR enforces includes Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and Title II prohibit discrimination on the basis of disability.

## II. COVERAGE

This policy governs all students within the jurisdiction of DOE and is intended to prohibit bullying, cyberbullying, sexting and sexual harassment in the public school system. The term “at school” is defined in 17 GCA Section 3112.1 that states (a) “‘at school’ means in a classroom, elsewhere on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official bus stop, or at a school-sponsored activity or event whether or not it is held on school premises.”

## III. DEFINITIONS

### A. HARASSMENT, INTIMIDATION OR BULLYING

1. 17 GCA Section 3112.1 (a) - “any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school’s educational mission or the education of any pupil. Harassment, intimidation, or bullying includes but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil’s religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic.”
2. Bullying behavior components:
  - a. aggressive behavior that involves unwanted, negative actions
  - b. involves a pattern of behavior repeated over time
  - c. involves an imbalance of power or strength
3. Common forms of harassment, intimidation or bullying include:
  - a. Repeated negative behaviors intended to frighten or cause distress to a student or group of students. Behaviors also include assault & battery, pushing, shoving, teasing and name calling.
  - b. Posting of negative messages on bathroom walls, school walls, and classroom walls thus creating an atmosphere of distress to the point that a student or students are frightened to attend school or their classes.
  - c. Verbal expressions, physical acts, gestures and antagonism intended to strike fear in students and school staff.
  - d. Threatening notes, phone calls, and other means of electronic communication which indicate some form of retaliation.
  - e. Aggressive behavior of an individual or group meant to use greater power by threatening and generally oppressing a targeted individual or group of individuals.
  - f. Acts of intimidation that prevents students from engaging in the academic learning process.
  - g. An action that targets a student or group of students and causes distress or suggests oppression based on race, color, religion, disability and beliefs as well as negatively impacts students’ ability to focus and perform academically.
  - h. Physical aggression such as assault, kicking, punching, hitting and biting.
  - i. Physical and aggressive gestures imitating an action to hit another person.

- j. Extortion for lunch money or other student property.
- k. Teasing in such a manner as to impact a student's emotional or academic functioning.
- l. Writing nasty notes on walls, paper, or other surfaces in an attempt to demean and defame a person's character or integrity.
- m. Other behaviors meant to create a climate of fear and that affect the daily functioning of students on and off campus.
- n. Behaviors that cause or intend to cause social exclusion or isolation of another student; lies, false rumors and/or other behaviors that promote relational aggression.
- o. Having money or other things taken or damaged, or threatening and/or forcing others to engage in bullying behaviors.

## B. CYBERBULLYING

1. The use of any electronic communication device to harass, intimidate or bully as defined in 17 GCA Section 3112.1 (2). Cyberbullying is bullying through email, instant messaging, in a chat room, on a website, or through digital messages or images sent to a cell phone (Kowalski et al. 2008). Cyberbullying like traditional bullying involves an imbalance of power, aggression, and repetitive negative action.
2. Common forms of cyberbullying include but are not limited to the following:
  - a. Harassment: Repeatedly sending offensive, rude and insulting messages.
  - b. Denigration: "Dissing" someone online. Sending or posting cruel gossip or rumors about a person to damage his or her reputation or friendships.
  - c. Flaming: Online fights using electronic messages with angry and vulgar language.
  - d. Impersonation: Breaking into someone's email or social networking account posing as that person and sending messages to make the person look bad, get that person into trouble or danger, or damage that person's reputation or friendships.
  - e. Outing and trickery: Sharing someone's secrets or embarrassing information online. Tricking someone into revealing secrets or embarrassing information which is then shared online.
  - f. Cyberstalking: repeatedly sending messages that include threats of harm or are highly intimidating; engaging in other online activities that make a person afraid for his or her safety.
  - g. Exclusion: Intentionally excluding someone from an online group like a "buddy list" or a game.
  - h. Trolling: Intentionally posting provocative messages about sensitive subjects to create conflict, upset people, and bait them into "flaming" or fighting.

## C. SEXTING

1. 9 GCA §28.100: a minor is guilty of an offense of Illegal Use of a Computer Telecommunications Device Involving a Minor, otherwise known as Sexting, if the

minor, by use of a computer or any telecommunications device, recklessly or knowingly creates, receives, exchanges, sends, disseminates, transmits or possesses a photograph, video, depiction or other material that shows himself or herself, or of another minor, in a state of nudity.

2. Common forms of sexting include but are not limited to the following:

- a. Electronically transmitting offensive, sexually explicit and/or inappropriate pictures, images or drawings that damage a student's reputation, educational standing, social standing or that interferes with the educational mission of the school.
- b. Electronically transmitting offensive messages, postings, texts, instant messages and/or other forms of written communication that contain sexual content that interfere with the educational mission of the school.
- c. Electronically transmitting offensive music, sound bites, voices, noises or any recorded material that contain sexually explicit and/or inappropriate content that interfere with the educational mission of the school.

#### D. SEXUAL HARASSMENT

1. Office of Civil Rights Title IX - Sexual harassment is defined as "unwelcome conduct of a sexual nature" that may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment also encompasses nonsexual conduct, provided the behavior is unwelcome, is based on sex or sexual stereotyping, and has the effect of interfering with a student's ability to participate in or benefit from a school program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX.

Sexual harassment may occur as a pattern of degrading sexual speech or action ranging from verbal or physical annoyances or distractions to deliberate intimidation and frank threats or sexual demands. Forms of sexual harassment may include but are not limited to the following:

- a. verbal, non-verbal and physical sexual behaviors
- b. coerced sex
- c. sexual jokes and innuendoes
- d. remarks about a person's body
- e. turning discussions inappropriately to sexual topics
- f. whistling or cat calls
- g. looking a person up and down or staring in a sexually suggestive manner
- h. invading someone's personal space or blocking her/his path
- i. sexually explicit visuals such as pin-ups
- j. suggestions of sexual intimacy
- k. repeated requests for dates
- l. unwanted letters, electronic mail or other computer communications
- m. unwanted gifts

- n. touching, hugging, massaging, and other gestures or sounds that a reasonable person of the same sex as the recipient would find offensive

#### **IV. PREVENTION AGAINST HARASSMENT, INTIMIDATION, BULLYING, CYBERBULLYING, SEXTING AND SEXUAL HARASSMENT**

- A. Public schools are required to form bullying prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members.
- B. All schools shall include the provisions of this policy in their student handbook.
- C. Each school will be responsible for teaching behavioral expectations to their students in their respective school communities. Each school shall develop a process for discussing harassment, intimidation, or bullying policy with pupils as part of the curriculum.

#### **V. INTERVENTIONS AGAINST HARASSMENT, INTIMIDATION, AND BULLYING, CYBERBULLYING, SEXTING AND SEXUAL HARASSMENT AND REPORTING REQUIREMENTS**

- A. Responsibility of Students and/or Parents
  - 1. Students and/or parents shall immediately report incidences to the school principal, a teacher, school aide or school employee. The school staff or personnel shall comply with the requirements of 19GCA Chapter 13 as outlined below.
  - 2. Each student shall adhere to the behavioral expectations of their respective school community.
- B. Responsibility of Teachers, School Staff and Volunteers
  - 1. Teachers and school staff who receive complaints of bullying and sexual harassment by students shall fully comply with 19 GCA Chapter 13 on these matters.
  - 2. 19 GCA Chapter 13 is known as the “Child Protective Act” under Guam law. In §13101(b) it states “Abused or neglected child means a child whose physical or mental health or welfare is harmed or threatened with harm by the acts or omissions of the person(s) responsible for the child’s welfare.”
  - 3. There is a reporting requirement under this section of the law. Article 2 entitled the “Child Abuse and Neglect Reporting Act” mandates how cases should be handled. All teachers and school staff are required to adhere to the law which states:

##### **§13201. Persons Required to Report Suspected Child Abuse or Neglect.**

- (A) Any person who, in the course of his or her employment, occupation or practice of his or her profession, comes into contact with children shall report when he or she has reason to suspect on the basis of his medical, professional or other training and experience that a child is an abused or neglected child. No person

may claim “privileged communications” as a basis for his or her refusal or failure to report suspected child abuse or neglect or to provide Child Protective Services or the Guam Police Department with required information. Such privileges are specifically abrogated with respect to reporting suspected child abuse or neglect or of providing information to the agency.

- (B) Persons required to report suspected child abuse under Subsection (a) include, but are not limited to, any licensed physician, medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, Christian Science practitioner, clergy member of any religious faith, or other similar functionary or employee of any church, place of worship, or other religious organization whose primary duties consist of teaching, spreading the faith, church governance, supervision of a religious order, or supervision or participation in religious ritual and worship, school administrator, school teacher, school nurse, school counselor, social services worker, day care center worker, or any other child care or foster care worker, mental health professional, peace officer or law enforcement official.”

The law further indicates that anyone can make these reports and sets strict timelines for reporting:

**§13202. Any Person Permitted to Report.**

In addition to those persons and officials required to report suspected child abuse or neglect, any person may make such report if that person has reasonable cause to suspect that a child is an abused or neglected child.

**§13203. Reporting Responsibilities.**

- (a) Reporting procedures. Reports suspected child abuse or neglect from persons required to report under § 13201 shall be made immediately by telephone and followed up in writing within 48 hours after the oral report. Oral reports shall be made to Child Protective Services or to the Guam Police Department.

C. Responsibility of School Principals or Principal’s Designee

1. School principals shall maintain an educational environment free of harassment, intimidation, bullying cyberbullying, sexting and sexual harassment. The responsibility includes discussing the policy with students and formulating school level policies consistent with the District standard operating procedures. Principals will develop a system for students to report acts of bullying, harassment, or intimidation anonymously.
2. School principals shall fully comply with 19 GCA Chapter 13 on these matters.
3. 19 GCA Chapter 13 is known as the “Child Protective Act” under Guam law. In §13101(b) it states, “Abused or neglected child means a child whose physical or mental health or welfare is harmed or threatened with harm by the

acts or omissions of the person(s) responsible for the child’s welfare.”

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5. Identify and implement a mediation program in consultation and assistance from

the Administrator of Student Support Services Division, for non-bullying and non-cyberbullying incidences.

6. Inform the parents of the target/victim and perpetrator about the reported incidences using the Allegation of Assault form or other official designated form so that appropriate action may follow.
7. Investigate and document complaints promptly in ways designed to respect the privacy of all parties involved.
8. Immediately refer the students involved in the incidences to the school guidance counselor for appropriate assistance such as mediation (except in bullying and cyberbullying incidences) between parties and restorative justice interventions or other appropriate dispositions at the discretion of the school principal.
9. Follow related policies concerning appropriate disciplinary and other actions pursuant to Board Policy 405 and the District Discipline/Truancy Data Manual.

**D. Responsibility of Student Support Services Administrator:**

1. Assist the Superintendent in the oversight of this policy.
2. Provide assistance to the schools in regards to training and providing the latest research on harassment, intimidation, bullying cyberbullying, sexting and sexual harassment in schools.
3. Monitor, assess and use the disciplinary information contained in the Superintendent's Annual State of Public Education Report in the planning and implementation of appropriate staff development.
4. Submit a monthly District Discipline Data report to the Superintendent.

**VI. NON-COMPLIANCE**

Non-compliance with this policy will result in appropriate disciplinary action.

**VII. FURTHER ACTION BY THE SUPERINTENDENT**

The Superintendent shall create appropriate standard operating procedures for implementation of this policy within 30 days of its adoption. School administrators will ensure that the standard operating procedures are followed.

ADOPTED: Guam Education Policy Board 03/14/07.

AMENDED: 11/30/11, 01/31/17