

## **BOARD AGENDA ITEM**

**September 13, 2011**

### **SUBJECT:**

Amendment to Policy JICFAA *Harassment, Intimidation, or Bullying* – First Reading

### **BACKGROUND:**

In 2006 the South Carolina Legislature required all school districts in the State to adopt a policy on harassment and bullying. The policy was required to meet certain specifications and include certain provisions, and had to be put into effect by January 1, 2007. The Aiken County Public Schools created the present Policy JICFAA, and modeled the policy strictly in accord with the statutory requirements. This policy is also set forth in full as an appendix to the Code of Conduct and is referenced in the suspension level offenses outlined in the Code.

### **ADMINISTRATIVE CONSIDERATION:**

Recently, the United States Fourth Circuit Federal Court of Appeals issued a ruling that a West Virginia school district's disciplining of a student for off-campus online speech did not violate that student's free speech rights under the First Amendment. The student's MySpace page created with a home computer had pulled other students into a process of posting vulgar and rude comments about one particular classmate, and this resulted in a disturbance at the school. The South Carolina School Boards Association has recommended that districts include language stating that off-campus activity may lead to disciplinary action under certain circumstances. We have incorporated the recommended language into our existing policy, and we have cited the case in the legal references.

### **RECOMMENDATION:**

Approve on first reading the recommended amendment to Policy JICFAA

### **ATTACHMENT:**

- 1) Policy JICFAA with proposed additional language

### **PREPARED BY:**

William H. Burkhalter, Jr.

## **Policy JICFAA Harassment, Intimidation or Bullying**

Issued 12/06, Revised 9/11

**Purpose:** To establish the basic structure for promoting the health and welfare of the district's students by maintaining a safe, positive learning environment for students and teaching environment for staff that is free from harassment, intimidation or bullying.

The board prohibits acts of harassment, intimidation or bullying of a student by another student or students, staff or third parties that interferes with or disrupts a student's ability to learn and the school's responsibility to educate its students in a safe and orderly environment whether in a classroom, on school premises, on a school bus or other school-related vehicle, at an official school bus stop, at a school-sponsored activity or event, whether or not it is held on school premises, or at another program or function where the school is responsible for the student.

For purposes of this policy, harassment, intimidation or bullying is defined as a gesture, electronic communication or a written, verbal, physical or sexual act reasonably perceived to have the effect of either of the following.

- harming a student physically or emotionally or damaging a student's property, or placing a student in reasonable fear of personal harm or property damage
- insulting or demeaning a student or group of students in such a manner as to cause substantial disruption in, or substantial interference with, the orderly operation of the school

Any student who feels he/she has been subjected to harassment, intimidation or bullying is encouraged to file a complaint with the principal or his/her designee in accordance with procedures established by the superintendent. Complaints will be investigated promptly, thoroughly and confidentially. All school employees are required to report alleged violations of this policy to the principal or his/her designee. Reports by students or employees may be made anonymously, but formal disciplinary action must not be taken solely on the basis of an anonymous report.

The district prohibits retaliation or reprisal in any form against a student or employee who has filed a complaint or report of harassment, intimidation or bullying. The district also prohibits any person from falsely accusing another as a means of harassment, intimidation or bullying, and any student or staff member knowingly violating this prohibition will be subject to disciplinary action as described in this policy.

The board expects students to conduct themselves in an orderly, courteous, dignified and respectful manner. Students and employees have a responsibility to know and respect the policies, rules and regulations of the school and district. Any student or employee who is found to have engaged in the prohibited actions as outlined in this policy will be subject to disciplinary action, up to and including expulsion in the case of a student. Individuals may also be referred to law enforcement officials. The district will take all other appropriate measures reasonably calculated to correct or rectify the situation. (Employees engaged in harassment, intimidation or bullying may be disciplined or recommended for termination, as provided elsewhere in district policy, for unprofessional or unlawful conduct.)

Students, parents/legal guardians, teachers and staff members should be aware that the district may take disciplinary actions for conduct initiated and/or created off-campus involving the inappropriate use of the Internet or web-based resources if such conduct poses a threat or substantially interferes with or disrupts the environment, work and/or discipline of the schools, including discipline for student harassment and bullying.

The superintendent will be responsible for ensuring notice of this policy is provided to students, staff, parents/legal guardians, volunteers and members of the community including its applicability to all areas of the school environment as outlined in this policy.

The superintendent will also ensure that an age-appropriate process is established for discussing the district policy with students, as with other aspects of the code of conduct currently utilized during the beginning of each school year.

The superintendent will ensure that information regarding this policy is incorporated into the school district's training program and that volunteers who have frequent contact with students are likewise informed of the policy.

Information concerning this policy, upon adoption, will be included in the district's code of student conduct for the next year and will be circulated to all administrators. Immediate information will be provided to students by building administrators and to parent groups through reasonable communication methods currently utilized by the various schools.

Cf. GBEB, JIC, JICDA

Adopted 12/12/06 Revised 9/11

Legal references:

S.C. Code, 1976, as amended:

Section 16-3-510 - Organizations and entities revised.

Section 59-19-90 - General powers and duties of school trustees.

Sections 59-63-210 through 270 - Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission; notices and parent conferences; expulsion for remainder of year and hearings; transfer of pupils; corporal punishment; regulation or prohibition of clubs or like activities.

Section 59-63-275 - Student hazing prohibited.

Section 59-67-240 - Other duties of bus driver; discipline of students for misconduct.

Section 59-63-110, et. seq. - Safe School Climate Act.

State Board of Education Regulations:

R-3-279 - Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

Court Cases

Kowalski v. Berkeley County Schools, [10-1098 (4<sup>th</sup> Cir. 7-27-2011)]