



# **SCHOOL BOARD ACTION REPORT**

**DATE:** May 21, 2020  
**FROM:** Denise Juneau, Superintendent  
**LEAD STAFF:** Clover Codd, Chief Human Resources Officer,  
[clcodd@seattleschools.org](mailto:clcodd@seattleschools.org), 206-478-9948; Tina Meade, Director of  
Investigations & Compliance (Designated HIB Compliance Officer);  
[cmmeade@seattleschools.org](mailto:cmmeade@seattleschools.org); 206-379-3854

**For Introduction:** June 24, 2020  
**For Action:** July 8, 2020

## **1. TITLE**

Amend Board Policy No. 3207, Prohibition of Harassment, Intimidation, and Bullying

## **2. PURPOSE**

This Board Action Report details the requirement to amend Board Policy No. 3207, Prohibition of Harassment, Intimidation, and Bullying (HIB), in order to comply with State law. That is, RCW 28A.600.477 requires all school districts in Washington to incorporate the Washington State School Directors' Association (WSSDA) model policy which was revised in response to changes in the law.

## **3. RECOMMENDED MOTION**

I move that the School Board amend Board Policy No. 3207, Prohibition of Harassment, Intimidation, and Bullying, as attached to this Board Action Report.

## **4. BACKGROUND INFORMATION**

- a. **Background:** Pursuant to RCW 28A.600.477, every school district is required to, as necessary, adopt or amend its policy regarding the prohibition against harassment, intimidation, or bullying of students and incorporate the Washington State School Directors' Association's (WSSDA) model policy. In spring 2019, the legislature passed SSB 5689, which required specific changes to WSSDA's model HIB policy. Consequently, the District is required to amend Policy 3207 in order to maintain compliance with State law.

The specific proposed revisions to Board Policy No. 3207 are as follows (and as detailed in the attached "track changes" version of the policy):

- **Change title of policy** to Prohibition of Harassment, Intimidation, ***or*** Bullying – ***Students*** (emphasis added) to highlight the delineation that harassment, intimidation, or bullying are three different behaviors, rather than promoting a conflation of all three behaviors into one category of HIB or "bullying"; and to differentiate between Policy 3207 and Policy 5207.

- **Differentiating between Policy 3207 and Policy 5207** whereby Policy 3207 applies when students are the targeted person and Policy 5207 applies when the targeted person is a District employee or volunteer.
- **Providing reference RCW 28A.642.010**, the statute identifying the protected classes, rather than listing out the specific protected classes;
- **Providing reference to RCW 28A.640.010**, the statute prohibiting discrimination on the basis of sex and inequality in the educational opportunities afforded to women and girls;
- **Explicit statement that “harassment,” “intimidation,” and “bullying” are separate, but related behaviors** and that each behavior must be addressed appropriately;
- **Change of the label of person allegedly engaging in the negative behavior** as “aggressor” versus “perpetrator”;
- **Requirement to convene a 504 Team or IEP Team if the aggressor or targeted student is a qualified student with a disability** to determine whether the alleged incident had an impact on the provision of a free appropriate public education (FAPE);
- **Addition of the protected activity of participating in an investigation** as possible grounds for a retaliation claim;
- **Inclusion of explicit reference to restorative practices** as a possible intervention;
- **Mandatory training requirement for the designated HIB Compliance Officer** to attend a training opportunity offered by OSPI; and
- **Alignment with language of other District policies** “directing” versus “authorizing” Superintendent to develop an associated procedure.

- b. **Alternatives:** Not amend the policy. This is not recommended as this will result in the District not being in compliance with State law.
- c. **Research:** It should be noted that these changes to policy would simply memorialize the standards and practices already being applied in the day-to-day implementation of Board Policy No. 3207 and the associated Superintendent Procedure 3207SP.A. That is, staff members within the District’s Office of Student Civil Rights (OSCR) provide the same guidance as detailed in the revisions above to school leaders, staff, parents/guardians, and students when addressing reports of harassment (including discriminatory harassment, as detailed in Board Policy No. 3210), intimidation, bullying, or retaliation. This has been the case due to OSCR staff members staying informed of current “best practices” in the response to reports of harassment, intimidation, bullying, or retaliation through regular training and review of resources, including OSPI’s School Safety Center and U.S. Department of Education, Office for Civil Rights.

**5. FISCAL IMPACT/REVENUE SOURCE**

There is no anticipated fiscal impact of this action.

Expenditure:  One-time  Annual  Multi-Year  N/A

Revenue:      One-time    Annual    Multi-Year    N/A

## **6.     COMMUNITY ENGAGEMENT**

With guidance from the District’s Community Engagement tool, this action was determined to merit the following tier of community engagement:

Not applicable

Tier 1: Inform

Tier 2: Consult/Involve

Tier 3: Collaborate

The District will post the policy change on the website and will update training materials for school leaders and staff. OSCR staff will partner with staff members from the Behavior Health Services and Special Education Departments to review/revise training materials for staff, students, and parents/guardians.

## **7.     EQUITY ANALYSIS**

The proposed policy revisions enhance protections for all students by clearly articulating the delineation between the three different, but related behaviors. The revision broadens the understanding of the types of negative interactions that can possibly occur between students, thus highlighting the importance of addressing the behaviors from a more comprehensive lens.

Additionally, the separate delineation particularly for the term “harassment” provides a clearer pathway to address a single incident of alleged discriminatory harassment under the more appropriate Board Policy No. 3210, Nondiscrimination, Acts of Hostility & Defamation, rather than simply addressing an incident under the lens of “bullying” and not considering the possibility that bias may be playing a role in the negative interaction.

Finally, the policy revisions highlight the need to address the impact of the incident to students with disabilities irrespective of whether the student is the targeted student or alleged aggressor. Students with disabilities are a group that may be specifically targeted or who may engage in the behaviors because, unfortunately, the behavior may be a manifestation of the student’s disability. By clearly detailing an explicit requirement to convene the student’s 504 or IEP Team, the policy offers a “whole child” response rather than a disciplinary approach to an incident of this nature. Given that students of color and students who qualify for free and reduced lunch are over-represented in certain categories of disability qualifications, the additions to this policy take into consideration the need to look at incidents from an equity lens.

## **8.     STUDENT BENEFIT**

The primary benefit to SPS students is the recognition that negative behaviors of this type should not be conflated into one category of “bullying,” as that is too reductive. This simplification also has the potential of limiting the responses to properly identify and provide a corrective response

to stop inappropriate behaviors, prevent recurrence, and remedy the impacts. The revisions to the policy also benefit students by incorporating current understanding of “best practice” when responding to incidents of this nature particularly if the incident impacts students with disability.

**9. WHY BOARD ACTION IS NECESSARY**

- Amount of contract initial value or contract amendment exceeds \$250,000 (Policy No. 6220)
- Amount of grant exceeds \$250,000 in a single fiscal year (Policy No. 6114)
- Adopting, amending, or repealing a Board policy
- Formally accepting the completion of a public works project and closing out the contract
- Legal requirement for the School Board to take action on this matter
- Board Policy No. \_\_\_\_\_, [TITLE], provides the Board shall approve this item
- Other: \_\_\_\_\_

**10. POLICY IMPLICATION**

Approval of this motion would amend and retitle Board Policy No. 3207 as described in this Board Action Report. In addition, Board Policy No. 3210, Nondiscrimination, Acts of Hostility & Defamation, is a corresponding policy which addresses allegations of discriminatory harassment (i.e. harassment based on an individual’s membership in a protected group). While any revision to Board Policy No. 3207 would not affect Board Policy No. 3210, the changes proposed here would allow for a better alignment between them regarding an understanding of what constitutes hostile school environment harassment.

**11. BOARD COMMITTEE RECOMMENDATION**

This motion was discussed at the Curriculum & Instruction Policy Committee meeting on June 9, 2020. The Committee reviewed the motion and moved the item forward for consideration by the full board in unanimous committee vote.


**12. TIMELINE FOR IMPLEMENTATION**

Upon approval of this motion, the amended policy will take immediate effect, and the updated policy will be posted on the District website. Staff will review and revise, as necessary, the associated Superintendent Procedure 3207SP.a; and an update to training and education materials provided to school leaders, staff, students, and parents/guardians will commence.

**13. ATTACHMENTS**

- Board Policy No. 3207, Prohibition of Harassment, Intimidation, or Bullying (clean – for approval)

- Board Policy No. 3207, Prohibition of Harassment, Intimidation, or Bullying – (track changes - for reference)
- WSSDA Model Policy 3207 (for reference)

	<p>PROHIBITION OF HARASSMENT, INTIMIDATION, OR BULLYING – STUDENTS</p>	<p>Policy No. 3207  [DATE]  Page 1 of 4</p>
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The district is committed to a safe, civil, and equitable environment for all students, employees, parents/legal guardians, volunteers, and patrons, that is free from harassment, intimidation or bullying. To ensure the entire Seattle Public Schools community is educated or can work in a safe and nurturing environment, the following beliefs support this policy:

- **A belief** that a positive school climate built on the principles of “acceptance” and “respect” is conducive to learning and thus allows students or adults to do their best both cognitively and emotionally.
- **A belief** that the district has the opportunity to create safe and positive education and work environments through the implementation of policy and procedure.
- **A belief** that students, staff, parents, and the community have a vested interest in, and should work together to promote, healthy social, emotional, and learning outcomes.

This policy applies when the targeted person of harassment, intimidation, or bullying is a student. Refer to Policy 5207 if the targeted person is a District staff member or volunteer.

As defined in legislation, “harassment, intimidation or bullying” means any intentional electronic, written, verbal, or physical act including, but are not limited to, one shown to be motivated by any characteristic in RCW 28A.640.010 and 28A.642.010, or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

- Physically harms a student or adult or damages the student’s or adult’s property; or
- Has the effect of substantially interfering with a student’s education or the adult’s work environment; or
- Is so severe, persistent or pervasive that it creates an intimidating or threatening educational or work environment; or
- Has the effect of substantially disrupting the orderly operation of school or work.

Nothing in this section requires the affected student or adult to actually possess a characteristic that is a basis for the harassment, intimidation or bullying.

“Other distinguishing characteristics” can include, but are not limited to, physical appearance, clothing or other apparel, socioeconomic status, or weight.

“Intentional acts” refers to the individual’s choice to engage in the act rather than the ultimate impact of the action(s).

### Behaviors/Expressions

This policy recognizes that “harassment,” “intimidation,” and “bullying” are separate but related behaviors. Each must be addressed appropriately. The accompanying procedure differentiates the three behaviors; however, this differentiation should not be considered part of the legal definition of these behaviors.

Harassment, intimidation or bullying can take many forms including, but not limited to, slurs, rumors, jokes, innuendoes, demeaning comments, drawings, cartoons, pranks, gestures, physical attacks, threats, or other written, oral, physical or electronically transmitted messages or images.

This policy is not intended to prohibit expression of religious, philosophical, or political views, provided that the expression does not substantially disrupt the educational environment. Many behaviors that do not rise to the level of harassment, intimidation or bullying may still be prohibited by other district policies or building, classroom, or program rules.

### Training

This policy is a component of the district’s responsibility to create and maintain a safe, civil, respectful, and inclusive learning community and shall be implemented in conjunction with comprehensive training of staff and volunteers. Specific training requirements will be included in the accompanying Superintendent Procedure.

### Prevention

The district will provide students with strategies aimed at preventing harassment, intimidation, and bullying. In its efforts to train students, the district will seek partnerships with families, law enforcement, and other community agencies.

### Interventions

Interventions are designed to remediate the impact on the targeted student(s) and others impacted by the violation, to change the behavior of the aggressor and to restore a positive school climate.

The district shall consider the frequency of incidents, developmental age of the student, and severity of the conduct in determining intervention strategies. Interventions may include, but are not limited to, counseling, correcting behavior and discipline, restorative practices when voluntary and appropriate, law enforcement referrals, and other remedies or responses as appropriate.

#### Students with Individual Education Plans or Section 504 Plans

If allegations are proven that a student with an Individual Education Plan (IEP) or Section 504 Plan has been the aggressor or target of harassment, intimidation, or bullying, the school will convene the student's IEP or Section 504 team to determine whether the incident had an impact on the student's ability to receive a free appropriate public education (FAPE). The meeting should occur regardless of whether that harassment, intimidation, or bullying incident was based on the student's disability. During the meeting, the team will evaluate issues such as the student's academic performance, behavioral issues, attendance, and participation in extracurricular activities. If a determination is made that the student is not receiving a FAPE as a result of the harassment, intimidation, or bullying incident, the district will provide additional services and supports as deemed necessary, such as counseling, monitoring, and/or reevaluation or revision of the student's IEP or Section 504 Plan, to ensure the student receives a FAPE.

#### Retaliation/False Allegations

Retaliation is prohibited and will result in appropriate discipline. It is a violation of this policy to threaten or harm someone for reporting harassment, intimidation, or bullying, or participating in an investigation.

It is also a violation of district policy to knowingly report false allegations of harassment, intimidation, and bullying. Students or employees will not be disciplined for making a report in good faith. However, persons found to knowingly report or corroborate false allegations will be subject to appropriate discipline.

#### Compliance Officer

The Superintendent shall appoint a compliance officer as the primary district contact to receive copies of all formal and informal complaints and ensure policy implementation. The name and contact information for the compliance officer will be communicated throughout the district. The district compliance officer will participate in at least one mandatory training opportunity offered by OSPI.



The Superintendent is directed to develop procedures for this policy, as necessary.

Adopted: December 2011

Revised: [date]


Cross Reference: Policy Nos.2161; 3200; 3208; 3210; 3240; 3241; 5207; 5281

Related Superintendent Procedure: 3207SP; 3208SP; 3210SP.B; 3210SP.C; 5207SP

Previous Policies:

Legal References: RCW 28A.600.477 Prohibition of harassment, intimidation, and bullying; WAC 392-190-059 Harassment, intimidation, and bullying prevention policy and procedure – School districts

Management Resources: *Policy Alert*, August 2019; *Policy News*, July 2019

 <p>SEATTLE PUBLIC SCHOOLS</p>	<p>PROHIBITION OF HARASSMENT, INTIMIDATION, <u>OR</u> <u>AND BULLYING –</u> <u>STUDENTS</u></p>	<p>Policy No. 3207 <del>December 7, 2011</del> <u>[DATE]</u> Page 1 of <del>43</del></p>
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- Physically harms a student or adult or damages the student’s or adult’s property; or

- Has the effect of substantially interfering with a student’s education or the adult’s work environment; or
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Adopted: December 2011

Revised: [date]

Cross Reference: Policy Nos. ~~2161D50.00; D51.00; F11.00~~; 3200; 3208; 3210; 3240; 3241; 5207; 5281

Related Superintendent Procedure: 3207SP-~~A~~; 3207SP-B; 3208SP; 3210SP.B; 3210SP.C; 5207SP

Previous Policies:

Legal References: RCW 28A.~~600.477~~ Prohibition of 300-285-H harassment, intimidation, and bullying; intimidation and bullying prevention policies and procedures – Model policy and procedure – Training materials – Posting on web site – Rules – Advisory committee WAC ~~392-190-059~~ Harassment, intimidation, and bullying prevention policy and procedure – School districts

Management Resources: *Policy Alert News*, August 2019; Policy News, July 2019 ~~December 2010; April 2008; April 2002~~

## **Prohibition of Harassment, Intimidation, and Bullying**

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- A. Physically harms a student or damages the student's property;
- B. Has the effect of substantially interfering with a student's education;
- C. Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
- D. Has the effect of substantially disrupting the orderly operation of the school.

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Office for Civil Rights Dear Colleague Letter: Responding to  
Bullying of Students with Disabilities (OCR 10/21/2014)

2014 - December Issue

2010 - December Issue

2008 - April Issue

2002 - April Issue

Adoption Date:

Classification: **Essential**

Revised Dates: **04.02; 10.07; 04.08; 12.10; 12.11;12.13; 12.14; 01.15; 07.19; 08.19**