

## STATEMENT OF POLICY

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SUBJECT: Bullying, Cyber-bullying, Hazing and Retaliation Policy

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### I. Purpose

Bullying, cyber-bullying and hazing of students and employees are prohibited, are against federal, state and local policy, and are not tolerated by Cache County School District. Cache County School District 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. To that end, Cache County School District has in place policies, procedures, and practices designed to reduce and eliminate bullying, cyber-bullying, and hazing—including civil rights violations or actions based on a student’s or employee’s actual or perceived race, color, national origin, sex, disability, religion, religious clothing, gender identity, sexual orientation, or other physical or mental attributes—as well as processes and procedures to deal with such incidents. Bullying, cyber-bullying, and hazing of students and/or employees by students and/or employees will not be tolerated in Cache County School District.

School officials have the authority to discipline students for off-campus speech and behavior that causes or threatens a substantial disruption on campus or during school activities, including violent altercations, or a significant interference with a student’s educational 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 Section 53G-8-205 and, loss of participation in extracurricular activities, and/or probation. If after an investigation, a school employee is found to have violated this policy, the employee shall be disciplined by appropriate measures up to, and including, termination.

### II. Definitions

- A. “Abusive conduct” means verbal, nonverbal, or physical conduct of an employee to another employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine:
1. is intended to cause intimidation, humiliation, or unwarranted distress;
  2. results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or
  3. exploits an employee's known physical or psychological disability
    - a. a single act does not constitute abusive conduct, unless it is an especially severe and egregious act that meets the standard under Subsection (A)(1), (2), or (3).

B. "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

1. causing physical or emotional harm to the school employee or student;
2. causing damage to the school employee's or student's property;
3. placing the school employee or student in reasonable fear of:
  - a. harm to the school employee's or student's physical or emotional well-being; or
  - b. damage to the school employee's or student's property;
4. creating a hostile, threatening, humiliating, or abusive educational environment due to:
  - a. the pervasiveness, persistence, or severity of the actions; or
  - b. a power differential between the bully and the victim; or
5. substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
6. 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.
7. "bullying" includes relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.

C. "Civil rights violation" means bullying, cyber-bullying, or hazing that is targeted at a student or employee upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:

1. Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race, color, or national origin;
2. Title IX of the Education Amendments of 1972, including discrimination on the basis of sex; or
3. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including discrimination on the basis of disability;

D. "Cyber-bullying" means using the Internet, a cell phone, or another device to 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, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

E. "Disruptive student behavior" means the same as that term is defined in Utah Code Subsection 53G-8-210(1)(a).

1. disruptive student behavior includes:
  - a. the grounds for suspension or expulsion described in Utah Code Section 53G-8-205, and Cache County School District's Student Discipline Policy; and
  - b. the following conduct described in Utah Code Subsection 53G-8-209 (2)(b):
    - use of foul, abusive, or profane language while engaged in school related activities;

- illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Utah Code Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and
- hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

F. “Hazing” means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:

1. endangers the mental or physical health or safety of a school employee or student;
  - a. involves any brutality of a physical nature, including 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, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or
  - c. involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and
2. is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for in a school or school sponsored team, organization, program, club, or event; or
3. is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.
4. the conduct described in this Subsection F constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

G. “Parent” means a student’s parent or guardian.

H. “Restorative justice practice” means a discipline practice designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.

I. “Retaliation” means an act of communication intended:

1. as retribution against a person for reporting bullying, cyber-bullying, or hazing; or
2. to improperly influence the investigation of, or the response to, a report of bullying or hazing.

J. “School” means a public elementary or secondary school, including a charter school

K. “School board” means:

1. a local school board; or
  2. a charter school governing board.
- L. “School employee” means an individual working in the individual’s official capacity as:
1. a school teacher;
  2. a school staff member;
  3. an administrator; or
  4. an individual who is employed, directly or indirectly, by a school, school board, or school district;
- M. “Trauma-Informed Care” means a strengths-based service delivery approach grounded in an understanding of and responsiveness to the impact of trauma, emphasizing physical, psychological, and emotional safety for both offenders and victims, and creating opportunities for victims to rebuild a sense of control and empowerment.
- N. “Volunteer” means a person working under the direct supervision of a licensed educator.

### **III. Actions Required to Create or Update Bullying Policies**

- A. In addition to the requirements of Utah Code Subsection 53G-9-605 (3), Cache County School District is required to:
1. develop, update, and implement policies as required by Utah Code Section 53G-9-605 and this rule;
  2. develop policy with the input from students, parents, teachers, school administrators, school staff, or law enforcement agencies;
  3. post a copy of [its]the Cache County School District’s policy on the Cache County School District website;
  4. develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation, [or abusive conduct];
  5. provide a requirement for a signed statement that meets the requirements of Utah Code Subsection 53G-9-605 (3)([g]h) annually; and
  6. assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in XYZ School:
    - a. specifically, locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, bathrooms, locker rooms and lunch areas, will be provided on a bi-annual basis.

### **IV. Training**

- A. All students, school employees, coaches, and volunteers at any school within Cache County School District will receive annual training from a qualified professional regarding bullying, cyber-bullying, and hazing and retaliation. This training will address:
1. overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;
  2. relational aggression or indirect, covert, or social aggression, including rumorspreading, intimidation, enlisting a friend to assault a child, and social isolation;
  3. bullying, cyber-bullying, and hazing of a sexual nature or with sexual overtones;

4. cyber-bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;
  5. bullying, cyber-bullying, hazing and retaliation based upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:
    - a. Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race, color, or national origin;
    - b. Title IX of the Education Amendments of 1972, including discrimination on the basis of sex; or
    - c. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including discrimination on the basis of disability; and
  6. training on civil rights violations will include compliance when civil rights violations are reported;
  7. bullying, cyber-bullying, hazing and retaliation including training and education specific to bullying based upon students' or employees' actual or perceived, characteristics, including race, color, national origin, sex, disability, religion, religious clothing, gender identity, sexual orientation, or other physical or mental attributes or and conformance or failure to conform to stereotypes; and
  8. awareness and intervention skills such as social skills training.
- B. A licensed educator shall supervise volunteers and is responsible for ensuring the volunteer is trained in the above areas. Volunteers shall report to their supervisor if the volunteer witnesses or is notified of a bullying, cyber-bullying, hazing, or retaliation incident among students or if the volunteer has reason to suspect such an incident. Volunteers shall not engage in bullying activities themselves and must follow policy requirements or may be asked to leave Cache County School District schools if in violation of this policy.
- C. Cache County School District will implement a youth suicide prevention program for students as described in Utah Code Section 53E-9-702.
- D. All licensed educators must complete 2 hours of professional development in youth suicide prevention training once every license renewal cycle.
- E. In addition to training for all school employees, students, employees, and volunteer coaches involved in any extra-curricular activity shall:
1. participate in initial bullying and hazing prevention training prior to participation in the extra-curricular activity;
  2. participate in initial bullying, cyber-bullying, and hazing prevention training to be completed by every employee by January 30, 2019 and repeated at least every three years thereafter;
  3. receive information annually of the prohibited activities list provided previously in this Policy and the potential consequences for violation of this Policy.

## **V. Prohibitions**

- A. A school employee or student shall not engage in bullying a school employee or student:
1. on school property;

2. at a school related or sponsored event;
  3. on a school bus;
  4. at a school bus stop; or
  5. while the school employee or student is traveling to or from a location or event described above in Subsection A (1) – (4)
- B. A school employee or student shall not engage in hazing or cyber-bullying a school employee or student at any time or in any location.
- C. A school employee or student shall not engage in retaliation against:
1. a school employee;
  2. a student; or
  3. an investigator for, or witness of, an alleged incident of bullying, cyber-bullying, hazing, or retaliation.
- D. A school employee or student shall not make a false allegation of bullying, cyber-bullying, hazing, or retaliation against a school employee or student.
- E. Any bullying, cyber-bullying, 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.

## **VI. Investigations**

Cache County School District will promptly and reasonably investigate allegations of bullying, cyber-bullying, and/or hazing. The XYZ School Investigators [insert name/s of at least 2 school employees, preferably one male and one female, in appropriate positions of authority, who are

responsible to receive, investigate, and respond to reports] will be responsible for handling all complaints by students and employees alleging bullying, cyber-bullying, or hazing as outlined in the procedures below [insert procedures by which reports are to be made to the School Investigators].

It is Cache County School District'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 district 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.

A. Cache County School District shall adopt an action plan in accordance with State Board of Education Administrative Rule Subsection R277-613-4(1)(c), including a plan to:

1. investigate allegations of incidents of bullying, cyber-bullying, hazing, and retaliation in accordance with this section; and
2. provide an individual who investigates allegations of incidents of bullying, cyber-bullying, hazing, and retaliation with adequate training on conducting an investigation.

B. Cache County School District is required to investigate allegations of incidents described in Subsection (A)(1) by interviewing at least the alleged victim and the individual who is alleged to have engaged in prohibited conduct.

1. Cache County School District may also interview the following as part of an investigation:

- a. parents of the alleged victim and the individual who is alleged to have engaged in prohibited conduct;
- b. any witnesses;
- c. school staff; and
- d. other individuals who may provide additional information.

2. An individual who investigates an allegation of an incident shall inform an individual being interviewed that:

- a. to the extent allowed by law, the individual is required to keep all details of the interview confidential; and
- b. further reports of bullying may become part of the investigation.

C. The confidentiality requirement in Subsection (B)(2) does not apply to:

1. conversations with law enforcement professionals;
2. requests for information pursuant to a warrant or subpoena;
3. a state or federal reporting requirement; or
4. other reporting required by this rule.

D. In conducting an investigation under this section, CACHE COUNTY SCHOOL DISTRICT may:

1. review disciplinary reports of involved students; and
2. review physical evidence, consistent with search and seizure law in schools, which may include:
  - a. video or audio;
  - b. notes;
  - c. email;

d. text messages; e. social media; or f. graffiti.

E. Cache County School District is required to adopt a policy, consistent with state law and state board rule, outlining under what circumstances the LEA employees will report incidents of bullying, cyber-bullying, and retaliation to law enforcement.

## **VII. Actions Required if Prohibited Acts are Reported**

A. Each reported complaint will include:

1. the name of complaining party;
2. the name of offender (if known);
3. the date and location of incident(s); and
4. a statement describing the incident(s), including names of witnesses (if known).

B. Each reported violation of the prohibitions noted previously will be promptly investigated by a school administrator or an individual designated by a school administrator. A report of bullying, cyber-bullying, hazing, and retaliation may be made anonymously, but Cache County School District schools will not take formal disciplinary action based solely on an anonymous report.

C. Verified violations of the prohibitions noted previously shall result in consequences or penalties. Consequences or penalties may include but are not limited to:

1. use a discipline plan consistent with State Board of Education Administrative Rule R277-609;
2. use restorative justice practices consistent with State Board of Education Administrative Rule R277-613;
3. notify the involved students' parents of the restorative justice practice and obtain consent from the involved student(s)'s parent(s) before including victim in the process;
4. support involved students through trauma-informed practices;
5. use student suspension or removal from a school-sponsored team or activity including school sponsored transportation;
6. use student suspension or expulsion from school or lesser disciplinary action;
7. use employee suspension or termination for cause or lesser disciplinary action consistent with Utah Code Section 53G-11-512;
8. use employee reassignment;
9. take other actions against student or employee as appropriate; and
10. use a grievance process required under Subsection 53E-9-605(3)(f) consistent with the LEA's established grievance process.

D. The school will notify a parent if the parent's student threatens suicide, or if the student is involved in an incident of bullying, cyber-bullying, hazing, or retaliation.

1. xyz school will produce and maintain a record that verifies that the parent was notified of the incident or threat.
2. xyz school will not disclose the record described in D1 to anyone unauthorized to receive it and will not use the record for purposes not allowed under the law.

E. Compliance with the Office for Civil Rights when Civil Rights Violations Occur:

1. the school is responsible for identifying bullying, cyber-bullying, and hazing incidents about which it knows or reasonably should have known when it involves a protected class. The school must take immediate and appropriate action to investigate or otherwise determine what occurred.

2. these duties are the school's responsibility to investigate regardless of whether a person makes a complaint, a person requests the school to take action, or a person identifies the bullying, cyber-bullying or hazing as a form of discrimination.
3. if it is determined that the bullying, cyber-bullying, or hazing occurred as a result of the student-victim's membership in a protected class, the school shall take prompt and effective steps reasonably calculated to:
  - a. end the bullying, cyber-bullying, or hazing
  - b. eliminate any hostile environment,
  - c. assess prevalence in school culture, physical facilities, and systemic practices to prevent its recurrence

F. Actions must also include, as appropriate:

1. procedures for protecting the victim and other involved individuals from being subjected to:
  - a. further bullying, cyber-bullying, or hazing, and
  - b. retaliation for reporting the bullying, cyber-bullying or hazing;
2. prompt reporting to law enforcement of all acts of bullying, cyber-bullying, hazing, or retaliation that constitute suspected criminal activity;
3. procedures for a fair and timely opportunity for the accused to explain the accusations and defend his/her actions prior to student or employee discipline; and
4. procedures for providing due process rights under Utah Code Section 53G-11-501 (licensed staff) and local employee discipline policies prior to employee discipline or Utah Code Section 53G-8-202 and local policies (students) prior to long term (more than 10 day) student discipline.

### **VIII. Annual Reporting of Allegations of Bullying, Cyber-bullying, Hazing, and Retaliation**

A. Cache County School District is required by Utah Code Subsection 53E-3-401 (3) and State Board of Education Administrative Rule R277-613 to report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

1. a copy of Cache County School District's policy required in Section R277-613-4;
2. implementation of the signed statement requirement described in Utah Code Subsection 53G-9-605 (3)(g);
3. verification of Cache County School District's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation [, and abusive conduct] described in Utah Code Section 53G-9-607;
4. incidents of bullying, cyber-bullying, hazing, and retaliation;
5. the number of incidents described in Subsection (4) required to be reported separately under federal law, including the reporting requirements in:
  - a. Title VI of the Civil Rights Act of 1964;
  - b. Title IX of the Education Amendments of 1972; or
  - c. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990; and
  - d. the number of incidents described in Subsection (4) that include a student who was bullied, cyber-bullied, hazed, or retaliated against due to of based on

the student's actual or perceived characteristics, including disability, race, national origin, religion, [or] sex, gender identity, or sexual orientation.

## **IX. Grievance Process for Incident of Abusive Conduct**

A. For purposes of this policy, “abusive conduct” means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

1. a school employee who has experienced an incident of abusive conduct and is not satisfied with initial efforts to resolve the issue, may submit a written grievance with the school employee’s principal within thirty (30) calendar days of the incident.
2. the written grievance described in Subsection (1) shall include:
  - a. the date of the incident;
  - b. circumstances of the incident; and
  - c. the signature of the school employee submitting the grievance to the principal.
3. within ten (10) business days of receiving the written grievance, the principal shall meet with the school employee to discuss the grievance and possible resolutions.
4. within ten (10) business days after the meeting described in Subsection (3), the principal shall respond to the school employee in writing explaining the principal’s position and offer options for substantive resolution of the complaint.
5. if the response by the principal described in Subsection (4) does not satisfactorily resolve the issue, the school employee may appeal the principal’s response in writing within ten (10) business days after receipt of the response to the [LEA’s district or charter school designee].
6. within ten (10) business days after receipt of the grievance appeal described in Subsection (5), the LEA’s district or charter school designee shall meet with the school employee to discuss the grievance and possible resolutions.
7. within fifteen (15) calendar days after the meeting, the LEA’s district or charter school designee shall respond in writing with a final resolution of the grievance.
8. the LEA’s district or charter school designee written response shall be the final administrative action in the matter.

## **X. Additional Notes**

A. This policy does not prohibit expressive activity protected by the First Amendment of the United States Constitution. However, if off-campus speech that may constitute a bullying, cyber-bullying, or hazing incident creates a substantial disruption to the school environment, under *Tinker v. Des Moines*, 393 U.S. 503 (1969), Cache County School District may take disciplinary action against the student who initiated the speech. Factors that Cache County School District may consider in determining whether a substantial disruption has occurred are:

1. whether there is a verbal or physical confrontation over the incident at school;
2. whether there is likely to be a verbal or physical confrontation based on evidence of a prior relationship between the victim and the student who initiated the speech;

3. whether any part of the speech that gave rise to the incident was repeated at school;
  4. whether students are discussing the incident during class or if it otherwise is disrupting school work;
  5. whether there is a widespread whispering campaign or rumor sparked by the off-campus incident that disrupts the school environment and students' abilities to focus on school;
  6. whether administrators who dealt with the incident were pulled from their ordinary tasks to address the incident and how much time it took out of an administrator's day to do so;
  7. whether speech similar to the off-campus speech in this incident has occurred in the past and has resulted in violence or near violence at school;
  8. whether there is a negative effect on classroom activities as a result of the off-campus incident; or
  9. whether the speech was violent or whether there is a history of violence from the student/s who initiated the speech (Note: true threats are not protected by the First Amendment if it advocates "imminent" violence or unlawful conduct. Thus, a message that threatens physical harm, even if it isn't mean to be serious, may not be protected by the First Amendment and the person who utters such a message may be disciplined by XYZ School.).
- B. Prohibition of abusive conduct
1. Cache County School District's Board of Education shall update bullying, cyberbullying, hazing, and retaliation policy to include abusive conduct on or before September 1, 2018.

Examples of LEA employees who an LEA may select to serve as the LEA's district or charter school designee could include a school district administrator who supervises principals, an Assistant Superintendent, Charter School Director, or LEA HR manager or director. This list is not exhaustive.i