



Speaker Won Pat <speaker@judiwonpat.com>

FW: Attached Image

1 message

Guam Legislature Clerks Office <clerks@guamlegislature.org>

Mon, Jul 18, 2016 at 4:51 PM

To: Speaker Won Pat <speaker@judiwonpat.com>

Cc: james.servino@guamlegislature.org, fbtorres@judiwonpat.com, Ed Pocaigue <edpocaigue@judiwonpat.com>

Please process accordingly.

33-16-1814

Office of the Speaker
Judith T. Won Pat, Ed.D

hu agrade si,

Rennae Vanessa C. Meno

Clerk of the Legislature

rennae@guamlegislature.org

Date: 7-18-16
Time: 4:51 pm
Received By: mlm

I Mina'trentai Tres na Liheslaturan Guåhan

155 Hesler Place, Suite 201, Hagåtña, Guam 96910

Voice: (671) 472-3541 Fax: (671) 472-3524

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2016 JUL 19 PM 5:43

I mensáhi guini gai prubilehu yan komfidensiát. Solo para hágu, ya kumu ti ma aturisa háo na para un risibi, pues I ma setbeña, I rinibisa sin aturidát, finatta pat manná'i huyong, u prubidu. Yanggen lumache I rinisibi-mu nu este na mensáhi, put fabot ágang I numana'huyong gi rennae@guamlegislature.org yan destrosa todú I kopian I mensáhi. Si Yu'os ma'áse'.

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From: James Perez Servino [mailto:james.servino@guamlegislature.org]

Sent: Monday, July 18, 2016 3:24 PM

To: clerks@guamlegislature.org

Subject: Fwd: Attached Image

1814

Please see attached correspondence from Guam Education Board for inclusion in your 33rd GL MESSAGES and Communications. This is pertaining to existing and proposed policy regarding sexual harassment and misconduct.

Can you please confirm this will be included in the record and disseminated to offices digitally? Thank you!



James Perez Servino

Chief of Staff, Senator Nerissa B. Underwood, Ph.D.

671-969-0973 | mobile: 671-487-3502 |

james.servino@guamlegislature.org | senatorunderwood.org | I

Mina'Trentai Tres Na Liheslaturan Guåhan | 33rd Guam

Legislature



----- Forwarded message -----

From: **Office of Sen. Underwood** <senatorunderwood@guamlegislature.org>

Date: 2016-07-13 17:37 GMT+10:00


Subject: Attached Image

To: nbuoffice@guamlegislature.org



This email has been checked for viruses by Avast antivirus software.

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ROSIE R. TAINATONGO
Acting Chairwoman

GUAM EDUCATION BOARD

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Acting Vice-Chairperson

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July 13, 2016

Honorable Nerissa Bretania Underwood, Ph.D
Senator and Chairperson
Committee on Early Learning, Juvenile Justice, Public Education and First
Generation Initiatives
33rd Guam Legislature
155 Hesler Place, Suite 104
Hagatna, Guam 96910

EX-OFFICIO MEMBERS

Ermin Samelo (SHS)
IBOGS Representative

Aubrey J. Perez (SSHS)
GFT Representative

Mayor, Rudy M. Matanane
MCOG Representative

Dear Senator Underwood,

In response to your request, please see the attached following documents:

- 1) Copy of draft revised or new policy pertaining to sexual harassment or misconduct
- 2) Timeline for adoption and implementation of proposed policy
It will be on the agenda on our regular board meeting on July 25, 2016.
- 3) Proposed action plan/administrative procedures for implementation

EXECUTIVE SECRETARY

Jon J. P. Fernandez
GDOE Superintendent

Please feel free to let me know if you need anything else. Thank you for your continued support of public education on Guam.

R. Tainatongo
ROSIE R. TAINATONGO

Office of Senator Nerissa Bretania Underwood, Ph.D.
7/13/16
S: 70 p
✓



DEPARTMENT OF EDUCATION

PROPOSED AMENDMENT TO Board Policy 409

PREVENTION AND INTERVENTION AGAINST HARASSMENT, INTIMIDATION OR BULLYING, CYBERBULLYING, SEXTING, SEXUAL HARASSMENT SEXUAL MISCONDUCT & FRATERNIZATION

Message from the Superintendent 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, I remain committed to creating and maintaining a public school system where no student or employee will be fearful of coming to school. Students must feel safe and secure at all times while entrusted under our care and in the pursuit of their education. The DOE is committed to providing a supportive, secure and safe learning environment and employee workplace that is free of all forms of harassment and sexual misconduct.

Presently Board Policy 409 has served DOE well within its scope and purpose but it falls short of addressing consensual relationships between employees and students and fraternization involving supervisors.

Whereas, board policy 409 calls for a periodic review to ensure that students are safe, secure, and respected, I am proposing to amend Board Policy 409 to ensure students and employees are also free of sexual misconduct and that fraternization does not occur within the public school system as follow:

I. PURPOSE

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

The school principal and employees 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, cyber bullying, sexting, sexual harassment, sexual misconduct or fraternization.

This policy will also follow federal antidiscrimination 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 and employees within the jurisdiction of DOE with special focus on the prevention of bullying, cyber bullying, sexting, sexual harassment, sexual misconduct and fraternization.. The term "at school" is defined in 17 GCA Section 3112.1 (a) that states "at school means in a classroom, elsewhere on or within school fences 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 and shoving, teasing, and name calling.
 - b. Posting of negative messages on the bathroom walls, school walls, and classroom walls thus creating an atmosphere which causes distress to the point that a student or students are frightened to attend school or their classes.
 - c. Verbal expressions, physical acts, and gestures and antagonism intended to strike fear with students and school staff.
 - d. Threatening notes, phone calls, and other electronic communications 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 and learning process.
 - g. An action that targets a student or group of students and cause distress or suggest oppression based on race, color, religion, disability and beliefs and further causes students to lose focus and performance in the learning process.
 - 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 affects the daily functioning on students on and off campus.
 - n. Behaviors that causes or intends to cause social exclusion or isolation of another student; lies, false rumors and/or other behaviors that promotes relational aggression.
 - o. Having money or other things taken or damaged or threatening or forced others to engage in bullying behaviors

B. CYBER BULLYING

1. 17 GCA Section 3112.1 (3) –the use of any electronic communication device to harass, intimidate or bully as defined in 17 GCA Section 3112.1 (2).
2. Olweus Bullying Prevention Program; Cyber bullying is bullying through the email, instant messaging, (IMing), chat room exchanges, Web site posts, or digital messages or

images send to a cellular phone or personal digital assistant (PDA) (Kowalski et al. 2008). Cyber bullying, like traditional bullying, involves an imbalance of power, aggression, and a negative action that is often repeated.
http://olweus.org/public/cyber_bullying.page.

3. Cyber 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
 - d. involves the use of electronic device(s) or digital means

4. Common forms of cyber bullying:
 - a. Harassment: Repeatedly sending offensive, rude, and insulting messages
 - b. Denigration: Distributing information about another that is derogatory and untrue through posting it on a Web page, sending it to others through email or instant messaging, or posting or sending digitally altered photos of someone
 - c. Flaming: Online "fighting" using electronic messages with angry, vulgar language
 - d. Impersonation: Breaking into an email or social networking account and using that person's online identity to send or post vicious or embarrassing material to/about others.
 - e. Outing and Trickery: Sharing someone's secrets or embarrassing information, or tricking someone into revealing secrets or embarrassing information and forwarding it to others
 - f. Cyber Stalking: Repeatedly sending messages that include threats of harm or are highly intimidating, or engaging in other online activities that make a person afraid for his or her safety (depending on the content of the message, it may be illegal)

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. Sexting behavior components include:
 - a. aggressive behavior that involves unwanted, negative actions and/or material that are sexual in nature
 - b. involves the use of electronic device(s) or digital means to transmit or distribute material that are explicate and sexual in nature
3. Examples and common forms of sexting include but not limited to:
 - a. Electronically transmitting offensive, sexually explicate and/or inappropriate pictures, images or drawings that damages a student's reputation, educational standing or 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 context that interferes with the educational mission of the school.
 - c. Electronically transmitting offensive music, sound bites, voices, noises or any recorded material that contain sexually explicate and/or inappropriate content

that interferes with the educational mission of the school.

D. SEXUAL HARASSMENT

1. Office of Civil Rights Title IX - Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcomed sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX.
2. Sexual Harassment behavior is unwelcome conduct of a sexual nature.
3. Common forms of sexual harassment include:
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 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

E. SEXUAL MISCONDUCT

1. All employees, volunteers, vendors, contractors and student teachers of the Guam Department of Education are prohibited from dating, courting, or entering into a romantic or sexual relationship with any student while enrolled in the Department of Education Public School System, regardless of the student's age, regardless of whether or not the involvement is consensual and regardless of whether or not it occurs on or off school property or online through electronic medium.
2. Components of SEXUAL MISCONDUCT for the purpose of this policy shall be broadly interpreted to include, but not limited to, any form of a relationship between an employee, volunteers, vendors, contractor, student teachers of the Guam Department of Education and a student enrolled in the public school system that involves dating, courting, or entering into romantic relationship or sexual contact regardless of the student's age and regardless of whether the involvement of the student is consensual. Sexual misconduct can be committed and can occur between people of the same or different gender.

3. **REPORTING REQUIRED.** Any employee who has reason to believe that another employee is inappropriately involved with a student, as described above, shall report this information to the Deputy Superintendent of ESCL. An employee who fails to inform the Deputy Superintendent of ESCL of a reported or suspected inappropriate relationship between an employee and a student may be subject to disciplinary action. A complainant whose allegations are found to be both false and brought with malicious intent will be subject to disciplinary action and/or charges in a separate case.

F. FRATERNIZATION

1. Relationships between supervisors and their subordinate employees often adversely affect decisions, distort judgment, and undermine workplace morale for all employees, including those not directly engaged in the relationship. Any employee who participates in supervisory or administrative decisions concerning an employee with whom s/he has or has had an affectionate relationship has a conflict of interest in those situations. These types of relationships, specifically those involving spouses and/or individuals who reside together, also may violate the Standard of Conduct for Public Employees of the Government of Guam. Accordingly, the Department of Education prohibits all faculty, staff and administrators from pursuing or engaging in affectionate relationships with employees whom they supervise. No supervisor shall initiate or participate in institutional decisions involving a direct benefit or penalty (employment, retention, promotion, salary, leave of absence, etc.) to a person with whom that individual has or has had an affectionate relationship.
2. Pre-existing affectionate relationships between Supervisors and Subordinate Employees prior to the effective date of this policy must be disclosed within thirty (30) days of the effective date of this policy by the employee in a position of authority to the Deputy Superintendent of ESCL who will then take the necessary steps to eliminate the conflict of interest.
3. Common forms/components of fraternization include but is not limited to sexual, intimate and romantic relationships between Supervisor or person of authority and a Subordinate Employee. Fraternization is defined as a situation in which an employee engages in an emotional, romantic, or sexual relationship with an employee for whom he or she has a professional responsibility as a supervisor or power of authority over the individual involved regardless of whether or not it occurs on off DOE property; and may involve the behavior of a person of either sex against a person of the opposite or same sex.
4. **REPORTING REQUIRED.** Any employee or student who has reason to believe that another employee is inappropriately involved in a relations as described in this section, shall report this information to the Deputy Superintendent of ESCL. An employee who fails to inform the Deputy Superintendent of ESCL of a reported or suspected inappropriate relationship may be subject to disciplinary action. A complainant whose allegations are found to be both false and brought with malicious intent will be subject to disciplinary action and/or charges in a separate case.

IV. PREVENTION AGAINST HARASSMENT, INTIMIDATION, BULLYING, CYBER BULLYING, SEXTING AND SEXUAL HARASSMENT, SEXUAL MISCONDUCT AND FRATERNIZATION.

- A. Public schools are required to form bullying and cyber bullying prevention task forces and committees to implement prevention, intervention, and remediation programs; and explore other

initiatives that involve the school community, law enforcements, assistance organizations, and community members.

- B. All schools shall include the provisions of this policy in their student hand book.
- C. Each school will be responsible for teaching and modeling behavior expectations to their students in their respective school communities

V. INTERVENTIONS AGAINST HARASSMENT, INTIMIDATION, BULLYING, CYBERBULLYING, SEXTING, SEXUAL HARASSMENT, SEXUAL MISCONDUCT AND FRATERNIZATION

A. Responsibility of Students and/or Parents

- 1. Students and/or parents shall immediately report incidences to the school principal, a teacher, and school aide or school employee. The school staff or personnel shall report the incident immediately to the school principal for disposition.
- 2. This policy expressly prohibits retaliation against an individual because of their good faith participation in the reporting, investigation, or adjudication of violations of this policy except that students will be subject to disciplinary action resulting from false and malicious accusations of harassment, intimidation, bullying cyber bullying, sexting and sexual harassment, sexual misconduct or fraternization.
- 3. Each student shall adhere to the behavior expectations of the respective school community.

B. Responsibility of Teachers, School Staff, and Volunteers

- 1. Teachers and school staff who receive complaints of misconduct covered by this policy shall refer the complaints immediately to the school principal.
- 2. A school employee or volunteer who has witnessed, or has reliable information that a student has been subjected to harassment, intimidation, bullying cyber bullying, sexting, sexual harassment, sexual misconduct whether verbal or physical, shall report the incident to the school principal or principal's designee.
- 3. This policy expressly prohibits retaliation against an individual because of their good faith participation in the reporting, investigation, or adjudication of violations of this policy except that Employees and students will be subject to disciplinary action resulting from false and malicious accusations of harassment, intimidation, bullying cyber bullying, sexting, sexual harassment, sexual misconduct and fraternization.

C. Responsibility of school principals or principal's designee

- 1. School principals shall maintain an educational and work environment free of harassment, intimidation, bullying cyber bullying, sexting, sexual harassment, sexual misconduct and fraternization. The responsibility includes discussing the policy with students and employees 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, sexual harassment or fraternization anonymously.
- 2. Report Child Pornography. Federal law defines child pornography as any kind of visual depiction of sexually explicit conduct involving a minor (any person younger than 18). This includes drawings, cartoons, sculptures, paintings, photographs, films, videos, or computer-generated images or pictures. It is illegal to send child pornography through the U.S. Mail or electronic medium. Do not agree to receive child pornography, forward child pornography or allow others to view child pornography if you have already received it. Immediately report child pornography to the Guam Police Department.

2. Report incidences that have been investigated and substantiated by the school's administration to the Guam Police Department and the appropriate Deputy Superintendent. The Deputy Superintendent shall inform the Superintendent of Education.
3. Identify and implement a mediation program in consultation and assistance from the Administrator of Student Support Services Division, for non-bullying and non-cyber bullying incidences.
4. 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.
5. Investigate and document complaints promptly in ways designed to respect the privacy of all parties involved.
6. Refer the students involved in the incidences, after the investigation is completed, to the school guidance counselor for appropriate assistance such as mediation (except in bullying and cyber bullying incidences) between parties and restorative justice interventions or other appropriate dispositions at the discretion the school principal. This shall occur within three days after the completion of the investigation.
7. 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 training and the latest research on of harassment, intimidation, bullying cyber bullying, sexting, sexual harassment, sexual misconduct and fraternization in schools.
3. Monitor, assess, and use the disciplinary information contained in the Annual State of Education Report of the Superintendent in planning and implementing appropriate staff development.
4. Submit a monthly District Discipline Data report to the Superintendent.

VI. DOE EMPLOYEES WHO ENGAGE IN HARASSMENT, INTIMIDATION, BULLYING, CYBER BULLYING, SEXTING, SEXUAL HARASSMENT, SEXUAL MISCONDUCT OF STUDENTS or OTHER EMPLOYEES

DOE employees who engage in harassment, intimidation, bullying cyber bullying, sexting and sexual harassment sexual misconduct or fraternization of students or other employees shall promptly be investigated and appropriately reported by the School Principal or appropriate supervisor to the Guam Police Department and/or the appropriate Deputy Superintendent. Disciplinary action shall follow the DOE Personnel Rules and Regulations.

Alleged violations of this policy by the Superintendent of Education shall be filed directly with the Guam Education Board.

VII. NON-COMPLIANCE

Non-compliance to this policy will result in appropriate disciplinary action to students, teachers and DOE employees.

VIII. FURTHER ACTION BY THE SUPERINTENDENT

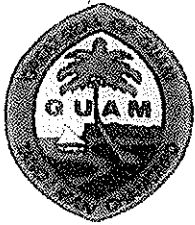
The Superintendent shall have created appropriate standard operating procedures for implementation of this policy against harassment, intimidation or bullying, cyber bullying, sexting, sexual harassment, sexual misconduct or fraternization of students or employees. School administrator will ensure that the standard operating procedures are followed.

The Superintendent shall periodically review this policy to ensure that students are safe, secure, and respected.

ADOPTED: Guam Education Policy Board 3/14/07

AMENDED: 11/30/11,

AMENDED 3/10/16



Jon J.P. Fernandez
Superintendent of Education

DEPARTMENT OF EDUCATION

500 Mariner Road
Barrigada, Guam 96913
Telephone: (671) 300-1547
Fax: (671) 472-5003



STANDARD OPERATING PROCEDURES

SOP#: 1200-022

SUBJECT: IMPLEMENTATION OF THE BOARD POLICY 409, PREVENTION AND INTERVENTION AGAINST BULLYING, CYBERBULLYING and SEXTING and SEXUAL HARASSMENT

EFFECTIVE DATE: August 29, 2014

INQUIRIES: STUDENT SUPPORT SERVICES DIVISION

I. REFERENCES: BOARD POLICY 409, 405, 406, (409), 379,

II. APPLICABILITY: ALL SCHOOLS WITHIN THE DEPARTMENT OF EDUCATION

III. PURPOSE:

The purpose of this SOP is 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, cyber bullying, 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 to all students while attending school and any school sponsored activities. This requires a fundamental change in the way that administrators and employees in the DOE view harassment, intimidation or bullying, cyber bullying, sexting and sexual harassment. The school principal and employees 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 SOP allows students active participation in school affairs without fear and threat of harassment, intimidation or bullying, cyber bullying, sexting and sexual harassment.

This SOP will also follow federal antidiscrimination laws enforced by the Office of Civil Rights (OCR). The statues 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.

- parents and employees and formulating school level policies consistent with the district standard operating procedures.
- b. Principals will develop a system for students to report acts of bullying, harassment, or intimidation anonymously.
- c. Report incidences that have been investigated and substantiated by the school's administration to the Guam Police Department and the Deputy Superintendent of Educational Support and Community Learning.
- d. Inform the parents of the target/victim and perpetrator about the reported incidences using the Allegation of Assault form in the Student Procedural Assistance Manual (2011-001)
- e. Investigate and document complaints promptly. The document shall be composed to respect the privacy of all parties involved.
- f. Refer the students involved in the incidences, after the investigation is completed, to the school guidance counselor for appropriate assistance such as mediation or restorative justice (except in bullying and cyber bullying incidences) between parties or other appropriate intervention.
- g. Follow related policies concerning appropriate disciplinary and other actions pursuant to Board Policy 405 and the Student Conduct Procedural Manual.

VI. DOE EMPLOYEES WHO ENGAGE IN HARASSMENT, INTIMIDATION, BULLYING, CYBER BULLYING, SEXTING, AND SEXUAL HARASSMENT OF STUDENTS AND OTHER EMPLOYEES

GDOE employees who engage in harassment, intimidation, bullying cyber bullying, sexting and sexual harassment of students or other employees shall promptly be investigated and appropriately reported by the School Principal to the Guam Police Department and the Deputy Superintendent of Educational Support and Community Learning. Disciplinary action shall be in accord with the DOE Personnel Rules and Regulations.

VII. CONSEQUENCES OF VIOLATIONS:

School Administrators will ensure that all students found guilty of these offenses are adjudicated in a fair and equitable manner when issuing consequences. Please note the following:

1. The provisions set forth in Board Policy 409, 406, 405, 407, 379, 901.200 (A), 17 GCA 3112.1(k), 9 GCA 28.100 and 28.101, DOE SOPs or any other relevant board policy, will be guided by the development of a school level procedures, Student Conduct Procedural Manual and the Office Discipline Referral form.
2. School faculty and staff shall consult the District Data Dictionary to ensure that the infraction is consistent with the definitions listed for bullying, cyberbullying and sexting and sexual harassment.
3. The following violations are defined in the Student Conduct Procedural Manual in appendix A as
 - a. Level Three Offenses:
 - 1) **Bullying (Level Three):** As stated in the District Discipline Data Dictionary: These behaviors include: physical, verbal, relational, exclusion, harassment and/or obscene pictures, graffiti or written notes which are meant to place others in fear of their safety, loss of dignity or have the effect of demeaning them based on their race, religion, color, national origin, age, sex, sexual orientation, disability, or other personal characteristic. Bullying behavior components:

religion, color, national origin, age, sex, sexual orientation, disability, or other personal characteristic.

Cyberbullying is bullying through the email, instant messaging, (IMing), chat room exchanges, Web site posts, or digital messages or images send to a cellular phone or personal digital assistant (PDA) (Kowalski et al. 2008). Cyber bullying, like traditional bullying, involves:

- 1) an imbalance of power; and
- 2) aggression; and
- 3) negative action that is often repeated

Consequence for Cyberbullying will result in a Level Three category consequence as indicated in the DOE Office Discipline Referral form.

Common forms of cyber bullying (this list is not exhaustive):

- Harassment: Repeatedly sending offensive, rude, and insulting messages.
- Denigration: Distributing information about another that is derogatory and untrue through posting it on a Web page, sending it to others through email or instant messaging, or posting or sending digitally altered photos of someone
- Flaming: Online "fighting" using electronic messages with angry, vulgar language
- Impersonation: Breaking into an email or social networking account and using that person's online identity to send or post vicious or embarrassing material to/about others.
- Outing and Trickery: Sharing someone's secrets or embarrassing information, or tricking someone into revealing secrets or embarrassing information and forwarding it to others
- Cyber Stalking: Repeatedly sending messages that include threats of harm or are highly intimidating, or engaging in other online activities that make a person afraid for his or her safety (depending on the content of the message, it may be illegal)

3) **Sexting (Level Three):** As stated in 9 Guam code Annotated §28.100.

"A minor is guilty 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 possess a photograph, video, depiction or other material that shows himself or herself, or of another minor, in a state of nudity." Sexting behavior components include:

- 1) aggressive behavior that involves unwanted, negative actions and/or material that are sexual in nature
- 2) involves the use of electronic device(s) or digital means to transmit or distribute material that are explicate and sexual in nature

Consequence for Sexting will result in a Level Three category consequence as indicated in the DOE Office Discipline Referral form.

Common forms of sexting (this list is not exhaustive):

- Electronically transmitting offensive, sexually explicate and/or inappropriate pictures, images or drawings that damages a student's reputation, educational standing or social standing or that interferes with the educational mission of the school.

X. TRAINING:

The Deputy Superintendent of Educational Support and Community Learning along with the Administrator of Student Support Services shall facilitate training for principals at least annually.

School Administrators will conduct annual training to ensure their school community understands Board Policy 406 and this SOP.

XI. REPORTS:

All student violations will be reported using the Office Discipline Referral (ODR) form, inputted in PowerSchool, and reported monthly in the District Student Conduct Report.

XII. PENALTY:

Failure to adhere to this SOP may result in Disciplinary action in accordance with the Policies, Rules, Regulations, and Procedures of the DOE and the Department of Administration.

XIII. EFFECTIVE DATE:


Upon approval of the Superintendent of Education

XIV. CHANGE (S):

This SOP shall be reviewed annually for changes.

This SOP was formerly numbered SOP 07-010 circa 04/02/07.

APPROVED BY:



Jon J.R. Fernandez
Superintendent of Education



Date



Descriptor Term: PREVENTION AND INTERVENTION AGAINST HARASSMENT, INTIMIDATION OR BULLYING, CYBERBULLYING, SEXTING, AND SEXUAL HARASSMENT	Descriptor Code: 409	Issued Date: 12/07/11
	Rescinds:	Issued:

Board Policy

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, cyber bullying, 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 any school sponsored activities. This requires a fundamental change in the way that administrators and employees in the DOE view harassment, intimidation or bullying, cyber bullying, sexting and sexual harassment. The school principal and employees 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, cyber bullying, sexting and sexual harassment.

This policy will also follow federal antidiscrimination 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. JURISDICTION

This policy governs all students from grades kindergarten to 12th grade who attend any school within the jurisdiction of DOE with special focus on the prevention of bullying, cyber bullying, sexting and sexual harassment. The term "at school" is defined in 17 GCA Section 3112.1 (a) that states "at school means in a classroom, elsewhere on or within school fences 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 and shoving, teasing, and name calling.
 - b. Posting of negative messages on the bathroom walls, school walls, and classroom walls thus creating an atmosphere which causes distress to the point that a student or students are frightened to attend school or their classes.
 - c. Verbal expressions, physical acts, and gestures and antagonism intended to strike fear with students and school staff.
 - d. Threatening notes, phone calls, and other electronic communications 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 and learning process.
 - g. An action that targets a student or group of students and cause distress or suggest oppression based on race, color, religion, disability and beliefs and further causes students to lose focus and performance in the learning process.
 - 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 affects the daily functioning on students on and off campus.
 - n. Behaviors that causes or intends to cause social exclusion or isolation of another student; lies, false rumors and/or other behaviors that promotes relational aggression.
 - o. Having money or other things taken or damaged or threatening or forced others to engage in bullying behaviors

B. CYBER BULLYING

1. 17 GCA Section 3112.1 (3) – the use of any electronic communication device to harass, intimidate or bully as defined in 17 GCA Section 3112.1 (2).

2. Olweus Bullying Prevention Program; Cyber bullying is bullying through the email, instant messaging, (IMing), chat room exchanges, Web site posts, or digital messages or images send to a cellular phone or personal digital assistant (PDA) (Kowalski et al. 2008). Cyber bullying, like traditional bullying, involves an imbalance of power, aggression, and a negative action that is often repeated.
http://olweus.org/public/cyber_bullying.page.

3. Cyber 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
 - d. involves the use of electronic device(s) or digital means

4. Common forms of cyber bullying:
 - a. Harassment: Repeatedly sending offensive, rude, and insulting messages
 - b. Denigration: Distributing information about another that is derogatory and untrue through posting it on a Web page, sending it to others through email or instant messaging, or posting or sending digitally altered photos of someone
 - c. Flaming: Online "fighting" using electronic messages with angry, vulgar language
 - d. Impersonation: Breaking into an email or social networking account and using that person's online identity to send or post vicious or embarrassing material to/about others.
 - e. Outing and Trickery: Sharing someone's secrets or embarrassing information, or tricking someone into revealing secrets or embarrassing information and forwarding it to others
 - f. Cyber Stalking: Repeatedly sending messages that include threats of harm or are highly intimidating, or engaging in other online activities that make a person afraid for his or her safety (depending on the content of the message, it may be illegal)

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. Sexting behavior components include:
 - a. aggressive behavior that involves unwanted, negative actions and/or material that are sexual in nature
 - b. involves the use of electronic device(s) or digital means to transmit or distribute material that are explicate and sexual in nature

3. Examples and common forms of sexting include but not limited to:
 - a. Electronically transmitting offensive, sexually explicate and/or inappropriate pictures, images or drawings that damages a student's reputation, educational standing or 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 context that interferes with the educational mission of the school.
- c. Electronically transmitting offensive music, sound bites, voices, noises or any recorded material that contain sexually explicate and/or inappropriate content that interferes with the educational mission of the school.

D. SEXUAL HARASSMENT

- 1. Office of Civil Rights Title IX - Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcomed sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX.
- 2. Sexual Harassment behavior is unwelcome conduct of a sexual nature.
- 3. Common forms of sexual harassment include:
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 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, CYBER BULLYING, SEXTING AND SEXUAL HARASSMENT

- A. Public schools are required to form bullying and cyber bullying prevention task forces and committees to implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcements, assistance organizations, and community members.
- B. All schools shall include the provisions of this policy in their student hand book.
- C. Each school will be responsible in teaching behavior expectations to their students in their respective school communities

V. INTERVENTIONS AGAINST HARASSMENT, INTIMIDATION, AND BULLYING, CYBERBULLYING, SEXTING, AND SEXUAL HARASSMENT

- A. Responsibility of Students and/or Parents
 - 1. Students and/or parents shall immediately report incidences to the school principal, a teacher, and school aide or school employee. The school staff or personnel shall report the incident immediately to the school principal for disposition.
 - 2. Students and/or parents will be subject to disciplinary action resulting from false accusations of harassment, intimidation, bullying cyber bullying, sexting and sexual harassment.
 - 3. Each student shall adhere to the behavior expectations of the 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 refer the complaints immediately to the school principal.
 - 2. A school employee or volunteer who has witnessed, or has reliable information that a student has been subjected to harassment, intimidation, bullying cyber bullying, sexting and sexual harassment whether verbal or physical, shall report the incident to the School principal or principal's designee.

- C. Responsibility of school principals or principal's designee
 - 1. School principals shall maintain an educational and work environment free of harassment, intimidation, bullying cyber bullying, sexting and sexual harassment. The responsibility includes discussing the policy with students and employees 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. Report incidences that have been investigated and substantiated by the school's administration to the Guam Police Department and the Deputy Superintendent of Educational Support and Community Learning.
 - 3. Identify and implement a mediation program in consultation and assistance from the Administrator of Student Support Services Division, for non-bullying and non-cyber bullying incidences.
 - 4. 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.
 - 5. Investigate and document complaints promptly in ways designed to respect the privacy of all parties involved.
 - 6. Refer the students involved in the incidences, after the investigation is completed, to the school guidance counselor for appropriate assistance such as mediation (except in bullying and cyber bullying incidences) between parties and restorative justice interventions or other appropriate dispositions at the discretion the school principal. This shall occur within three days after the completion of the investigation.
 - 7. 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 training and the latest research on of harassment, intimidation, bullying cyber bullying, sexting and sexual harassment in schools.
 - 3. Monitor, assess, and use the disciplinary information contained in the Annual State of

Education Report of the Superintendent in planning and implementing appropriate staff development.

4. Submit a monthly District Discipline Data report to the Superintendent.

VI. DOE EMPLOYEES WHO ENGAGE IN HARASSMENT, INTIMIDATION, BULLYING, CYBER BULLYING, SEXTING, AND SEXUAL HARASSMENT OF STUDENTS AND OTHER EMPLOYEES

DOE employees who engage in harassment, intimidation, bullying cyber bullying, sexting and sexual harassment of students or other employees shall promptly be investigated and appropriately reported by the School Principal to the Guam Police Department and the Deputy Superintendent of Educational Support and Community Learning. Disciplinary action shall follow the DOE Personnel Rules and Regulations.

VII. NON-COMPLIANCE

Non-compliance to this policy will result in appropriate disciplinary action to students, teachers and DOE employees.

VIII. FURTHER ACTION BY THE SUPERINTENDENT

The Superintendent shall have created appropriate standard operating procedures for implementation of this policy against harassment, intimidation or bullying, cyber bullying, sexting and sexual harassment of students. School administrator will ensure that the standard operating procedures are followed.

The Superintendent shall have this policy reviewed every year to ensure that students are safe, secure, and respected.

ADOPTED: Guam Education Policy Board 3/14/07

AMENDED: 11/30/11