



Book	Policies
Section	06000 School Conduct and Discipline
Title	Student Prohibition of Bullying, Cyber-bullying, Harassment, Hazing and Retaliation
Code	6032
Status	Active
Adopted	February 11, 2014
Last Revised	January 22, 2019

#### A. Purpose

1. Bullying, cyber-bullying, harassment, and hazing of students and employees are against federal, state and local policy, and are not tolerated by the Tooele County School District (TCSD). TCSD 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, TCSD has in place policies, procedures, and practices that are designed to reduce and eliminate bullying, cyber-bullying, harassment and hazing—including but not limited to civil rights violations—as well as processes and procedures to deal with such incidents.
2. Bullying, cyber-bullying, harassment, and hazing of students and/or employees by students and/or employees will not be tolerated in TCSD.
3. School officials have the authority to discipline students for off-campus speech that causes or threatens a substantial disruption on campus or 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 Ann. 53A-11-904 and in accordance with the U.S. Department of Education Office for Civil Rights, 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.

#### B. Definitions

1. "Abusive conduct" means verbal, nonverbal, or physical conduct of a student or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is
  - a. intended to cause intimidation, humiliation, or unwarranted distress;
  - b. results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or
  - c. exploits a student's known physical or psychological disability
  1. A single act does not constitute abusive conduct, unless it is an especially severe and egregious act that meets the standard.
2. "Bullying:" (Utah Code 53-9-601) In general, bullying is aggressive behavior that is intended to cause distress and harm, exists in a relationship where there is an imbalance of power and strength, and is repeated over time. As specifically defined by this policy, "bullying" means intentionally committing a written, physical, or verbal act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have one of the following effects:
  - a. Endangers the physical health or safety of a school employee or student;

- b. 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;
  - c. Involves forcible consumption of any food, liquor, drug, or other substance;
  - d. Involves other physical activity that endangers the physical health and safety of a school employee or student; or
  - e. Involves physically obstructing a school employee's or student's freedom to move; and
  - f. Is done for the purpose of placing a school employee or student in fear of:
    - 1. Physical or emotional harm to the school employee or student; or
    - 2. Harm to property of the school employee or student.
  - g. 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.
  - h. Creating a hostile, threatening, humiliating, or abusive educational environment due to:
    - 1. the pervasiveness, persistence, or severity of the actions; or
    - 2. a power differential between the bully and the target; or
    - 3. substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
2. "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:
- a. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin.
  - b. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex.
  - c. 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.
3. "Cyber-bullying" means:
- a. 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, acquiesced in the conduct, or voluntarily accessed the electronic communication.
  - b. In addition, any communication of this form that is generated off-campus but causes or threatens to cause a material and substantial disruption at school or interference with the rights of students to be secure may also be considered cyber-bullying.
4. "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. This includes rumor spreading and social aggression intended to demean and disparage another individual and that contributes to a hostile environment for that individual.
5. "Hazing" means intentionally or knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:
- a. Endangers the physical health or safety of a school employee or student;
    - 1. 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;
    - 2. involves forcible consumption of any food, liquor, drug, or other substance;
    - 3. involves other physical activity that endangers the physical health and safety of a school employee or student; or
    - 4. involves physically obstructing a school employee's or student's freedom to move; and
    - 5. 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
  - b. 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.

c. The conduct described in Subsection "5" constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

1. The conduct described in above constitutes hazing, regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

Utah Admin. Rules R277-613-1 (October 8, 2013)

Utah Code § 76-5-107.5 (2011)

Utah Code § 53A-11a-102(1) to (5) (2017)

6. "Restorative Justice Practice" means a discipline practice that brings together students, school personnel, families, and community members to resolve conflicts, address disruptive behaviors, promote positive relationships, and healing.

7. "Retaliation" means an act of communication intended:

- a. As retribution against a person for reporting bullying, cyber-bullying, harassment, or hazing; or
- b. To improperly influence the investigation of, or the response to, a report of bullying or hazing.

8. "Parent" means a student's guardian.

9. "School" means any public elementary or secondary school or charter school.

10. "School board" means the local TSCD Board of Education.

11. "School employee" means:

- a. School teachers;
- b. School staff;
- c. School administrators; and
- d. All others employed, directly or indirectly, by the school, school board, or school district.

Utah Code § 53A-11a-102(9) (2017)

12. "Volunteer" means a person working under direct supervision of a licensed educator.

13. "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both the alleged targeted individual and the individual who is alleged to have engaged in prohibited conduct, and that creates opportunities for targets to rebuild a sense of control and empowerment.

### C. Prohibitions

1. No school employee or student may engage in bullying or harassing a school employee or student:

- a. On school property;
- b. At a school related or sponsored event;
- c. On a school bus;
- d. At a school bus stop; or
- e. 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 cyber-bullying a school employee or student at any time or in any location.

3. No school employee or student may engage in retaliation against:

- a. A school employee;
- b. A student; or
- c. An investigator for, or witness of, an alleged incident of bullying, harassing, cyber-bullying, hazing, or retaliation

4. No school employee or student may make a false allegation of bullying, harassing, cyber-bullying, hazing, or retaliation against a school employee or student.

5. Any bullying, cyber-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.

6. School officials should make appropriate exemptions to dress codes and reasonably accommodate students who wear hairstyles, clothing, head wear, jewelry, cosmetics, or other apparel as a personal expression of sincerely held religious beliefs. Student dress is a form of individual expression and any regulation of religious apparel must be done in the least restrictive manner possible to maintain a safe, inclusive, and welcoming school environment.

7. Religious attire that should be appropriately accommodated in school includes, but is not limited to: hairstyles, yarmulkes; hijabs, turbans; religious jewelry; appropriate religious messages on clothing, badges, and/or insignias; and ceremonial attire.
8. School officials should also appropriately accommodate student requests to not wear certain gym clothes and/or uniforms that students regard, on a religious basis, as immodest.

#### D. Investigations

1. School will promptly and reasonably investigate allegations of bullying, cyber-bullying, and/or hazing. The school investigators 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.
2. It is the TCSD'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.
3. TCSD shall adopt an action plan in accordance with State Board of Education Administrative Rule Subsection R277-613-4(1)(c), including a plan to:
  - a. investigate allegations of incidents of bullying, cyber-bullying, hazing, and retaliation in accordance with this section; and
  - b. provide an individual who investigates allegations of incidents of bullying, cyber-bullying, hazing, and retaliation with adequate training on conducting an investigation.
4. TCSD is required to investigate allegations of incidents described in Subsection D.1. above by interviewing at least the alleged victim and the individual who is alleged to have engaged in prohibited conduct.
  - a. TCSD may also interview the following as part of an investigation:
    1. parents of the alleged victim and the individual who is alleged to have engaged in prohibited conduct;
    2. any witnesses;
    3. school staff; and
    4. other individuals who may provide additional information
  - b. An individual who investigates an allegation of an incident shall inform an individual being interviewed that:
    1. to the extent allowed by law, the individual is required to keep all details of the interview confidential; and
    2. further reports of bullying may become part of the investigation.
  - c. The confidentiality requirement in Subsection D.2. above 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, TCSD may:
    1. review disciplinary reports of involved students; and
    2. review physical evidence, consistent with search and seizure law in schools, which may include:
      - video or audio;
      - notes;
      - email;
      - text message;
      - social media; or
      - graffiti.
  - e. TCSD is required to adopt a policy, consistent with state law and state board rule, outlining under what circumstances the TCSD employees will report incidents of bullying, cyber-bullying, and

retaliation to law enforcement.

#### E. Actions Required if Prohibited Acts are Reported

1. Each reported complaint will include:
  - a. Name of complaining party;
  - b. Name of offender (if known);
  - c. Date and location of incident(s);
  - d. A statement describing the incident(s), including names of witnesses (if known).
2. 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, harassment, and retaliation may be made anonymously, but TCSD will not take formal disciplinary action based solely on an anonymous report.
3. Verified violations of the prohibitions noted previously shall result in consequences or penalties. Consequences or penalties may include but are not limited to:
  - a. use a discipline plan consistent with State Board of Education Administrative Rule R277-609;
  - b. use restorative justice practices consistent with State Board of Education Administrative Rule R277-613;
  - c. 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;
  - d. support involved students through trauma-informed practices;
  - e. use student suspension or removal from a school-sponsored team or activity including school sponsored transportation;
  - f. use student suspension or expulsion from school or lesser disciplinary action;
  - g. use employee suspension or termination for cause or lesser disciplinary action consistent with Utah Code Section 53G-11-512;
  - h. use employee reassignment;
  - i. take other actions against student or employee as appropriate; and
  - j. use a grievance process required under Utah Code Subsection 53E-9-605(3)(f) consistent with the TCSD established grievance process.
4. The school will notify a parent if the parent's student threatens to commit suicide, or if the student is involved in an incident of bullying, cyber-bullying, harassment, hazing, or retaliation.
  - a. TCSD will produce and maintain a record that verifies that the parent was notified of the incident or threat.
  - b. TCSD will not disclose the record described in 4.a. to anyone unauthorized to receive it and will not use the record for purposes not allowed under the law.
5. Compliance with the Office for Civil Rights when Civil Rights Violations Occur:
  - a. 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.
  - b. 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.
  - c. 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:
    1. end the bullying, cyber-bullying, or hazing;
    2. eliminate any hostile environment; and
    3. assess prevalence in school culture, physical facilities, and systemic practices to prevent its recurrence.
6. Actions must also include, as appropriate:
  - a. Procedures for protecting the victim and other involved individuals from being subjected to:
    1. Further bullying, cyber-bullying, harassment, or hazing, and
    2. Retaliation for reporting the bullying, cyber-bullying, harassment, or hazing.
  - b. Prompt reporting to law enforcement of all acts of bullying, cyber-bullying, harassment, hazing, or retaliation that constitute suspected criminal activity.

- c. 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
- d. 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.

#### F. Training

1. All students, staff, and volunteers at TCSD will receive annual training from a qualified professional or software program regarding bullying, cyber-bullying, harassment, hazing. This training will address:
  - a. 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
  - b. Relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;
  - c. Bullying, cyberbullying
  - d. All licensed educators must complete two (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:
    - a. participate in initial bullying and hazing prevention training prior to participation in the extra-curricular activity;
    - b. 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;
    - c. receive information annually of the prohibited activities list provided previously in this Policy and the potential consequences for violation of this Policy.

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

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

#### H. Grievance Process for Incident of Abusive Conduct

1. 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.
  - a. 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.
  - b. the written grievance described above shall include:
    1. the date of the incident;
    2. circumstances of the incident; and

3. the signature of the school employee submitting the grievance to the principal.
- c. 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.
- d. within ten (10) business days after the meeting described above, the principal shall respond to the school employee in writing explaining the principal's position and offer options for substantive resolution of the complaint.
- e. if the response by the principal described above 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 TCSD.
- f. within ten (10) business days after receipt of the grievance appeal described above, TCSD designee shall meet with the school employee to discuss the grievance and possible resolutions.
- g. within fifteen (15) calendar days after the meeting, TCSD's designee shall respond in writing with a final resolution of the grievance.
- h. TCSD designee written response shall be the final administrative action in the matter.

#### I. Additional Notes

1. 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), TCSD may take disciplinary action against the student who initiated the speech. Factors that TCSD may consider in determining whether a substantial disruption has occurred are:
  - a. whether there is a verbal or physical confrontation over the incident at school;
  - b. 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;
  - c. 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;
  - d. whether students are discussing the incident during class or if it otherwise is disrupting school work;
  - e. whether any part of the speech that gave rise to the incident was repeated at school;
  - f. 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;
  - g. 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.

#### Legal

Title II of the Americans with Disabilities Act of 1990

Section 504 of the Rehabilitation Act of 1973

Title IX of the Education Amendments of 1972

Title VI of the Civil Rights Act of 1964

Utah State Board of Education Model Policy

Utah Code 53A 11a 101-402, 53A 15 1301. 53A 1 603, 53A 11 904

[ASPIRE Student Login Instructions.pdf \(248 KB\)](#)

[Waiver for Quit Line.pdf \(260 KB\)](#)

[Parent Contact Regarding Threat or Incident 18.pdf \(28 KB\)](#)