

Cache County School District

Policy Series: 3000

Policy No. 3300 P2

General Investigation Procedure for School Administrators

School administrators have the authority and duty to promptly and reasonably investigate allegations of code of conduct infractions and to question students pertaining to infractions whether or not the alleged conduct is a violation of criminal law.

The purpose of the investigation is to place the school administrator in a position to:

1. Take prompt and effective steps reasonably calculated to end the bullying/harassment;
2. Eliminate any hostile environment and its effects;
3. Prevent the bullying/harassment from recurring.

Each reported allegation will be promptly investigated by a school administrator or an individual designated by a school administrator. A report of code of conduct infractions may be made anonymously, but school administrators will not take formal disciplinary action based solely on an anonymous report. Each reported complaint should include:

1. the name of complainant;
2. the name of respondent (if known);
3. the date and location of incident(s); and
4. a statement describing the incident(s), including names of witnesses (if known).

School administrators shall conduct investigations according to the following general guidelines:

1. Administrators shall conduct investigations in a way that does not unduly interfere with school activities.
2. When questioning students as part of an investigation, school staff should have another adult present whenever possible.
3. Administrators are required to investigate allegations of incidents described above by interviewing at least the alleged victim and the individual who is alleged to have engaged in prohibited conduct.
4. Administrators may also interview the following individuals as part of an investigation:
 - a. parents of the alleged victim and the individual who is alleged to have engaged in prohibited conduct;
 - b. any witnesses;
 - c. school staff; and
 - d. other individuals who may provide additional information.
5. Administrators shall separate witnesses and offenders in an attempt to keep witnesses from corroborating their statements and have all parties provide separate statements concerning the incident under investigation. Administrators shall accommodate students with disabilities and young children unable to provide their own statements through use of tape recorders, scribes, etc.

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6. Administrators shall advise students suspected of wrongdoing orally or in writing of the nature of the alleged offense. Students must be provided an opportunity to give their version of the incident under investigation, however, refusals to respond or provide information should be respected.
7. All students involved in the investigation shall be instructed that retaliation is prohibited. Any act of reprisal against any person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing is strictly prohibited and subject to disciplinary action.
8. An individual who investigates an allegation of an incident shall inform an individual being interviewed that to the extent allowed by law, the individual is required to keep all details of the interview confidential; and that further reports may become part of the investigation. This confidentiality requirement does not apply to conversations with law enforcement professionals, requests for information pursuant to a warrant or subpoena, or state or federal reporting requirements.
9. In conducting an investigation, a school administrator may review disciplinary reports of involved students, and review relevant physical or digital evidence, consistent with search and seizure law in schools, which may include:
 - a. email
 - b. graffiti
 - c. notes
 - d. social media
 - e. text messages
 - f. video or audio
10. Administrators may implement interim measures during the investigation if they have reason to believe the complainant is in danger of continued bullying/harassment during the course of the investigation. Offending students may be suspended out of school pending investigation if their presence on campus could hinder the investigation or cause a safety concern.

When the investigation is completed and if it is determined that disciplinary action may be in order, the following due process requirements must be met. Specifically, the student must be provided:

1. notice of the allegations against him/her;
2. a fair opportunity to present their version of the facts; and
3. notice of any disciplinary action being recommended.

If the administrator determines that bullying/harassment has occurred, appropriate disciplinary action will be taken against the person engaged in bullying/harassment. As with bullying that is also a civil rights violation, administrators shall take prompt action to end the discriminatory and address its effect. This may include, but is not limited to:

1. separating the student who was the target of bullying/harassment from the person who engaged in bullying/harassment;
2. provide training individually to the student(s) engaged in bullying/harassment, or to an entire class or an entire school on the effects of bullying/harassment;

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3. provide counseling, a safety plan, or other wrap-around supports for the target of the bullying/harassment;
4. provide training for staff on recognizing and addressing bullying/harassment throughout the school;
5. restorative justice practices, where appropriate and with the consent of the Complainant's parent.

Additional Considerations Concerning Off-Campus Incidents

Cache Board policy does not prohibit off-campus expressive activity protected by the First Amendment of the United States Constitution. However, if off-campus speech that may constitute bullying, cyberbullying, hazing, discriminatory harassment incident creates a substantial disruption to the school environment or infringes on the rights of others, under *Tinker v. Des Moines*, 393 U.S. 503 (1969), Cache County School District may take disciplinary action against the student who initiated the speech. Factors that the District may consider in determining whether a substantial disruption has occurred are:

1. whether there is a verbal or physical confrontation over the incident at school;
2. whether there is likely to be a verbal or physical confrontation based on evidence of a prior relationship between the victim and the student who initiated the speech;
3. whether any part of the speech that gave rise to the incident was repeated at school;
4. whether students are discussing the incident during class or if it otherwise is disrupting school work;
5. whether there is a widespread whispering campaign or rumor sparked by the off-campus incident that disrupts the school environment and students' abilities to focus on school;
6. whether administrators who dealt with the incident were pulled from their ordinary tasks to address the incident and how much time it took out of an administrator's day to do so;
7. whether speech similar to the off-campus speech in this incident has occurred in the past and has resulted in violence or near violence at school;
8. whether there is a negative effect on classroom activities as a result of the off-campus incident; or
9. whether the speech was violent or whether there is a history of violence from the student/s who initiated the speech. (Note: true threats are not protected by the First Amendment if it advocates "imminent" violence or unlawful conduct. Thus, a message that threatens physical harm, even if it isn't meant to be serious, may not be protected by the First Amendment and the person who utters such a message may be disciplined by the District.)

Suggested Interview Questions for Administrators

The Basics:

What happened?

Where did it happen?

When did it happen?

Who did it?

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The Context:

Has it happened before?

How often?

Who else was present?

Do you know of others who may have been affected by the incident or behavior?

Who else may have seen or heard the incident or behavior?

The Reaction:

How did you react?

How did any others present react?

Did you ever indicate that you were upset or offended by the incident or behavior?

Have you discussed the incident or behavior with anyone?

Has anyone else reported this?

The Impact:

How has the incident or behavior affected you?

How has the incident or behavior affected your job? (for employees) Have you sought medical treatment or counseling because of the incident?

Additional Questions:

Do you have any evidence or documentation about the incident or behavior?

Is there anyone else who might have relevant information?

Is there any other relevant information that I haven't asked you about?

Reference: Case IQ

Restorative Questions

Questions for those who have been harmed:

What did you think when you realized what had happened?

What impact has this incident had on you and others?

What has been the hardest thing for you?

What do you think needs to happen to make things right?

Questions for those who have created harm:

What happened?

What were you thinking of at the time?

What have you thought about since?

Who has been affected by what you have done, and how were they affected? What impact has this had on you and others?

What do you think you need to do to make things right?



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Reference: International Institute for Restorative Practices

Legal References:

Synopsis:

Approved by District Administration: