

BULLYING, CYBER-BULLYING, HARASSMENT, HAZING AND OTHER FORMS OF INTIMIDATION AND DISCRIMINATION

The School District of New Berlin (District) intends by this policy to provide a safe, secure, and respectful learning environment where all students, staff, parents, and others under its purview can participate in an educational environment free from any form of harassment, intimidation, or discrimination. This policy evidences the District's commitment to creating an atmosphere of respect, tolerance, and cooperation.

This policy is to effectively address the actions of those who engage in a repeated a course of conduct with the intent of intimidating or otherwise coercing or causing fear in others. This behavior may be based, in whole or in part, on gender, race, color, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional or learning disability, or any other factor that substantially interferes with a student's school performance or creates an intimidating, hostile, or offensive school environment. This policy is inclusive of intimidation that is physical, verbal and non-verbal/emotional (e.g., ostracizing) in nature. This policy covers all school-related activities, whether on or off campus. Additionally, given behavior not directly related to school activities (detailed in a subsequent section) may come under the authority of this policy.

Although no act of intimidation or discrimination is condoned by the District, this policy should not be construed or represent a "Zero-Tolerance" stance. This policy recognizes the potential of extenuating circumstances (e.g., student with disabilities) that would render such a policy untenable in given circumstances. In such instances, it may be necessary for established legal procedures (e.g., determination of manifestation) or specific groups or individuals to be involved in the determination of action on the part of the District.

This policy is inclusive of all means by which the inappropriate behavior is conducted. Therefore, behavior conducted via digital technologies (e.g., internet, cell phone), for example, would be dealt with as if that same behavior was face-to-face, written, or by any other means. Coercive and intimidating behavior covered by this policy includes that which is physical, verbal, or psychological and is usually of a repetitive nature. It can be direct (face-to-face) or indirect (e.g., exclusion, gossip), or via digital technologies (e.g., text messages). In addition, in the implementation of this policy, both the offender engaging in the prohibited behavior and/or any individual or group directing such conduct, will be held mutually responsible.

Every employee will receive a copy of this policy upon their hiring. Information regarding this policy will be posted in school buildings advising staff, volunteers and students of the policy and the procedures for filing a complaint. Every employee will receive this policy in writing on an annual basis, and the District will conduct an in-service regarding this policy for administrators annually.

Notice of this policy and its accompanying complaint procedures will be posted on the District's website and in each school building in the District. In addition, a student nondiscrimination statement will be included in student and staff handbooks, course selection handbooks and other published materials distributed to the public describing school activities and opportunities.

Nondiscrimination Statement:

The School District of New Berlin will not deny any person admission to, participation in, or the benefits of any curricular, extracurricular, pupil services, recreational or other program or activity because of a

person's gender, race, color, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability. The School District of New Berlin specifically prohibits staff members, students and volunteers from discriminating against or harassing others based on any of the characteristics described in this paragraph, and further prohibits bullying of any kind. This policy does not, however, prohibit the District from placing a student in a school, class, program or activity based on objective standards of individual performance or need.

The School District of New Berlin offers fair and equal employment opportunities, and prohibits discrimination and harassment based on an employee's or applicant's age, race, color, creed, religion, disability, marital status, gender, sexual orientation, national origin, ancestry, citizenship, arrest record, conviction record, pregnancy, membership in the national guard, state defense force or any other reserve component of the military forces of the United States or Wisconsin, or use or nonuse of lawful products off District premises and away from District-sponsored activities, as required by law.

The District specifically prohibits discriminatory conduct, harassing conduct, bullying, condoning such conduct by allowing it to go on, and pre-judging harassment, discrimination and bullying complaints and retaliating against any person who reports harassment, discrimination or bullying. District staff members may be held individually liable for harassment, discrimination and bullying or for allowing students to harass or bully each other, and may be subject to the penalties imposed upon employers under state or federal law. The District's policy prohibiting harassment and bullying applies to all students, staff members and volunteers whether at school, at school-sponsored co-curricular, extracurricular or social functions, or otherwise. This includes any property or vehicle owned, leased or used by the District, and any vehicles used for student transportation. In particular, staff members should understand that they are "on duty" whenever they are with students, even if they are not at school or not at a school-sponsored event.

Any District staff member who engages in harassment, discrimination, bullying or retaliates against another person because of a harassment/discrimination/bullying report or participation in an investigation, is subject to immediate discipline, up to and including discharge. Any student who engages in harassment, discrimination, bullying, or retaliates against another person because of a harassment/discrimination/bullying report or participation in an investigation, is also subject to immediate discipline, up to and including suspension and expulsion from the School District of New Berlin. Any volunteer who engages in harassment, discrimination, bullying or retaliates against another person because of a harassment/discrimination/bullying report or participation in an investigation, may be prohibited from volunteering for the School District of New Berlin in any capacity.

This policy prohibiting discrimination and harassment applies to the acceptance and administration of gifts, bequests, scholarships and other aids, benefits, or services to students from private agencies, organizations or persons. It also applies to school-sponsored food service programs, the selection of instructional and library media materials, and the methods, practices and materials used for testing, evaluating and counseling students.

This policy does not, however, prohibit the use of special testing or counseling materials or techniques to meet the individual needs of students. Furthermore, this policy does not prohibit separate locker rooms, showers and toilets for males and females, although the School District of New Berlin will maintain comparable separate facilities. Finally, this policy does not prohibit separate programs in interscholastic athletics for males and females, although the School District of New Berlin will provide programs that are comparable in type, scope and District support.

The following person who serves as the Section 504/ADA Coordinator has been designated to handle nondiscrimination questions regarding disabilities:

Director of Student Services
School District of New Berlin
4333 S. Sunnyslope Road
New Berlin, WI 53151
Telephone: 262-789-6200

Definitions:

For purposes of this policy, the following definitions are applied:

Discrimination means any action, policy or practice, including bias, stereotyping and pupil harassment, that is detrimental to a person or group of persons and differentiates or distinguishes among persons, or that limits or denies a person or group of persons opportunities, privileges, roles or rewards based, in whole or in part, on gender, race, color, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability, or any other characteristic identified in paragraph one, above, or that perpetuates the effects of past discrimination.

Harassment refers to repeated physical or verbal conduct with the intent to persecute and which interferes with a student's sense of safety or personal worth by creating an intimidating, hostile or offensive school environment. Harassment or intimidation can include, but is not limited to, physical or mental abuse, racial insults, ethnic slurs, religious slurs, bigotry, and sexual harassment.

Sexual Harassment involves physical or verbal conduct of a sexual nature exerted on another **regardless of form of transmittal**. Indicators of sexual harassment can include, but not limited to, deliberate and repeated unsolicited gestures or comments, and recurring display of offensive sexually graphic material. Included in this policy is the stance that sexual relationships between staff and students, in any form or under any circumstances, in or out of the workplace, is always inappropriate and subject to disciplinary action.

Bullying is defined as a form of coercion in which there is an imbalance of control between the perpetrator and the victim resulting in the dominant person exerting power over the victim for the purposes of personal satisfaction or tangible gain at the sole expense of the victim.

Cyber-bullying is the term used to refer to bullying, harassment, or any other form of coercion by use of digital technologies including but not limited to email, instant messaging, text messages, blogs, mobile phones, social websites, etc.

Hazing is defined as any intentional or reckless act which endangers the physical health or safety of a person (e.g., student), or is meant to induce pain or humiliation, or that results in property damage or theft. Hazing is directed against another person or persons for the purpose of being initiated into, affiliating with, holding office in, or maintaining membership in any organization, class, club, or team sponsored or supported by a school or the District. This definition applies regardless of a victim's willingness to participate.

Applicable Circumstances/Situations:

Any of the above mentioned behaviors are expressly prohibited in the following settings and/or circumstances:

1. During any educational program or activity conducted by or sponsored in whole or in part by the District or individual schools within the District.
2. While using District-provided transportation.
3. Accessed, created, expressed, or communicated using any District-owned computer, digital technology, or system network.
4. Sent or passed on or through any type of non-District-owned technology or personal electronic device while on school grounds, at any school-related or sponsored activity, or on District-provided transportation.
5. Any type of threat indicated to be carried out in a school setting. This includes threats made outside of school hours that communicate intent to be carried out during any school-related or school-sponsored program or activity, or on District-provided transportation.
6. In situations in which violations of this policy originated or occurred off-campus, from a non-school computer or by other means and brought to the attention of school officials, any disciplinary action shall be based on whether the conduct is determined to be severely disruptive of the educational process so that it markedly interrupts or severely impedes the day-to-day operations of a school. In addition, such conduct must also be in violation of a publicized school policy.
7. While the District cannot assume liability for incidents that occur at times or locations not defined above, a student or witness may file a complaint and the District will provide assistance and intervention as deemed appropriate, which may include parent contact and/or referral to law enforcement.
8. School officials are not required to wait for substantial interference with education, the creation of a threatening environment, or the disruption of the operation of the school to occur before intervening when it is reasonably foreseeable that there is a credible threat of creating such interference, threats, or disruption for either the school or individuals within that school.
9. Incidences of violation of this policy that rise to the level of potential criminal action will be referred to law enforcement.

Procedures

1. Any student, staff member, parent, or other qualified person (e.g., witness) who has knowledge or suspicion that a violation of this policy has occurred may file a written complaint. There is to be no retaliation against any person who, in good faith, files a complaint under this policy. Any person under the authority of the District who engages in retaliatory conduct against a complainant will be subject to disciplinary action.
2. This policy applies to all off-site school activities, including, but not limited to, school-sponsored trips and athletic events and at all times on school premises.
3. Reporting of a violation of this policy is to be made to the building administrator most appropriate to the situation and is to include the following:
 - a. Objective description of the conduct in violation of this policy including date(s), place(s) and time(s) of known occurrence.
 - b. Names, so far as known, of the perpetrator(s) and victim(s).
 - c. Circumstances that are relevant to the reported situation
4. A standardized form for reporting incidents is available on the District website.

5. The District will maintain the confidentiality of any report and related pupil records to the extent required by law.

Process of Reporting and Investigation

1. Each school building is to designate one or more persons to receive reports of violation of this policy.
2. Each reporting, investigation, and action taken in response to violations of this policy are to be documented and processed no later than the end of the following school day on the District's electronic information system.
3. A clear account of the incident will be recorded and given to the principal who will, in turn, inform relevant others of the incident and actions taken. This notification will be recorded on the District's electronic information system.
4. Parents will be kept informed with notification sent to parents in a written format (e.g., email).
5. Disciplinary actions will be implemented as appropriate and in consultation with all relevant parties.
6. Records will be maintained on the number and types of reports made and sanctions imposed for incidents found to be in violation of this policy.
7. An annual summary report is to be prepared and presented to the Board of Education, which is to include any trends observed and recommendations on how to further reduce incidents of intimidating and coercive behavior. This annual report will be available to the general public.

Complaint/Appeal Procedure:

If any person submitting a report relative to this policy believes actions taken are insufficient or inappropriate, he or she should follow these procedures:

- Step 1. The District will allow a complainant the opportunity to resolve discrimination, harassment and bullying complaints on an informal basis, if the complainant asks to do so. Upon a complainant's request, the building principal will facilitate a meeting between the complainant and the alleged harasser/discriminator/bully. If the parties resolve the matter, the principal will prepare a written statement outlining the resolution. If the complainant is not satisfied with the outcome of the meeting, the District will formally investigate the complaint. If the complainant alleges bullying, the building principal will contact the parents of each pupil involved.
- Step 2. To begin the formal complaint process, a complainant must submit a written complaint to the building principal. If reporting to this person would not be appropriate under the circumstances, the complainant may submit a complaint directly to the superintendent or designee. All complaints regarding bullying may be made confidentially. The building principal will send the complainant written acknowledgment of the complaint within 5 days after receiving the complaint. Complaint forms are available in the main office of each school and on the District website. Complainants should send complaints to the following as appropriate:

Principal
 Elmwood Elementary School
 5900 S. Sunnyslope Road
 New Berlin, WI 53151
 Telephone: 262-789-6581

Principal
Orchard Lane Elementary School
2015 S. Sunnyslope Road
New Berlin, WI 53151
Telephone: 262-789-6500

Principal
Poplar Creek Elementary School
17401 W. Cleveland Avenue.
New Berlin, WI 53146
Telephone: 262-789-6520

Principal
Ronald Reagan Elementary School
4225 S. Calhoun Road
New Berlin, WI 53151
Telephone: 262-789-6550

Principal
Eisenhower Middle/High School
4333 S. Sunnyslope Road
New Berlin, WI 53151
Telephone: 262-789-6300

Principal
New Berlin West Middle/High School
18695 W. Cleveland Avenue
New Berlin, WI 53146
Telephone: 262-789-6400

Superintendent
School District of New Berlin
4333 S. Sunnyslope Road
Telephone: 262-780-6200

If the complainant alleges bullying, the building principal will contact the parents of all pupils involved.

- Step 3. The District will investigate harassment, discrimination and bullying complaints promptly, thoroughly, and impartially. The building principal will conduct the investigation or appoint an investigative team or independent consultant to do so. The building principal will prepare a written report regarding the investigation, including a description of the District's conclusions and any action taken, within 40 days after the District receives the complaint. The building principal will send a copy of the report to the complainant, the alleged harasser/discriminator, the superintendent, and the School Board.
- Step 4. If either party is not satisfied with the results of the investigation report or the building principal's decision, he or she may appeal the decision to the superintendent or designee. To appeal the decision, a party must submit a written appeal to the superintendent or designee within 10 days after the District sends the investigation report to the parties. The superintendent or designee will hold a private conference with the parties within 30 days after the written appeal is received. In response to the

appeal, the superintendent or designee will send a written decision to the parties, the building principal and the School Board within 10 days after the private conference.

- Step 5. For complaints involving discrimination or harassment, either party may appeal the superintendent's decision to the state superintendent. Parties should send appeals to the following:

State Superintendent
Wisconsin Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, Wisconsin 53707-7841

If any student, staff member or volunteer is aware of a possible violation of this policy, he or she must respond immediately and not ignore the problem. Students, staff members and volunteers should follow the reporting procedures outlined below as soon as possible. It is important that students, staff members and volunteers inform designated administrators about inappropriate conduct as soon as possible, because the District cannot do anything to remedy the problem if the District does not know that the problem exists.

If an employee or volunteer believes that he or she has been harassed or discriminated against, contrary to paragraph two, above, he or she should follow these procedures:

- Step 1. The District will allow complainants the opportunity to resolve discrimination and harassment complaints on an informal basis, if the complainant asks to do so. Upon a complainant's request, the building principal (or if the building principal is the alleged harasser/discriminator, the complainant may contact the superintendent or designee) will facilitate a meeting between the complainant and the alleged harasser/discriminator. If the parties resolve the matter, the building principal will prepare a written statement outlining the resolution. If the complainant is not satisfied with the outcome of the meeting, the District will formally investigate the complaint.
- Step 2. To begin the formal complaint process, the complainant must submit a written complaint to the superintendent or designee. If reporting to this person would not be appropriate under the circumstances, the complainant must submit a complaint directly to an appointed designee. The superintendent or designee will send the complainant written acknowledgment of the complaint within 5 days after receiving the complaint. Complaint forms are available in all guidance counselors' offices, the main office of each school, and in the District Office. Complainants should send complaints to the following address:

Superintendent
School District of New Berlin
4333 S. Sunnyslope Road
New Berlin, WI 53151
Telephone: 262-789-6200

- Step 3. The District will investigate harassment and discrimination complaints promptly, thoroughly, and impartially. The superintendent or designee will conduct the investigation or appoint an investigative team or independent consultant to do so. The superintendent or designee will prepare a written report regarding the investigation,

including a description of the District's conclusions and any action taken, within 45 days after the District receives the complaint. The superintendent or designee will send a copy of the report to the complainant, the alleged harasser, and the School Board.

- Step 4. If either party is not satisfied with the results of the investigation report or the District's decision, he or she may appeal the decision to the School Board. To appeal the decision, a party must submit a written appeal to the Board within 10 days after the District sends the investigation report to the parties. The School Board will hold a private conference with the parties within 30 days after the Board receives the written appeal. In response to the appeal, the Board will send a written decision to the parties and the superintendent or designee within 10 days after the private conference.

At any time, complainants (including students, volunteers, and employees) may also file a complaint with the U.S. Department of Education's Office for Civil Rights at the following address:

U.S. Department of Education
Office for Civil Rights – Chicago Office
500 W. Madison St. Suite 1475
Chicago, IL 60661
Telephone: 312-730-1560

Notification and Oversight:

At least annually, school officials will inform students, parents, staff, and others as appropriate, of this policy.

1. Options for fulfilling this notification requirement would include
 - a. Mailings.
 - b. Listing on District website.
 - c. Publication in student and staff handbooks.
 - d. Notice at public meetings.
 - e. Formal training sessions
 - f. Postings of notices or signs.
 - g. Other methods deemed appropriate by District administration.
2. Building administrators will verify annually that notification of this policy has been made to relevant members of their school communities.

Free Speech Issues:

1. Although students, staff, parents and others associated with the District have First Amendment free speech rights, communications may be regulated by school officials under certain circumstances without violating those rights.
2. Communication that represents a "true threat" is not protected under the First Amendment. The Wisconsin Supreme Court has identified five factors considered when distinguishing a "true threat" from protected speech:
 - a. How the recipient of the threat and other listeners reacted to the threat.
 - b. Whether the threat was conditional.
 - c. Whether the threat was communicated directly to its victim.
 - d. Whether the maker of the threat made similar statements to the victim on previous occasions.

- e. Whether the victim had reason to believe the threat maker had the propensity to engage in violence.

Disciplining of Students Determined to Be in Violation of This Policy:

1. Discipline administered for infractions of this policy will be consistent with other relevant District procedures, in accordance with state and federal laws, and will not discriminate in disciplinary actions on the basis of any protected class of persons.
2. Off-campus conduct may result in disciplinary action if the conduct endangers the property, health or safety of persons under the supervision of school authorities, or of an employee or school board member, or other individual associated with the District.
3. In determining disciplinary action, the following are to be considered:
 - a. Developmental and maturity levels of the parties involved.
 - b. Levels and nature of harm inflicted on the victim.
 - c. Surrounding and/or mitigating circumstances.
 - d. Nature of the behaviors subject to disciplinary action.
 - e. Past incidences or continuing patterns represented by the behavior subject to disciplinary action.
 - f. Relationships between the parties involved and the context in which the alleged violations occurred.
4. State Statutes authorize the Board to establish rules that pertain to the conduct of students to maintain a safe academic environment. Therefore, any form of coercion will be taken seriously and appropriate remedial actions will be enforced. Emphasis of any disciplinary action will be on restitution and Examples of remedial measures include:
 - a. Restoration.
 - b. Meetings involving school staff and/or School Police Liaison Officer.
 - c. Peer support group.
 - d. Corrective instruction or other relevant learning or service experience.
 - e. Behavioral assessment or evaluation, including, but not limited to, a referral to site based assistance/intervention teams or for a special education evaluation.
 - f. Behavioral plan **followed by regular review/monitoring**.
 - g. Student counseling with guidance or other pupil services staff.
 - h. Parent conferencing.
5. Discipline of students with disabilities
 - a. When disciplinary action involves less than ten days of disciplinary removal during the school year, students with disabilities may be disciplined in the same manner as their non-disabled peers.
 - b. If disciplinary action involves more than ten days of removal within the school year, relevant members of the IEP team will be convened to conduct a manifestation determination meeting consistent with state and federal procedures for such action.
 - c. The student's IEP team will be reconvened to determine if any revisions to the students IEP and/or behavior plan are required or, in the absence of a formal behavior plan, if one should be developed.

Bullying Awareness and Instructional Programming:

1. As per State Statute 118.02(9t), school districts are to observe Wednesday of the fourth week in September each year as "Bullying Awareness Day." On or about that day, District schools will provide an instructional program designed to give students knowledge of effective means by

which they may recognize, avoid, prevent, and halt situations of coercion and intimidation harmful to themselves.

2. The District will comply with provisions of the Children's Internet Protection Act including education of students about appropriate on-line behavior.

Adopted: 07/94

Revised: 02/28/11

11/25/13

8/10/15

Legal and Policy References:

Wisconsin Statutes 111.31; 118.01(2)(d)8; 118.02(9t); 118.13; 118.164; 118.195; 118.20;
120.129260120.13(1); 118.46(2); 120.12(26); 120.13(1); 947.0125; 947.013; 947.0125; 948.51(2)
Wisconsin Administrative Code, PI 9.03(1)(B)
Title IX of the Education Amendments of 1972
Title VI of the Civil Rights Act of 1964
Section 504 of the Rehabilitation Act of 1973
Americans with Disabilities Act
Equal Protection Clause of the Fourteenth Amendment
Children's Internet Safety Act

District Policy Cross Reference:

Policy 4108 Sexual Harassment
Policy 4110 Nondiscrimination
Policy 5110 Nondiscrimination
Policy 6155 Acceptable Use of Technology