

Hawthorn Academy
Policy: Bullying & Hazing Policy
Amended: October 12, 2022



Purpose

The purpose of this policy is to prohibit bullying, cyber-bullying, hazing, retaliation, and abusive conduct involving Hawthorn Academy (the "School") students and employees. The School's Board of Directors (the "Board") has determined that a safe, civil environment in School is necessary for students to learn and achieve high academic standards and that conduct constituting bullying, cyber-bullying, hazing, retaliation, and abusive conduct disrupts both a student's ability to learn and the School's ability to educate its students in a safe environment.

Policy

Bullying, cyber-bullying, hazing, retaliation, and abusive conduct towards students and employees are against federal, state, and local policy and are not tolerated by the School. The School is committed to providing all students with a safe and civil environment in which all members of the School community are treated with dignity and respect. To that end, the School has in place policies, procedures, and practices that are designed to reduce and eliminate this conduct – including, but not limited to, civil rights violations – as well as processes and procedures to deal with such incidents. Bullying, cyber-bullying, hazing, retaliation, and abusive conduct towards students and/or employees by students and/or employees will not be tolerated in the School. Likewise, abusive conduct by students or parents or guardians against School employees is prohibited by the School and will not be tolerated in the School.

In order to promote a safe, civil learning environment, the School prohibits all forms of bullying of students and School employees (a) on School property, (b) at a School-related or sponsored event, or (c) while the student or School employee is traveling to or from School property or a School-related or sponsored event.

The School prohibits all forms of bullying, cyber-bullying, hazing, abusive conduct of or retaliation against students and School employees at any time and any location.

Students and School employees are prohibited from retaliating against any student, School employee or an investigator for, or witness of, an alleged incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation.

Students and School employees are prohibited from making false allegations of bullying, cyber-bullying, hazing, abusive conduct, or retaliation against a student or School employees.

In addition, School employees, coaches, sponsors and volunteers shall not permit, condone or tolerate any form of hazing, bullying, cyber-bullying, or abusive conduct and shall not plan, direct, encourage, assist, engage or participate in any activity that involves hazing, bullying, cyber-bullying, or abusive conduct.

Any bullying, cyber-bullying, hazing, abusive conduct, or retaliation that is found to be targeted at a federally protected class is further prohibited under federal anti-discrimination laws and is subject to OCR compliance regulations.

Definitions

Abusive Conduct – For purposes of this policy, “abusive conduct” means verbal, nonverbal, or physical conduct of a parent or guardian or student directed toward a School employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress. A single act does not constitute abusive conduct.

Bullying – For purposes of this policy, “bullying” means a School employee or student intentionally committing a written, verbal, or physical act against a School employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

- (1) causing physical or emotional harm to the School employee or student;
- (2) causing damage to the School employee’s or student’s property;
- (3) placing the School employee or student in reasonable fear of:
 - (a) harm to the School employee’s or student’s physical or emotional well-being; or
 - (b) damage to the School employee’s or student’s property;
- (4) creating a hostile, threatening, humiliating, or abusive educational environment due to:
 - (a) the pervasiveness, persistence, or severity of the actions; or
 - (b) a power differential between the bully and the target; or
- (5) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

This conduct constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct. In addition, bullying is commonly understood as aggressive behavior that is intended to cause distress and harm; exists in a relationship in which there is an imbalance of power and strength; and is repeated over time.

Bullying may also include relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.

Civil Rights Violations – For purposes of this policy, “civil rights violations” means bullying, cyber-bullying, harassment, abusive conduct, or hazing that is targeted at a federally protected class.

Cyber-bullying – For purposes of this policy, “cyber-bullying” means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

Federally protected class – For purposes of this policy, “federally protected class” means any group protected from discrimination under federal law, such as:

- (1) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin.

- (2) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex.
- (3) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability.
- (4) Other areas included under these acts which include religion, gender, and sexual orientation.

Hazing – For purposes of this policy, “hazing” means a School employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a School employee or student that:

- (1) (a) endangers the mental or physical health or safety of a School employee or student;
(b) involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
(c) involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a School employee or student; or
(d) involves any activity that would subject a School employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a School employee or student to extreme embarrassment, shame, or humiliation; and
- (2) (a)(i) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a School or School sponsored team, organization, program, club, or event; or
(ii) is directed toward a School employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a School or School sponsored team, organization, program, club, or event in which the individual who commits the act also participates.
- (3) The conduct described above constitutes hazing, regardless of whether the School employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

Retaliate or Retaliation – For purposes of this policy, “retaliate or retaliation” means an act or communication intended:

- (1) as retribution against a person for reporting bullying or hazing; or
- (2) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

School Employee – For purposes of this policy, “School employee” means an individual working in the individual’s official capacity as:

- (1) a School teacher;
- (2) a School staff member;

- (3) a School administrator; or
- (4) an individual:
 - (a) who is employed, directly or indirectly, by the School; and
 - (b) who works on the School's campus(es).

Volunteer – For purposes of this policy, “volunteer” means a non-employee with significant, unsupervised access to students in connection with a School assignment.

Reporting and Investigation

Students who have been subjected to or witnessed bullying, cyber-bullying, hazing, or retaliation, and students who have witnessed abusive conduct, must promptly report such incidents to any School personnel orally or in writing. School personnel who receive reports of such incidents must report them to the Principal.

School employees who have been subjected to or witnessed hazing, bullying, cyber-bullying, abusive conduct, or retaliation must report such incidents to the School's Principal orally or in writing.

Each report of prohibited conduct shall include:

- (1) the name of complaining party;
- (2) the name of victim of prohibited conduct (if different than complaining party);
- (3) the name of perpetrator (if known);
- (4) the date and location of incident(s); and
- (5) a statement describing the incident(s), including names of witnesses (if known).

In connection with a report of prohibited conduct, students and School employees may request that their identity be kept anonymous, and reasonable steps shall be taken by the Principal and others involved in the reporting and investigation to maintain the anonymity of such individuals, if possible. School employees must take strong responsive action to prevent retaliation, including assisting students who are victims of prohibited conduct and his or her parents or guardians in reporting subsequent problems and new incidents.

The Principal or his/her designee shall promptly make a reasonably thorough investigation of all complaints of prohibited conduct, including, to the extent possible, anonymous reports, and shall, in accordance with the Consequences of Prohibited Behavior section below, administer appropriate discipline to all individuals who violate this policy. Formal disciplinary action is prohibited based solely on an anonymous report.

The Principal may report to OCR all acts of bullying, hazing, cyber-bullying, abusive conduct, or retaliation that he/she reasonably determines may be violations of a student's or employee's civil rights.

It is the School's policy, in compliance with state and federal law, that students have a limited expectation of privacy on the School's computer equipment and network system, and routine

monitoring or maintenance may lead to discovery that a user has violated School policy or law. Also, individual targeted searches will be conducted if there is reasonable suspicion that a user has violated policy or law. Personal electronic devices of any student suspected of violation of this policy will be confiscated for investigation and may be turned over to law enforcement.

Parental Notification

The Principal or his/her designee will timely notify a student's parent or guardian (1) if the student threatens to commit suicide or (2) of any incidence of bullying, cyber-bullying, hazing, abusive conduct, or retaliation involving the student (including if the student is involved as the alleged perpetrator or victim). The Principal or his/her designee will attempt to contact the parent or guardian by telephone to provide this notification and to discuss the matter. If the parent or guardian is not available by telephone, the Principal or his/her designee will provide the parent or guardian the required notification by email.

The Principal or his/her designee will produce and maintain a record that verifies that the parent or guardian was notified. If an in-person meeting takes place, the Principal or his/her designee may ask the parent or guardian to sign the record acknowledging that the notification was provided. If a telephone conversation takes place, the Principal or his/her designee may document on the record such details as the date and time of the telephone call, who was spoken to, and brief notes regarding the notification that was provided and the content of the conversation. If an email is sent, the Principal or his/her designee will retain a copy of the email. The School will retain the record as long as the student is enrolled at the School and destroy the record after that time. The School will maintain the confidentiality of the record in accordance with Utah Code § 53G-9-604.

Action Plan to Address Reported Incidents of Bullying, Cyber-Bullying, Hazing, Retaliation, and Abusive Conduct

The School will investigate all allegations of incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct in accordance with this policy and applicable law. The Principal or his/her designee will investigate allegations of these incidents and will have adequate training to conduct such an investigation. The Lead Director will be the point person with training and expertise to assist, direct, and supervise training of other employees in the responsibilities set forth in this paragraph.

The School will investigate all allegations of these incidents by interviewing

- (1) the alleged victim;
- (2) the individual who is alleged to have engaged in the prohibited conduct;
- (3) the parents or guardians of the alleged victim and the individual who is alleged to have engaged in prohibited conduct;
- (4) any witnesses;
- (5) School staff familiar with the alleged victim;
- (6) School staff familiar with the individual who is alleged to have engaged in prohibited conduct; or

(7) Other individuals who may provide additional information.

The individual who investigates an allegation of an incident will inform an individual being interviewed that (1) to the extent allowed by law, the individual is required to keep all details of the interview confidential; and (2) further reports of bullying will become part of the review. However, the confidentiality requirement described in this paragraph does not apply to conversations with law enforcement, requests for information pursuant to a warrant or subpoena, a state or federal reporting requirement, or other reporting required by R277-613.

In conducting this investigation, the School may (1) review disciplinary reports of involved students; and (2) review physical evidence, including video or audio, notes, email, text messages, social media, or graffiti.

The School will report incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct to law enforcement when the administrator reasonably determines that the alleged incident may have violated criminal law.

Following the investigation of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, the School may, if the administrator determines it is appropriate, take positive restorative justice practice action and support involved students through trauma-informed practices. However, an alleged targeted individual is not required to participate in a restorative justice practice with an individual who is alleged to have engaged in prohibited conduct. If the School would like any student to participate in a restorative justice practice, the School will notify the student's parent or guardian of the restorative justice practice and obtain consent from the student's parent or guardian before including the student in the process.

The School shall follow up with the parents or guardians of all parties to:

- (1) inform parents or guardians when an investigation is concluded;
- (2) inform parents or guardians what safety measures will be in place for their child, as determined by the investigation;
- (3) provide additional information about the investigation or the resolution consistent with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g; and
- (4) inform parents or guardians of the School's Parent Grievance Policy if the parents or guardians disagree with the resolution of the investigation.

Consequences of Prohibited Behavior

If, after an investigation, a student is found to be in violation of this policy by participating in or encouraging conduct prohibited by this policy, the student shall be disciplined by appropriate measures up to, and including, suspension and expulsion, pursuant to Utah Code § 53G-8-205 and School policy, removal from participation in School activities, and/or discipline in accordance with regulations of the U.S. Department of Education Office for Civil Rights (OCR).

If, after an investigation, a School employee is found to be in violation of this policy, the employee shall be disciplined by appropriate measures, which may include termination, reassignment or other appropriate action.

School officials have the authority to discipline students for off-campus or online speech that causes or threatens a substantial disruption to School operations, including violent altercations or a significant interference with a student's educational performance and involvement in School activities.

Grievance Process for School Employees

As explained above, a School employee who has experienced abusive conduct must report the incident to the Principal orally or in writing. If the School employee is not satisfied with the Principal's or designee's investigation of the abusive conduct and/or the resulting disciplinary action (or recommended disciplinary action) against the perpetrator, the School employee may address/raise the issue in accordance with the School's Staff Grievance Policy.

Additional Provisions

The Principal and Lead Director will ensure compliance with OCR regulations when civil rights violations are reported, as follows:

- (1) Once the School knows or reasonably should know of possible student-on-student bullying, cyber-bullying, or hazing, the School must take immediate and appropriate action to investigate.
- (2) If it is determined that the bullying, cyber-bullying, or hazing did occur as a result of the student-victim's membership in a protected class, the School shall take prompt and effective steps reasonably calculated to:
 - (a) end the bullying, cyber-bullying, or hazing
 - (b) eliminate any hostile environment, and
 - (c) prevent its recurrence.
- (3) These duties are the School's responsibilities even if the misconduct is also covered by a separate anti-bullying policy and regardless of whether the student makes a complaint, asks the School to take action, or identifies the bullying, cyber-bullying, or hazing as a form of discrimination.

The Principal will take reasonable steps to ensure that any victim of prohibited conduct will be protected from further hazing, bullying, cyber-bullying, abusive conduct, and retaliation and that any student or School employee who reports such incidents will be protected from retaliation.

If the Principal believes that any victim or perpetrator of conduct prohibited by this policy would benefit from counseling, the Principal may refer such individuals for counseling.

If the Principal believes that it would be in the best interests of the individuals involved, the Principal may involve the parents or guardians of a perpetrator or victim of hazing, bullying, cyber-bullying, or retaliation in the process of responding to and resolving conduct prohibited by this policy.

Incidents of bullying, cyber-bullying, hazing, and retaliation will be reported in the School's student information system as required.

Student Assessment

The Principal or his/her designee will solicit student assessments of the prevalence of bullying, cyber-bullying, and hazing in the School, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.

Training

The Principal and Lead Director will ensure that School students, employees, coaches, and volunteers receive training on bullying, cyber-bullying, hazing, retaliation, and abusive conduct from individuals qualified to provide such training. The training shall meet the standards established by the Utah State Board of Education's rules and include information on:

- (1) bullying, cyber-bullying, hazing, abusive conduct, and retaliation;
- (2) discrimination under the following federal laws:
 - (a) Title VI of the Civil Rights Act of 1964;
 - (b) Title IX of the Education Amendments of 1972;
 - (c) Section 504 of the Rehabilitation Act of 1973; and
 - (d) Title II of the Americans with Disabilities Act of 1990;
- (3) how bullying, cyber-bullying, hazing, retaliation, and abusive conduct are different from discrimination and may occur separately from each other or in combination;
- (4) how bullying, cyber-bullying, hazing, retaliation, and abusive conduct are prohibited based upon the students' or employees' actual or perceived characteristics, including race, color, national origin, sex, disability, religion, gender identity, sexual orientation, or other physical or mental attributes or conformance or failure to conform with stereotypes; and
- (5) the right of free speech and how it differs for students, employees, and parents or guardians.

The training will also complement the suicide prevention program required for students under R277-620 and the suicide prevention training required for licensed educators consistent with Section 53G-9-704(1), and also include information on when issues relating to R277-613 may lead to student or employee discipline.

The training shall be offered to:

- (1) new school employees, coaches, and volunteers within the first year of employment or service;
- (2) all School employees, coaches, and volunteers at least once every three years after the initial training; and
- (3) all students (regardless of whether they are involved in athletics or extracurricular activities or clubs) at a frequency determined by the Principal.

In addition to the training requirements described above, any student, employee, or volunteer coach participating in a School sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, shall, prior to participating in the athletic program or activity,

participate in bullying, cyber-bullying, hazing, retaliation, and abusive conduct prevention training. This training shall be offered to new participants on an annual basis and to all participants at least once every three years. The School will inform student athletes and extracurricular club members of prohibited activities under R277-613 and potential consequences for violation of the law and the rule.

The School will maintain training participant lists or signatures and provide them to the Utah State Board of Education upon request.

Distribution of Policy and Signed Acknowledgement

The Principal will inform students, parents or guardians, School employees, and volunteers that hazing, bullying, cyber-bullying, abusive conduct, and retaliation are prohibited by distributing a copy of this policy to such individuals annually. A copy of this policy will also be posted on the School's website and included in any student conduct or employee handbooks issued by the School.

On an annual basis, School employees, students who are at least eight years old, and parents or guardians of students shall sign a statement indicating that they have received this policy.