

# Smith County Board of Education

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|--|---|----------------------------------|---------------------------------|
| Monitoring:<br><b>Review: Annually, in March</b> | Descriptor Term:<br><b>Student Discrimination, Harassment, Bullying, Cyber-bullying, and Intimidation</b> | Descriptor Code:<br><b>6.304</b> | Issued Date:<br><b>08/18/20</b> |
|  |   | Rescinds:<br><b>6.304</b>        | Issued:<br><b>07/19/16</b>      |

1 In order to maintain a safe, civil, and supportive environment in school for students to learn and achieve  
2 high academic standards, acts of bullying, cyber-bullying, discrimination, harassment, intimidation,  
3 hazing, or any other victimization of students, based on any actual or perceived traits or characteristics,  
4 are prohibited.<sup>1</sup>

5 This policy shall be disseminated annually to all school staff, students, and parent(s)/guardian(s).<sup>2</sup> This  
6 policy shall cover employees, employees' behaviors, students, and students' behaviors while on school  
7 property, at any school-sponsored activity, on school-provided equipment or transportation, or at any  
8 official school bus stop. If the act takes place off of school property or outside of a school-sponsored  
9 activity, this policy is in effect if the conduct is directed specifically at a student and has the effect of  
10 creating a hostile educational environment or otherwise creating a substantial disruption to the education  
11 environment or learning process.

12 The principal/designee is responsible for educating and training respective staff and students as to the  
13 definition and recognition of discrimination/harassment.<sup>3</sup>

14 The Director of Schools shall develop forms and procedures to ensure compliance with the  
15 requirements of this policy and state law.

## 16 **DEFINITIONS<sup>4</sup>**

17 "Bullying/Intimidation/Harassment" is an act that substantially interferes with a student's educational  
18 benefits, opportunities, or performance, and the act has the effect of:

- 19 1. Physically harming a student or damaging a student's property;
- 20 2. Knowingly placing a student in reasonable fear of physical harm to the student or damage to  
21 the student's property;
- 22 3. Causing emotional distress to a student; or
- 23 4. Creating a hostile educational environment.

24 Bullying, intimidation, or harassment may also be unwelcome conduct based on a protected class  
25 (race, nationality, origin, color, sex, age, disability, religion) that is severe, pervasive, or persistent and  
26 creates a hostile environment.

1 “Cyber-bullying” is a form of bullying undertaken through the use of electronic devices. Electronic  
2 devices include, but are not limited to, telephones, cellular phones or other wireless telecommunication  
3 devices, text messaging, emails, social networking sites, instant messaging, videos, web sites, or fake  
4 profiles.

5 “Hazing” is an intentional or reckless act by a student or group of students that is directed against any  
6 other student(s) that endangers the mental or physical health or safety of the student(s) or that induces  
7 or coerces a student to endanger his/her mental or physical health or safety. Coaches and other employees  
8 of the school district shall not encourage, permit, condone, or tolerate hazing activities.<sup>5</sup>

9 Hazing does not include customary athletic events or similar contests or competitions and is limited to  
10 those actions taken and situations created in connection with initiation into or affiliation with any  
11 organization.

## 12 **COMPLAINTS AND INVESTIGATIONS**

13 Any individual who has knowledge of behaviors that may constitute a violation of this policy shall  
14 promptly report such information to the principal/designee.<sup>6</sup>

15 While reports may be made anonymously, an individual's need for confidentiality shall be balanced with  
16 obligations to cooperate with police investigations or legal proceedings, to provide due process to the  
17 accused, to conduct a thorough investigation, or to take necessary actions to resolve a complaint. The  
18 identity of parties and witnesses may be disclosed in appropriate circumstances to individuals with a  
19 need to know.

20 The principal/designee at each school shall be responsible for investigating and resolving complaints.  
21 Once a report is received, the principal/designee shall initiate an investigation within forty-eight (48)  
22 hours of receipt of the report. If an investigation is not initiated within forty-eight (48) hours, the  
23 principal/designee shall provide the Director of Schools with appropriate documentation detailing the  
24 reasons why the investigation was not initiated within the required timeframe.<sup>7</sup> The principal/designee  
25 shall immediately notify the parent(s)/guardian(s) when a student is involved in an act of discrimination,  
26 harassment, intimidation, bullying, or cyber-bullying. The principal/designee shall provide information  
27 on district counseling and support services. Students involved in an act of discrimination, harassment,  
28 intimidation, bullying, or cyber-bullying shall be referred to the appropriate school counselor by the  
29 principal/designee when deemed necessary.<sup>8</sup>

30 The principal/designee is responsible for determining whether an alleged act constitutes a violation of  
31 this policy, and such act shall be held to violate this policy when it meets one of the following conditions:

- 32 1. It places the student in reasonable fear or harm for the student’s person or property;  
33
- 34 2. It has a substantially detrimental effect on the student’s physical or mental health;  
35
- 36 3. It has the effect of substantially interfering with the student’s academic performance; or  
37
- 38 4. It has the effect of substantially interfering with the student’s ability to participate in or benefit  
39 from the services, activities, or privileges provided by a school.

1 Upon the determination of a violation, the principal/designee shall conduct a prompt, thorough, and  
2 complete investigation of each alleged incident. All investigations shall be completed and appropriate  
3 intervention taken within twenty (20) calendar days from the receipt of the initial report.<sup>7</sup> If the  
4 investigation is not complete or intervention has not taken place within twenty (20) calendar days, the  
5 principal/designee shall provide the Director of Schools with appropriate documentation detailing the  
6 reasons why the investigation has not been completed or the appropriate intervention has not taken  
7 place.<sup>7</sup> Within the parameters of the federal Family Educational Rights and Privacy Act,<sup>9</sup> a written report  
8 on the investigation will be delivered to all involved parties and the Director of Schools.

## 9 **RESPONSE AND PREVENTION**<sup>10</sup>

10 The principal/designee shall consider the nature and circumstances of the incident, the age of the  
11 individual, the degree of harm, previous incidences or patterns of behavior, or any other factors, as  
12 appropriate, to properly respond to each situation.

13 A substantiated charge against an employee shall result in disciplinary action up to and including  
14 termination. The employee may appeal this decision by contacting the Federal Rights Coordinator or the  
15 Director of Schools.

16 A substantiated charge against a student may result in corrective or disciplinary action up to and  
17 including suspension. The student may appeal this decision in accordance with disciplinary policies and  
18 procedures.

## 19 **REPORTS**

20 When a complaint is filed alleging a violation of this policy where there is physical harm or the threat of  
21 physical harm to a student or a student's property, the principal/designee of each middle school, junior  
22 high school, or high school shall report the findings and any disciplinary actions taken to the Director of  
23 Schools and the Chair of the Board.<sup>11</sup>

24 By July 1st of each year, the Director of Schools/designee shall prepare a report of all of the bullying  
25 cases brought to the attention of school officials during the prior academic year. The report shall also  
26 indicate how the cases were resolved and/or the reasons they are still pending. This report shall be  
27 presented to the Board at its regular July meeting, and it shall be submitted to the state department of  
28 education by August 1st.<sup>12</sup>

## 29 **RETALIATION AND FALSE ACCUSATIONS**

30 Retaliation against any person who reports or assists in any investigation of an act alleged in this policy  
31 is prohibited. The consequences and appropriate remedial action for a person who engages in retaliation  
32 shall be determined by the principal/designee after consideration of the nature, severity, and  
33 circumstances of the act.<sup>13</sup>

34 False accusations accusing another person of having committed an act prohibited under this policy are  
35 prohibited. The consequences and appropriate remedial action for a person found to have falsely  
36 accused another may range from positive behavioral interventions up to and including expulsion.<sup>14</sup>

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**Legal References**

1. TCA 49-6-4503(a), (b)(3); 20 USCA §§ 1681 to 1686
2. TCA 49-6-4503(b)(11)
3. TCA 49-6-4503(b)(12)
4. TCA 49-6-4503(b)(2), (13)
5. TCA 49-2-120
6. TCA 49-6-4503(b)(5)
7. TCA 49-6-4503(b)(6)
8. TCA 49-6-4503(b)(14)
9. 20 USCA § 1232g
10. TCA 49-6-4503(b)(4), (7)-(8)
11. TCA 49-6-4503(d)(3)
12. TCA 49-6-4503(c)(2)(B)
13. TCA 49-6-4503(b)(9)
14. TCA 49-6-4503(b)(10)

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**Cross References**

Appeals to and Appearances Before the Board 1.404  
Section 504 and ADA Grievance Procedures 1.802  
Staff-Student Relations 5.610  
Student Goals 6.100  
Title IX & Sexual Harassment 6.3041  
Code of Conduct 6.300  
Student Concerns 6.305  
Reporting Child Abuse 6.409  
Student Suicide Prevention 6.415