

BULLYING: PUPIL SAFETY AND VIOLENCE PREVENTION POLICY

Also see EEA, EEAEC, EGA, JBAA, JIA, JIC, JICC, JICD, JICDD, IHBA

I. The Windham School Board is committed to providing all pupils a safe school environment. Conduct constituting bullying or cyberbullying will not be tolerated, and is prohibited by this policy in accordance with RSA 193-F. This policy applies to all pupils, regardless of their status under the law.

The superintendent is responsible for ensuring that this policy is implemented. All District employees, contracted service providers, school volunteers, coaches, parents and students are required to abide by the requirements of this policy.

II. Definitions

- A. Bullying: a single, significant incident or pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another pupil which:
1. Physically harms a pupil or damages the pupil's property;
 2. Causes emotional distress to the pupil;
 3. Interferes with a pupils' educational opportunities;
 4. Creates a hostile educational environment; or
 5. Substantially disrupts the orderly operation of the school.

Bullying also includes actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the pupil's association with another person and based on the other person's characteristics, behaviors, or beliefs.

- B. Cyberbullying: bullying (as defined above) undertaken through the use of electronic devices.
- C. Electronic devices: include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging and websites.
- D. Perpetrator: a pupil who engages in bullying or cyberbullying.

Legal References: RSA 193-F, Pupil Safety and Violence Prevention Act of 2000
Ed 306.04(a) (8), Policy Development

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- E. School Property: all real property and all physical plant and equipment used for school purposes including public or private school buses or vans.
- F. Victim: a pupil against whom bullying or cyberbullying has been perpetrated.
- G. Educational opportunities: the curricular and extracurricular programs and activities offered by the District.
- H. Interference of educational opportunities: a single incident or pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, which impedes a pupil's ability to participate in, or access, the educational opportunities offered by the District. The determination as to whether an incident or a pattern of incidents interferes with a pupil's educational opportunities shall be made by the person investigating the reported incident(s).
- I. Hostile educational environment: a single incident or pattern of incidents that is so severe and pervasive that it effectively denies a student equal access to the District's educational opportunities. The determination as to whether an incident or pattern of incidents has created a hostile educational environment shall be made by the person investigating the reported incident(s).
- J. The determination as to whether a single incident or a pattern of incidents causes a "substantial disruption to the orderly operations of the school" shall be made by the person investigating the reported incidents(s), and shall be based on the totality of the circumstances, and may include disruptions to curricular or extra-curricular programs and activities offered by the District.

In accordance with RSA 193-F:4, the Windham School District reserves the right to impose discipline for bullying or cyberbullying that:

Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or

Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a pupil's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

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III. Reporting Procedure

The Principal of each school is responsible for receiving oral or written reports of bullying or cyberbullying. The Principal may designate, in writing, an additional person to receive such reports.

Student or Parent Reports

- A. Any student who believes that he or she has been the victim of bullying or cyberbullying, as defined in Section II, above, should immediately report the alleged act(s) to the Principal or his/her designee; however, if the student prefers, he/she may inform any school employee or volunteer.
- B. Students or parents who have witnessed or who have reliable information that a pupil has been subjected to bullying or cyberbullying should immediately report the same to the Principal or his/her designee, or, if the student or parent prefers, he/she may inform any school employee or volunteer about the alleged bullying or cyberbullying.
- C. The District will not accept anonymous reports of bullying or cyberbullying. However, the District will seek to ensure that the individual making the report is protected from retaliation as a result of the report.
- D. Forms to report incidents of bullying or cyberbullying shall be available at the Principal's office. Use of the form is encouraged, but not required. If the Principal or his/her designee receives the report verbally, he/she shall reduce the report received to writing within twenty-four hours of receiving the information.

Reports by Staff, Volunteer, or Employees of a Company Under Contract with the School District, or with any school in the Windham School District

- A. Any school employee, volunteer, or employee of a company under contract with the Windham School District, or any school within the Windham School District, who has witnessed or has reliable information that a pupil has been subjected to bullying, or cyberbullying as defined in Section II above, shall report such incident to the Principal or his/her designee by the close of the school day on which they witness or receive such reliable information.

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- B. Forms to report incidents of bullying or cyberbullying shall be available electronically or at the Principal's office. If the Principal or his/her designee receives the information verbally, he/she shall reduce the report received to writing within twenty-four hours of receiving the information.

IV – Notice to Parents/Guardians

Within 48 hours of receiving a report of bullying or cyberbullying, the Principal, or his/her designee, shall give notice of the report of the alleged incident to the parent(s) or guardian(s) of the victim and the perpetrator. The report shall be made by telephone or in writing; if made by telephone, a record of the report shall be made. The record should include, at a minimum, the date and time of the call. Any such notification under this policy must comply with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g. At a minimum, the notice shall advise the individuals involved of the nature of the incident, the date and time the report was received, and the procedures described in this policy. In accordance with FERPA, the notice shall not contain any personally identifiable information obtained from student education records.

V – Waiver of Notification Requirement

The Superintendent may, within the 48-hour time period referenced in Section IV of this policy, grant the Principal or his/her designee a written waiver from the notification requirement in Section IV of this policy, if the Superintendent or his/her designee deems such waiver to be in the best interest of either the victim or the perpetrator. The granting of a waiver does not negate the responsibility to follow the other procedures set forth in this policy.

VI – Investigation Procedures

- A. The Principal or his/her designee is responsible for investigating reports of bullying or cyberbullying. The Superintendent shall appoint another individual to conduct the investigation if the Principal is directly involved with the reported incident.
- B. Investigations shall be initiated within five school days of the date that the incident is reported to the Principal or his/her designee, and shall be completed within 10 school days.
- C. If the Principal or his/her designee requires additional time to complete the investigation, the Superintendent or his/her designee may extend the time period for the investigation up to seven school days. Any such extension shall be in writing, and the Superintendent or his/her designee shall provide all parties involved with written notice of the granting of the extension.

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- D. The Principal or his/her designee is responsible for determining the scope of the investigation, which may include, but would not be limited to, interviewing the alleged perpetrator, the alleged victim, witnesses, the parents/guardians of the alleged perpetrator and/or the alleged victim, and reviewing relevant educational records of the alleged perpetrator and/or the alleged victim. Interviews shall be conducted privately, although a student may be interviewed with his/her parents present. If the incident involves allegations of cyberbullying, the Principal or his/her designee may request documentation such as e-mails, instant messages, text messages, and/or web pages.
- E. After investigating, the Principal or his/her designee shall determine whether the report is substantiated for bullying or cyberbullying. The Principal's determinations shall be based on the investigatory findings, and may include, but not limited to, the following
- The description of the incident
 - The frequency of the conduct
 - Whether the conduct is reoccurring
 - Where the alleged conduct occurred (on campus, off campus, in person, through an electronic device, etc.)
 - Whether the conduct physically harmed the alleged victim or damaged the alleged victim's property
 - Whether the conduct caused emotional distress to the alleged victim
 - Whether the conduct adversely affected the alleged victim's educational opportunities
 - Whether the conduct created a hostile educational environment
 - Whether the conduct substantially disrupted the orderly operation of the school
 - Whether the conduct was based on the actual or perceived personal characteristics, behaviors, or beliefs of the alleged victim
 - Whether the conduct was motivated by the alleged victim's association with another person and based on the other person's characteristics, behaviors, or beliefs
 - Whether the alleged victim felt or perceived an imbalance of power as a result of the alleged incident
- G. Upon completion of the investigation, the Principal or his/her designee shall draft a written investigation report. The report must include, at a minimum, a description of the scope of the investigation, the findings, and the actions taken (i.e., the response to remediate, discipline, non-disciplinary interventions, etc.).

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- H. Upon completion of the investigation, the Principal or his/her designee shall report all substantiated incidents of bullying or cyberbullying to the Superintendent of his/her designee.

VII – Response to Remediate Substantiated Incidents of Bullying or Cyberbullying

The Principal or his/her designee shall develop a response to remediate any substantiated incident of bullying or cyberbullying. The response should be designed to reduce the risk of future incidents, and where appropriate, to offer assistance to the victim or perpetrator.

In those cases where a perpetrator or victim is identified as a student with an educational disability, the Principal's response to remediate any substantiated incident of bullying or cyberbullying can be implemented immediately and shall be presented to the IEP Team. The IEP Team is permitted to amend or augment the response in a manner necessary to ensure that the perpetrator or victim receives a free, appropriate public education, while still taking appropriate measures to remediate bullying.

Within ten school days of completion of the investigation, the Principal or his/her designee shall provide the parents/guardians of victims and perpetrators with written information about the available remedies and assistance. The notice shall comply with FERPA and other State and Federal laws concerning student privacy.

VIII – Discipline and/or Interventions

If, after investigating pursuant to Section VI of this policy, the Principal or his/her designee concludes that a pupil engaged in bullying or cyberbullying, that student may be subject to appropriate disciplinary action, which may include, but is not limited to, suspension and expulsion. Any such disciplinary action shall be taken in accordance to applicable board policy and legal requirements.

At the discretion of the Principal or his/her designee, students who commit an act of bullying or cyberbullying or falsely accuse another of the same as a means of retaliation or reprisal may, either in addition to discipline or in lieu of discipline, receive non-disciplinary interventions. Interventions are not considered disciplinary in nature. To the greatest extent practicable, parents will be involved in the planning and implementation of non-disciplinary interventions.

Nothing in this policy shall supersede the disciplinary procedures of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act, including the protections offered through the manifestation determination process.

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IX – Prohibition Against Retaliation and False Accusations

All individuals are prohibited from retaliating or making false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying. The Principal or his/her designee shall investigate claims of retaliation or false accusations, and if substantiated, the retaliator and/or the false accuser may be subject to discipline, including but not limited to, suspension or expulsion.

Employees of the Windham School District who are found to have intentionally and falsely accused a student of committing an act of bullying or cyberbullying shall be subject to discipline or other consequences, including, but not limited to, termination, in accordance with applicable law, Windham School District policies, procedures, and collective bargaining agreements. School volunteers who are found to have intentionally and falsely accused a student of committing an act of bullying or cyberbullying shall be subject to consequences, including, but not limited to, being prohibited from participating as a volunteer. Employees of a company under contract with the Windham School District, or a school within the District, who are found to have intentionally and falsely accused a student of committing an act of bullying or cyberbullying shall be subject to discipline or other consequences in accordance with applicable law, including, but not limited to, termination of their contract.

Employees of the Windham School District who are found to have retaliated against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying, shall be subject to discipline or other consequences, including, but not limited to, termination, in accord with applicable law, Windham School District Policies, and collective bargaining agreements. School volunteers who are found to have retaliated against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying shall be subject to consequences including but not limited to, being prohibited from participating as a volunteer. Employees of a company under contract with the Windham School District, or a school within the District who are found to have retaliated against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying shall be subject to discipline or other consequences, including but not limited to termination, in accordance with applicable law, including, but not limited to, termination of their contract.

The Principal or his/her designee is responsible for developing a plan to protect all pupils from retaliation and/or false accusations. Plans may be developed on a case-by-case basis. Plans may include communication with parents/guardians, making adjustments to class schedules, discipline, removal from the school, the creation and implementation of a safety plan, the removal of privileges, or other appropriate responses.

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X – Training

The Superintendent shall ensure that school employees, regular school volunteers, and employees under contract with the Windham School District, and/or any of the schools within the Windham School District, who have significant contact with pupils annually receive training on this policy for the purpose of preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying.

The Windham School District shall provide age-appropriate educational programs for pupils and parents in preventing, identifying, responding to, and reporting incidents of bullying or cyberbullying.

XI – Notice of Policy

The Superintendent or his/her designee shall provide written notice of this policy to students, parents, legal guardians, school employees, school volunteers, and employees of companies under contract with the Windham School District, or any school within the Windham School District, through appropriate references in the student and employee handbooks, by publishing a copy of this policy on the Windham School District website, by providing companies under contract with the Windham School District, or any school within the Windham School District, with a copy of the policy, by providing training on the policy in accordance with RSA 193-F, or through other reasonable means.

At the commencement of each school year, this policy shall be provided to all students. All students who enroll during the course of the school year shall receive a copy of this policy at the time they enroll.

XII – Report to the Department of Education

The Principal or his/her designee is responsible for reporting substantiated incidents of bullying to the Superintendent or his/her designee.

The Superintendent or his/her designee shall, on an annual basis, report substantiated incidents of bullying and cyberbullying to the Department of Education. The reports shall not contain any personally identifiable information pertaining to any pupil.

XIII – Immediate Intervention and Remediation

Nothing in this policy shall be construed to prohibit the District from taking immediate steps, at its discretion, to resolve and mitigate conflict between students. Such steps may include, but would not be limited to discipline, up to and including suspension or expulsion, as well as non-disciplinary interventions.

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Immunity

A school administrative unit employee, District or school employee, or employee of a company under contract with the school district or a school within the District shall be immune from civil liability in accord with State law and regulations.

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