

Bullying/Harassment in Iowa Schools

Responsibilities of Iowa Schools

- [Iowa Code 280.28\(3\)](#) and [Iowa Administrative Code 281-12.3\(11\)](#) require school districts and accredited nonpublic schools to have policies and procedures against harassment and bullying, complaint forms and investigative procedures in place.
- [House File 604](#) and [Iowa Code 279.65A](#) require school districts to develop and distribute policies for different grade levels that describe how a school district or charter school may discipline a student for making a threat of violence or causing an incident of violence that results in injury or property damage or assault. See [model policies](#) from the Department of Education.
- Check your district's policies for process, forms, and investigative procedures. Are they current within the last 5 years and easily accessible to parent(s)/guardian(s)/legal custodians or others representing them?

Iowa's Bullying/Harassment Law

Harassment and bullying are defined in [Iowa Code 280.28](#) as: Any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

- Places the student in reasonable fear of harm to the student's person or property
- Has a substantially detrimental effect on the student's physical or mental health
- Has the effect of substantially interfering with a student's academic performance
- Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school

There are 17 protected traits or characteristics in the law. "Trait or characteristic of the student" includes but is not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.

As noted in the [Iowa Code 280.28.3](#), the board and the authorities shall make a copy of the policy available to all school employees, volunteers, students and parents/guardians/legal custodians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents/guardians/legal custodians.

Conducting an Investigation

Each district as identified in [Iowa Code 280.3\(f\)](#) is to have:

“a procedure for the prompt investigation of complaints, either identifying the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying” as defined in Iowa code 280.28”

Reminders and Suggestions

- The standard of proof is “preponderance of the evidence.” **A bullying and harassment report is founded if it is more likely than not that bullying and harassment occurred.** Use of a higher or lower standard violates [Iowa Code 280.28](#).
- Notice of a possible bullying/harassment incident may come in varied ways and from various individuals depending on the context of the incident.
- Any individual who believes an individual has experienced bullying/harassment may submit a complaint.
- It is counterproductive to tell students to “just get along” or “ignore them and they’ll stop”.
- If an individual makes a complaint without following district policy, district staff are highly encouraged to communicate with the individual directly and courteously share the district policy, including where to find any required forms.
- A complaint provided using the specified district process should not be ignored or discarded. Submission of a complaint following the district’s policy initiates an investigation that should be done promptly.
- Schools are encouraged to utilize in-person meetings whenever possible as voice messages, emails, and texts are easily misinterpreted.
- Following the investigation, schools are encouraged to provide a [Disposition of Complaint](#) document to the individual who submitted the complaint to formally respond indicating if the complaint was “founded” or “unfounded” and providing the district’s appeal process.
- Schools are required to submit documentation of founded bullying incidents to the Department of Education annually via BEDS
- Schools are encouraged to document and retain submitted bullying/harassment complaints and disbursement documents even if unfounded, as they may later serve as part of an investigation if issues escalate.

Investigation Process

When a Complaint is Received

- Confirm receipt of the Bullying/Harassment complaint to the person who submitted it.
- Reiterate your district’s policy and processes.
- As per [Iowa Code 280.28](#), school officials are required to contact the parent/guardian/legal custodian within 24 hours after the school official receives a report that the student *may* have been the victim of conduct that constitutes harassment or bullying.
- Contact law enforcement if a “dangerous weapon” per [Iowa Code 702.7](#) is or may be involved; however, the investigation required by [Iowa Code 280.28](#) must continue.
- Consider developing a Safety Plan for the complainant with their parent/guardian/legal custodian and the student when developmentally appropriate—[Sample Safety Plan](#). *Caution: consider whether the strategies of the Safety Plan will unduly feel or be perceived by the alleged target of bullying/harassment, that they are being punished for what happened and/or for reporting it.*
- If a designated person (Superintendent or assigned) already has a difficult relationship or conflict of interest, by perception or reality, with a student and/or parent/guardian, consider using someone from outside the building/district as an objective investigator.
- Consider providing parent(s)/guardian(s) with [Parent Guide Family Educational Rights and-Privacy Act FERPA](#)

If any student involved is served by an Individualized Education Plan (IEP) or 504 plan

- Talk with student's special education teacher/advisor, District's Director of Special Education, Coordinator for 504, and/or School Nurse to determine if any needed short- or long-term decisions impact the student's IEP, Health, or 504 plans. If so, initiate a meeting with the appropriate individuals as quickly as possible.
- Review pertinent laws and procedures
 - Review: Guidance on Bullying of Students with Disabilities, U.S. Department of Education's Office of Civil Rights [Dear Colleague Letter, October 2014](#)
 - Under Section 504 and Title II, schools must address bullying and harassment that are based on a student's disability and that interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school.
 - If any bullying or harassing behavior interferes with the ability of a student with a disability to access educational services, the situation, if uncorrected, may constitute a FAPE violation.
 - Contact your School District's attorney if you need assistance with the law
- Review [Bullying and Children and Youth with Disabilities and Special Health Needs](#)

Conducting the Investigation

- Do not bring the alleged perpetrator and target together.
- Complete individual interviews with the complainant, alleged target and perpetrator, and any adult and/or student witnesses in-person, if possible, protecting their anonymity/confidentiality.
- Remind all involved (students, parents/guardians/legal custodians, school staff) of your policy against reprisal, retaliation, or false accusation against a complainant, witness, or an individual who has reliable information about such an act of harassment or bullying.
- Avoid assumptions or hypothesizing to the best of your ability.
- Consider the context of the interaction and identify if there have been prior incidents between those involved.
- Talk with any staff that may have knowledge of current or former issues between the individuals involved in the incident.
- If the reported incident happened in a school location where you have cameras, review the recording remembering that one view may not show the full interaction.
- Review other documentation that may inform the investigation such as attendance, prior incidents, disciplinary actions, as well as provided emails, texts, social networking sites, voice mail, and/or other evidence. Maintain confidentiality and privacy.
- If there are competing eyewitness or participant accounts, carefully consider whether one or more of the eyewitnesses or participants is more credible in light of all of the evidence gathered. It is impermissible to find no bullying and harassment merely because the accounts differ or there were competing versions of events unless all eyewitnesses or participants are equally credible.
- Remember, incidents of bullying/harassment are considered a school incident if they occur during a school-sponsored activity, including on the bus and/or result in an impact to alleged target matching any of the four parts of the definition in [Iowa law](#).

- Remember, the standard of proof is “preponderance of the evidence.” **A bullying and harassment report is founded if it is more likely than not that bullying and harassment occurred.** Use of a higher or lower standard violates [Iowa Code 280.28](#).

Communication during the investigation

- When possible, schools are encouraged to sit down in person with the parent(s)/guardian(s)/legal custodian of each student who may have been involved in the incident.
- Investigations can take some time although a school should move as quickly as possible. Schools are encouraged to have the administration and/or the school counselor stay in direct communication with the student(s), parent(s)/guardian(s)/legal custodian to let them know the investigation is in process and approximate timeframe for a decision.
- If used, review/refine the safety plan ([Sample Safety Plan](#)) as necessary.

Decision on the complaint

- Schools are encouraged to use a [Disposition of Complaint form \(Sample\)](#) that is returned to the complainant and, as appropriate, to other individuals involved.
- Maintain appropriate confidentiality and privacy of all information regarding the complaint.
- Retain documentation on complaint, investigation, and distribution of complaint in a safe and secure location even if unfounded.
- Consider whether a revised Safety Plan is needed even if the complaint is unfounded
- Remind all involved (students, parents/guardians/legal custodians, school staff) of your policy against reprisal, retaliation, or false accusation against a complainant, witness, or an individual who has reliable information about such an act of harassment or bullying.
- Consider how to mend relationships whether the complaint is founded or unfounded

Following the Investigation

- If the incident is founded, parent(s)/guardian(s)/legal custodian may submit a request for Intra-district Transfer as per [Iowa Chapter 17, Division 2, 281—17.12\(279\)](#). It provides that a parent or guardian of a student enrolled in a school district may enroll the student in another attendance center within the same school district that offers classes at the student’s grade level in the manner provided in this section if, as a result of viewing a recording created by a video surveillance system or a report from a school district employee, and consistent with the requirements of the federal [Family Educational Rights and Privacy \(20 U.S.C. § 1232g; 34 CFR Part 99\)](#), and any regulations promulgated pursuant to that Act, the school district determines that any student enrolled in the school district has harassed or bullied the student. [Intra-district Transfer Request Form](#)
- [Iowa Code 280.28](#), [House File 604](#) and/or [Iowa Code 279.65A](#) require school districts to have in their policy:
 - A description of the type of behavior expected from school employees, volunteers, parents/guardians/legal custodians, and students relative to prevention measures, reporting, and investigation of harassment or bullying.
 - The consequences and appropriate remedial action for a person who violates the district’s antiharassment and antibullying policy.
 - Description, for different grade levels, how a school may discipline a student for making a threat of violence or causing an incident of violence that results in injury, property damage and/or assault. See [model policies](#) from the Department of Education.
- If, after an investigation, a student is found to be in violation of the policy, follow the district policy for consequences. The student shall be disciplined by appropriate

measures, which may include suspension and/or expulsion. Also consider what skill(s) the student may need and identify appropriate interventions.

- If the student has an IEP, a 504 plan, and/or a health plan, contact appropriate staff to determine if refinements are needed.
- If, after an investigation, a school employee is found to be in violation of the policy, the employee shall be disciplined by appropriate measures, which may include termination.
- If, after an investigation, a school volunteer is found to be in violation of this policy, the volunteer shall be subject to appropriate measures, which may include exclusion from school grounds.
- A school employee, volunteer, or student, or a student's parent/guardian who promptly, reasonably, and in good faith reports an incident of bullying or harassment, in compliance with the procedures in the policy adopted by the District, to the appropriate school official designated by the school district, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.
- If bullying/harassment is founded, report the incident in the State of Iowa bullying and harassment database.

Please refer to the [Iowa Department of Education's Bullying/Harassment Webpage](#) to share resources with Parents/Families/Legal Custodians and additional resources for schools.