

OYSTER RIVER COOPERATIVE SCHOOL BOARD	Policy Code: JICK
<u>Policy Committee Review: May 11, 2016</u> <u>Legal Clarification Version</u> <u>School Board First Read: May 18, 2016</u> <u>School Board Second Read/Adoption: June 1, 2016</u> <u>Policy Committee Review: November 8, 2017</u> <u>School Board First Read: November 15, 2017</u> <u>School Board Second Read/Adoption: December 6, 2017</u>	<u>Page 1 of 7</u> <u>Category: Priority</u>

BULLYING AND CYBERBULLYING
PUPIL SAFETY AND VIOLENCE PREVENTION

I. **GENERAL STATEMENT OF POLICY**

It is the policy of the Oyster River Cooperative School District that its students have an educational setting that is safe, secure, peaceful, and free from student harassment, also known as bullying or cyberbullying. The School District will not tolerate unlawful harassment of any type and conduct that constitutes bullying or cyberbullying as defined herein is prohibited. Retaliation or false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying is prohibited. All students are protected regardless of their status under the law. Any person violating this Policy may be subject to disciplinary action up to and including expulsion. Each building Principal is responsible for the implementation of this Policy.

II. **BULLYING AND CYBERBULLYING DEFINED**

1. "Bullying" is a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another student which:

- (a) physically harms a student or damages the student's property;
- (b) causes emotional distress to a student. For the purposes of this policy, the term "emotional distress" means distress that impairs the student's participation in academic or other school-sponsored activities. The term "emotional distress" does not include the unpleasantness or discomfort that accompanies an unpopular viewpoint;
- (c) interferes with a student's educational opportunities;
- (d) creates a hostile educational environment; or
- (e) substantially disrupts the orderly operation of the school.

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

2. "Cyberbullying" is any conduct defined in paragraph 1 of this Section undertaken through the use of electronic devices which include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites. Cyberbullying includes, but is not limited to, the following actions: harassing, teasing, intimidation, threatening, stalking or terrorizing another person by sending or posting inappropriate and hurtful e-mail messages, instant messages, text messages, digital pictures or images, or web site postings, including blogs or other use of technology.

3. Bullying or cyberbullying occurs when an action or communication defined in paragraphs 1 or 2 of this Section:

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- (a) occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or
- (b) occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a student's educational opportunities or substantially disrupts the orderly operations of the school or school sponsored activity or event.
- 4. "Parent" means parent, parents, or legal guardians.
- 5. "Perpetrator" is a student who engages in bullying or cyberbullying.
- 6. "School property" is all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.
- 7. "Victim" is a student against whom bullying or cyberbullying has been perpetrated.
- 8. Bullying in violation of this Policy need not rise to the level of unlawful harassment under Title IX of the Education Acts of 1972, the Americans With Disabilities Act, Title VI, or the Rehabilitation Act of 1974.

III. REPORTING PROCEDURE

1. Any student who believes he/she has been a victim of bullying or cyberbullying shall report the alleged act to the building Principal. If a student is more comfortable reporting the alleged act to a person other than the building Principal, the student may contact any School District employee. The School District will respect the confidentiality of the victim and the perpetrator(s) as much as possible, consistent with the School District's legal obligations and the necessity to investigate allegations of alleged bullying and cyberbullying and to take appropriate remedial disciplinary action when such conduct has been substantiated. However, no disciplinary action can be taken against a perpetrator solely on the basis of a confidential report.

2. Any school employee, volunteer, or employee of a company under contract with the school or School District, who has witnessed or has reliable information that a student has been subjected to bullying or cyberbullying shall report the incident to the student's Principal. "Reliable information" shall include a parent's or student's claim that a student is the victim of bullying or cyberbullying.

3. All reports must be documented on the School District's Bullying/Cyberbullying Reporting Form. The victim or reporter shall provide copies of documents relating to the bullying or cyberbullying and/or save those documents so that the documents can be provided to the investigator. If a victim or reporter is either unwilling or unable to complete the School District's Bullying/Cyberbullying Reporting Form, the school employee who receives the oral report will promptly fill out the School District's Bullying/Cyberbullying Reporting Form, using, to the extent practicable, the reporter's or victim's own words to describe the alleged bullying or cyberbullying.

4. Upon receipt of a report of bullying or cyberbullying, the Principal shall within twenty-four (24) hours forward a written report to the Superintendent of the incident and the Principal or his/her designee's response to the initial report.

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5. The Principal shall by telephone and in writing by first-class mail, notify the parent of the victim and perpetrator within forty-eight (48) hours of receiving the School District's Bullying/Cyberbullying Reporting Form that a report of alleged bullying or cyberbullying was received and is being investigated in accordance with this Policy. The content of the notice shall comply with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

6. The Superintendent may, within the forty-eight (48) hour time period in paragraph 5 of this Section, grant the Principal a written waiver from the notification requirement if the Superintendent deems such waiver to be in the best interest of the victim or perpetrator. The waiver shall not negate the school's responsibilities to comply with the remainder of this Policy.

7. The Principal or his/her designee shall notify the Superintendent of all substantiated instances of bullying or cyberbullying. The Superintendent shall report to the School Board all substantiated instances of bullying and cyberbullying.

8. Within ten (10) school days of completion of the investigation, the Principal shall notify the parents of the victim and perpetrator of the school's remedial action. In accordance with FERPA, the School District may not disclose to the parents of victims the educational records of perpetrators which include but are not limited to the discipline and remedial action assigned to the perpetrators.

IV. INVESTIGATION AND REMEDIAL ACTION

1. The Principal or his/her designee shall begin an investigation of the alleged acts of bullying or cyberbullying within five (5) school days of receiving the School District's Bullying/Cyberbullying Reporting Form. The goal of an investigation is to obtain an accurate and complete account of all incidents and circumstances deemed relevant to the allegations, to determine whether bullying or cyberbullying occurred, and to identify the student(s) responsible for the acts. These procedures are intended to protect the rights of a victim and perpetrator.

- (a) The alleged perpetrator(s) will be provided the opportunity to be heard as part of the investigation.
- (b) Privacy rights of all parties shall be maintained in accordance with applicable laws.
- (c) The building principal/assistant principal shall keep a written record of the investigation process.
- (d) The building principal/assistant principal may take interim remedial measures to reduce the risk of further bullying/cyberbullying, retaliation and/or to provide assistance to the alleged victim while the investigation is pending.
- (e) The building principal/assistant principal shall consult with the Superintendent as appropriate concerning the investigation and any remedial measures or assistance provided.
- (f) Consistent with applicable law, students may not be required to disclose or provide to the District the student's user name, password or other authenticating information to a student's personal social media account. However, District investigators may request a student or a student's parent/guardian voluntarily share printed copies of specific information from a student's personal social media account if such information is relevant to an ongoing investigation.

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2. The Principal or his/her designee will complete the investigation within seven (7) school days after the Principal receives the School District's Bullying/Cyberbullying Reporting Form, except in cases where the Superintendent grants a written extension. The Superintendent, if necessary, may grant an extension of the time period for the completion of the investigation for up to an additional seven (7) school days. The Superintendent shall notify all parties in writing of the granting of an extension. The Principal or his/her designee will expedite the investigation of any claim involving physical violence or serious threats of harm.

3. To end bullying or cyberbullying and prevent its recurrence, the Principal or his/her designee will take such disciplinary action deemed necessary and appropriate, including but not limited to detention, in-house suspension, out-of-school suspension or referral to the Superintendent to consider long-term suspension or expulsion, and/or referral to law enforcement. Any discipline imposed will be in accordance with and consistent with the School Board's policies on student discipline.

4. Administrators have the discretion within the requirements of district policies on student discipline, to determine appropriate disciplinary consequences and/or interventions for violations of this policy based upon the relevant facts and circumstances in a particular case, including but not limited to the age and maturity of the students involved; the type and frequency of the behavior; a student's willingness to cooperate in the investigation and correct behavior; and the student's prior disciplinary record.

5. Besides initiating disciplinary action, the Principal or his/her designee may also take other remedial action deemed necessary and appropriate to end bullying or cyberbullying and prevent its recurrence including but not limited to requiring participation in peer mentoring, or other life skills groups; reassigning student's classes, lunch periods or transportation; and/or offering appropriate assistance to the victim or perpetrator.

6. At the time a bullying or cyberbullying report is made, the Principal or his/her designee in consultation with the Superintendent, shall develop a strategy to protect all students from any kind of retaliation.

7. The Principal or his/her designee must document his/her investigation results in a written report. The investigation report shall include documentation of the statements/interviews of the victim, perpetrator, and witnesses. Copies of any documents or other evidence (e.g., electronic communications) obtained during the investigation shall be attached to the report. The Principal or his/her designee's investigation report shall also include the Principal or his/her designee's findings of whether the report of bullying or cyberbullying was substantiated and the reasons why the report was or was not substantiated. If the report is substantiated, the Principal or his/her designee shall include in the investigation report recommendations for remediating the bullying or cyberbullying and shall, when appropriate, recommend a strategy to protect students from retaliation. If the report is not substantiated as bullying or cyberbullying but the conduct violates school rules or policies, the Principal or his/her designee shall specify the school rules or policies violated and make appropriate recommendations to address the violations.

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8. Since bullying or cyberbullying may begin again after several weeks or months have lapsed, the perpetrator in substantiated cases should be closely supervised. The victim should be encouraged to report any new problems to the Principal or his/her designee. The Principal or his/her designee should interview the victim regularly to make sure that there is no recurrence of bullying, cyberbullying, or retaliation. The Principal or his/her designee shall document all follow-up with the victim.

V. FILE RETENTION

The Principal will maintain in a separate confidential file the original completed School District's Bullying/Cyberbullying Reporting Form, investigatory interview notes and reports, findings made, the investigation report, including any decision for action, and other relevant investigatory materials, and maintain a copy of the file in the perpetrator's education record. The Principal shall also provide a copy of the file to the Superintendent.

VI. APPEAL

1. For non-disciplinary remedial actions where no other review procedures govern, the parents of the perpetrator and victim shall have the right to appeal the Principal or his/her designee's decision regarding their student to the Superintendent in writing within five (5) school days. The Superintendent shall review the Principal or his/her designee's decision and issue a written decision within ten (10) school days. If the aggrieved party is still not satisfied with the outcome, then the aggrieved party may file a written request for review by the School Board within ten (10) school days of the Superintendent's decision. The appeal shall state in writing why the appealing party is aggrieved, and the specific relief they are requesting.

2. The procedures in RSA 193:13, Ed 317, and the School District's discipline policies establish the due process and appeal rights for students disciplined for acts of bullying, cyberbullying, or retaliation.

VII. RETALIATION OR FALSE ACCUSATIONS

No person shall retaliate or make false accusations against a victim, witness, or anyone else who in good faith provides information about an act of bullying or cyberbullying. The School District will discipline any individual who retaliates or makes a false accusation or encourages others to retaliate or make a false accusation against a victim, witness, or anyone else who in good faith provides information, testifies, assists, or participates in an investigation, proceeding or hearing relating to an act of bullying or cyberbullying.

If a complaint or report is not made in good faith, the School District will take such disciplinary action deemed necessary and appropriate including but not limited to suspension, expulsion, or dismissal.

VIII. POLICY NOTIFICATION/DISSEMINATION

1. Copies of this Policy shall be given to all employees, students and parents annually by publishing in the applicable handbook. Whenever new School District employees or students begin during the school year, they shall receive a copy of the appropriate handbook before commencing work or school attendance. The Superintendent or his/her designee shall also make

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all volunteers, and contractors who have contact with students and chartered public schools aware of this Policy.

2. The School District will post this Policy and a summary of the Policy on the School District's website and conspicuously in each school building in areas easily accessible to students and staff.

IX. TRAINING OF STAFF AND EDUCATING PARENTS AND STUDENTS

1. The School Administration shall develop age-appropriate methods of discussing the meaning, substance, and application of this Policy with parents and students in order to minimize the occurrence of bullying and cyberbullying and to identify, respond to, and report incidents of bullying or cyberbullying. In support of this policy, the Board promotes preventative educational measures to promote greater awareness of aggressive behavior, including bullying.

2. The School Administration shall provide training annually for employees, school volunteers, and contractors who have contact with students for the purpose of preventing, identifying, responding to, reporting incidents of bullying or cyberbullying, and implementing this Policy.

X. RECORDINGS IN STUDENT DISCIPLINE MATTERS

1. Recordings on School Buses. Pursuant to RSA 570-A:2, notice is hereby given that the School Board authorizes audio recordings to be made in conjunction with video recordings of the interior of school buses while students are being transported to and from school or school activities. A sign informing the occupants of school buses that such recordings may occur shall be posted on all buses.

2. Use of Recordings. The District reserves the right to use audio/video on buses and video recording devices on District property to ensure the health, safety and welfare of all staff, students and visitors. Placement and location of such devices will be established in accordance with the provisions of Policy ECAF.

In the event a recording is used as part of a student discipline proceeding, such recording may become part of a student's education record. If a recording does become part of a student's educational record, the provisions of Policy JRA shall apply.

The Superintendent is authorized to contact the District's attorney for a full legal opinion in the event of such an occurrence.

XI. BULLYING AS ABUSE AND CRIMINAL CONDUCT

Under certain circumstances (e.g., physical harm/touching, or damage to property) bullying or cyberbullying may constitute a violation of the Safe School Zones Act or abuse under RSA 169-C, the Child Abuse Reporting Act. In such situations, employees, volunteers and contractors shall comply with provisions of the School District's Policy concerning the Safe School Zones Act and the law which in part requires reporting to the Principal and requires the Principal to file a written

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report with the police within 48 hours and to notify the victim's parents/guardian that a report has been filed.

XII. SEXUAL HARASSMENT

Bullying or cyberbullying may constitute sexual harassment in which case it shall be subject to and be handled in accordance with the School District's Sexual Harassment and Sexual Violence Policy, not this Policy.

XIII. ANNUAL REPORT

The Superintendent shall prepare and submit an annual report of substantiated bullying/cyberbullying incidents on the form provided by the New Hampshire Department of Education. Such reports shall not contain personally identifiable information regarding students.

XIV. IMMUNITY

A School Administrative Unit employee, School District employee, school volunteer, student, parent, legal guardian, or employee of a company under contract to the School District, School Administrative Unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under RSA 193-F.

Cross Reference:

JRB: Confidential Student Information