

Protecting Students, Protecting Yourself

ISCA/IACAC Conference
Des Moines; November 10, 2009

Carol Greta, Attorney
Iowa Department of Education¹
515/281-8661; carol.greta@iowa.gov

Note: The materials in this document are not legal advice, but have been prepared as general guidelines. *Permission to reproduce and distribute for non-profit, educational purposes is granted.*

INTRODUCTION

As a school counselor, you want to do your best to protect your students. You wouldn't be an educator were that not true. There are several laws that help you do that. But you also need to know how to implement those laws in a way that protects yourself. This document will address how to do both.

Keep in mind that anyone with \$100 (the current filing fee for a civil action in an Iowa district court) in his/her pocket can sue anyone else. No one can keep you from being sued; the trick is to keep from being sued *successfully*.

IF YOU DO GET SUED...

(Iowa Code Chapter 670)

Iowa law provides three protections for public employees who are acting without malice and within the scope of their employment or duties:

1. Legal representation (this does not mean, however, that the employee gets to choose his/her own attorney)
2. Payment of any settlement/verdict
3. Protection from disciplinary action by the employer (school district)

¹ It is the policy of the Iowa Department of Education not to discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, gender, disability, religion, age, political party affiliation, or actual or potential parental, family or marital status.

The intent of the law is to protect public employees who commit mere negligence while fulfilling their lawful duties. The flip side of this is that a public employee who acts against the best interests of his/her employer by disregarding the law or motivated by ill will has none of the above protections.

STUDENT SEARCH/SEIZURE

(Iowa Code Chapter 808A)

The recent U.S. Supreme Court case on a strip search of a Phoenix middle school female student² is interesting, but more relevant to Iowa educators is our state law, Iowa Code Chapter 808A – Student Search and Seizure Law.

808A.1 Definitions.

"Protected student area" includes, but is not limited to:

- a. A student's body.
- b. Clothing worn or carried by a student.
- c. A student's pocketbook, briefcase, duffel bag, bookbag, backpack, knapsack, or any other container used by a student for holding or carrying personal belongings of any kind and in the possession or immediate proximity of the student.

"School official" means a licensed school employee, and includes unlicensed school employees employed for security or supervision purposes.

"Student search rule", to be valid, shall require that all searches of students or protected student areas be reasonably related in scope to the circumstances which gave rise to the need for the search and based upon consideration of relevant factors which include, but are not limited to, the following:

- a. The nature of the violation for which the search is being instituted.
- b. The age or ages and gender of the students who may be searched pursuant to the rule.
- c. The objectives to be accomplished by the search.

808A.2 Searches of students, protected student areas, lockers, desks, and other facilities or spaces.

1. A school official may search individual students and individual protected student areas if both of the following apply:
 - a. The official has reasonable grounds for suspecting that the search will produce evidence that a student has violated or is violating either the law or a school rule or regulation.

² In *Safford Unified Sch. Dist. #1 v. Redding*, the Supreme Court ruled this summer that in Arizona, a state with no state law such as Iowa Code chapter 808A, a strip search of a student by a school official was unconstitutional because it was an unreasonable search and seizure. The case involved requiring a female middle school student to pull the waistband of her underpants away from her body. *Because there was no state law in Arizona*, the Supreme Court ruled that the school official who violated the student's rights had immunity from civil and criminal prosecution. The first part of that sentence is crucial.

b. The search is conducted in a manner which is reasonably related to the objectives of the search and which is not excessively intrusive in light of the age and gender of the student and the nature of the infraction.

2. School officials may conduct periodic inspections of all, or a randomly selected number of, school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student. **The furnishing of a school locker, desk, or other facility or space owned by the school and provided as a courtesy to a student shall not create a protected student area, and shall not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space.**³ Allowing students to use a separate lock on a locker, desk, or other facility or space owned by the school and provided to the student shall also not give rise to an expectation of privacy on a student's part with respect to that locker, desk, facility, or space. However, each year when school begins, the school district shall provide written notice to all students and the students' parents, guardians, or legal custodians, that school officials may conduct periodic inspections of school lockers, desks, and other facilities or spaces owned by the school and provided as a courtesy to a student without prior notice. An inspection under this subsection shall either occur in the presence of the students whose lockers are being inspected or the inspection shall be conducted in the presence of at least one other person.

3. Under no circumstances may a search be made which is unreasonable in light of the following:

- a. The age of the student.
- b. The nonseriousness of the violation.
- c. The sex of the student.
- d. The nature of the suspected violation.

4. A school official shall not conduct a search which involves:

- a. A strip search.
- b. A body cavity search.
- c. The use of a drug sniffing animal to search a student's body.
- d. The search of a student by a school official not of the same sex as the student.

5. If a student is not or will not be present at the time a search of a protected student area is conducted pursuant to subsection 1, the student shall be informed of the search either prior to or as soon as is reasonably practicable after the search is conducted.

808A.4 Exclusion of evidence.

Material or evidence obtained directly or indirectly as a result of a search conducted in violation of this chapter is inadmissible in a criminal proceeding against a student.

³ In *State v. Jones*, 666 N.W.2d 142 (Iowa 2003), the Iowa Supreme Court ruled that students DO have a reasonable expectation of privacy with respect to their lockers. Schools cannot rely on 808A regarding random, suspicionless locker searches, but must give students notice before conducting "locker clean-outs."

Drug Testing of Students

A breathalyzer or any other form of a drug test of a student is a search and seizure, and is governed by Iowa Code chapter 808A.

A school official may NOT conduct random, suspicionless drug tests of students; not as a condition of getting into a ballgame, not as a condition of attending a school dance, not for any reason other than the school official has a reasonable suspicion that the student is under the influence of drugs or alcohol.

LIABILITY NOTE

Because Chapter 808A is clear and because in particular the issue about random, suspicionless breathalyzers has been a point of emphasis by the attorneys for the DE, IASB, and SAI for many years, the school official who ignores this particular “nag” does so at his/her personal peril.

SEX OFFENDER REGISTRY UPDATE

(Iowa Code Chapter 692A)

The 2009 Iowa Legislature adopted new laws related to Iowa’s Sex Offender Registry (SOR). Prior to the changes, there was no law prohibiting a convicted sex offender (“registrant”) from being on school property.

The items relevant to school officials are as follows:

1. *Students.* There was no change to the law (IOWA CODE section 282.9) that requires boards of school districts to determine the educational placement of a resident student who is required to be on the SOR. But placement on the SOR is no longer a “given” when a student is convicted or adjudicated of a sex crime. (See pages 6-7 for more information.)
2. *Residency.* An registrant convicted of an aggravated offense against a minor is still prohibited from residing within 2,000 feet of a school, but the law has been clarified that this does not apply to the following:
 - a. Registrants who are minors.
 - b. Registrants who had established a residence before July 1, 2002.
 - c. Registrants who established a residence before a new school was built near that residence (i.e., registrants do not have to move if a school builds by them).
3. *Non-students.* Registrants whose conviction involved a sex offense against a minor⁴ are now prohibited from the following:

⁴ Principals cannot deny access to registrants who have not committed a sexual offense against a minor so will need to determine the type of offense. The following link to the Sex Offender Registry details the offenses of registrants and whether their crime was or was not a sexual offense against a minor; <http://www.iowasexoffender.com/>.

- a. Being present on school property or being in any school vehicle when the vehicle is transporting students, unless enrolled as a student at the school, without the consent of the principal or designee (hereinafter “principal.”) The law does not address criteria for granting such written permission. The law does not address how narrow or how broad such permission may be. See below for more guidance on this provision.
- b. Loitering⁵ within 300 feet of the school’s boundary, unless enrolled as a student at the school.
- c. Being employed by, a volunteer at, or acting as a contractor at a school (public and nonpublic).

There is no provision in the law for making an exception via written consent for “b” or “c.” A vendor or contractor of the school is absolutely prohibited from having a registrant on school property. There is no exception for contractors doing work only when students are not present (such as summertime). There is no exception for contractors doing work on a building not populated by students (such as the bus barn or a new attendance center).

4. *Exceptions.* A registrant *may* do the following:
 - a. Be on school property for the purpose of voting for the time reasonably necessary to vote;
 - b. Transport a child or ward of the registrant to and from school for the time reasonably necessary for this task.
5. *Additional restrictions.* A school board is prohibited from passing a resolution or policy that would impose any additional restrictions. So, even though registrants convicted of a sexual offense against a minor are prohibited from being on school grounds, a board could not adopt a policy prohibiting all registrants from being on school grounds.
6. *Resources.* The information on the Sex Offender Registry Web site is a public record so it can be discussed and disseminated as needed.
 - a. The link to the SOR is: <http://www.iowasexoffender.com/>. This is the Web site available to the public. This link may be placed on a school or school district’s Web site.
 - b. Questions should be referred to local law enforcement or the Iowa Division of Criminal Investigation at 515-725-6050 or at dps-sorinfo@dps.state.ia.us.
 - c. The full bill is available at: <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=billbook&GA=83&hbill=SF340>

⁵ “Loiter” is defined in the law as “remaining in a place or circulating around a place under circumstances that would warrant a reasonable person to believe that the purpose or effect of the behavior is to enable a sex offender to become familiar with a location where a potential victim may be found, or to satisfy an unlawful sexual desire, or to locate, lure, or harass a potential victim.”

Criteria for Granting or Denying Consent

Criteria: Principals have full discretion to determine whether to grant permission for a registrant to be on school grounds. Principals should use their common sense, knowledge of their community, and information from law enforcement, regarding the underlying offense, to make these decisions. Some issues to consider:

- The target – is he or she a student and likely to be at the event?
- Relatives of the target – are relatives of the target likely to be at the event?
- The crime itself – how recent is it?
- Is the event a special occasion such a graduation, honors banquet, etc.?
- Does local law enforcement have an opinion on whether the principal should grant approval?
- If request is from a non-resident, does the principal of the school where the registrant's child lives have an opinion? How does that school administrator treat requests from the registrant to attend events?
- District's ability to control the environment in which the registrant will be present (e.g., will the district have enough staff present to supervise the registrant?)?
- What staff members need to know about the registrant's presence on school grounds and their duties while the registrant is on school grounds?
- Does staff know what to do if they have concerns when a registrant acts inappropriately?
- Recognition that the child of the registrant will be present and to remember that when dealing publicly with the registrant.

The above is not an exhaustive list; principals may include any reasonable terms and conditions.

Frequency, conditions: Principals must individually tailor each written permission to fit the registrant seeking permission. There is no "one size fits all" permission form. Thus, an principal may require a registrant to seek permission for each and every occasion OR may give permission limited to "all home athletic events" or "all music concerts at Home High School" and require the registrant to seek separate permission for any other occasion OR may give a blanket permission to cover all occasions. The last option should be used very sparingly, if at all. Also, remember to include in the permission such items as the following:

- (1) Have the registrant check in with a designated person at each event;
- (2) Give the registrant parameters regarding time (arrive no sooner than x minutes prior to start of event and leave no later than x minutes after event ends, for example);
- (3) Prohibit the registrant from using school restrooms;
- (4) Prohibit the registrant from being anywhere else on school property other than where the registrant should be for the event or occasion;

The above is not an exhaustive list; school principals may include any reasonable terms and conditions.

At the end of this document (Appendix A) is a form principals can use when asked to grant consent.

Students on the SOR

County sheriffs are still to inform school officials when a student or other person residing in the district is to register, but not all minors are now required to register. Only after a school district has been informed that a student is required to register as a sex offender

does the local board of directors determine the educational placement of the student. (The district cannot refuse to enroll a resident student, but may determine that the student's educational placement be other than with the general student population.)

There is still no requirement (nor is there a prohibition) for a school district to disseminate the information available on the Sex Offender Registry Web site to parents and staff.

LIABILITY NOTE

Nothing in the law about sex offenders imposes any duty on school officials. No duty = no liability, absent a school creating a legal duty where one does not exist in statute.

CHILD ABUSE REPORTING

(Iowa Code Section 232.68)

There are 9 categories of child abuse defined in Iowa Code section 232.68. They are physical abuse, mental injury, sexual abuse, denial of critical care ('neglect'), offer the child as a prostitute, presence of illegal drugs in a child's body, manufacturing or possessing a dangerous substance in the presence of a child, bestiality in the presence of a child, and allowing a registrant on the SOR to supervise a child.

The last one is new. It is child abuse if a caretaker knowingly allows unsupervised access to a child by a registered sex offender or allows a registered sex offender to have custody or control of a child up to age 14 or a child up to age 18 if the child has a mental or physical disability. There is an exception for a registrant who is the caretaker's spouse. The DHS online pamphlet about this also states that there is an exception if the registered sex offender is a minor child.

Example: Susie's mother lives with a guy ("Joe") who is a sex offender. Susie's mom is not married to Joe. If Susie's mom leaves Susie in Joe's care with no supervision, this is reportable child abuse.

LIABILITY NOTE

A mandatory reporter who knowingly and willfully fails to make a required report of suspected child abuse faces the following:

- Conviction of a simple misdemeanor.
- Civil liability for any damages proximately caused by such failure.
- Sanctions from the Board of Educational Examiners.

If you have a founded child abuse report against you, you MUST report this to the Board of Educational Examiners.

You are granted immunity from any liability, civil or criminal, by making a report of suspected child abuse when the report is made in good faith.

ALLEGED ABUSE BY SCHOOL STAFF

(281—Iowa Administrative Code Chapter 102)

Because suspected abuse of minors by school employees is not reportable to DHS, there is a separate procedure to be used when any school employee is suspected of either having physically or sexually abused a student.

To constitute a violation of Chapter 102, acts of the school employee must be alleged to have occurred on school grounds, on school time, on a school-sponsored activity, or in a school-related context. To be investigable, the written report – which can be filed by anyone with knowledge of the incident – must include basic information showing that the victim of the alleged abuse is or was a student at the time of the incident, that the alleged act of the school employee resulted in injury or otherwise meets the definition of abuse in these rules, and that the person responsible for the act is currently a school employee.

There are exceptions to physical abuse, the primary ones allowing use of reasonable and necessary force, not designed or intended to cause pain:

- (1) To quell a disturbance or prevent an act that threatens physical harm to any person.
- (2) To obtain possession of a weapon or other dangerous object within a pupil's control.
- (3) For the purposes of self-defense or defense of others.
- (4) For the protection of property.
- (5) To remove a disruptive pupil from class, or any area of school premises or from school-sponsored activities off school premises.
- (6) To prevent a student from the self-infliction of harm.
- (7) To protect the safety of others.

LIABILITY NOTE

Although the Level One investigator has no special immunity under Chapter 102, the investigator is protected by Iowa Code chapter 670.

An employee against whom there is a founded 102 complaint faces the full gamut of employment consequences and/or adverse action taken by the Iowa Board of Educational Examiners.

SEXUAL EXPLOITATION BY SCHOOL STAFF

(Iowa Code Section 709.15)

As of July 1, 2002, consensual sexual relationships between students and teachers or coaches or any licensee of the Board of Educational Examiners (BoEE) *do not exist*. It is a sex crime for a person who is licensed by the BoEE to engage in any “sexual conduct” with a student.

Definitions in the criminal code to note:

“Student” includes adult students and those within 30 days of graduation/transfer.

“Sexual conduct” includes kissing, “petting,” and all the way up to “all the way.”

“School employee” includes volunteers if the volunteer has a license from the BoEE.

Also note that the law does not make an exception for an employee of School A having a sexual relationship with a student of School B. Nor is there an exception for a pre-existing relationship that started when both parties were students if one is now a BoEE licensee (such as a kid in college who serves as a volunteer coach for a school).

A report to the BoEE from the superintendent is required when the licensee’s contract is either not renewed or is terminated or the licensee is allowed to resign because of “an incident or allegation of misconduct that, if proven, would constitute a violation of the [sexual exploitation] when the board or reporting official has a good faith belief that the incident occurred or the allegation is true.”

LIABILITY NOTE

A school employee who commits sexual exploitation once commits an aggravated misdemeanor. A school employee who engages in a pattern of sexual exploitation commits a class “D” felony.

A school employee convicted of sexual exploitation shall lose his/her license from the BoEE and shall register as a convicted sex offender.

It is also a violation of BoEE rules for a superintendent to fail to report to the BoEE the nonrenewal or termination of a person's contract, or the resignation of a person as a result of or following an incident or allegation of sexual exploitation when the superintendent has a good faith belief that the incident occurred or the allegation is true.

SCHOOL ANTI-BULLYING/ ANTI-HARASSMENT LAW

(Iowa Code Section 280.28)

The school anti-bullying/anti-harassment⁶ legislation enacted in 2007 requires every school district and accredited nonpublic school in Iowa to have a policy that states that they will not tolerate bullying and harassment. You all know that bullying and harassment still exist. The policies mean little; how a school implements the policies means everything.

So what's an educator to do? As with any form of misconduct in which other students are harmed, **the worst thing to do is nothing.**

PUNISHING THE PERPETRATOR

ACADEMIC PUNISHMENT. There must be a close connection – a *nexus* – to school for school officials to be able to suspend perpetrators from class. Examples from caselaw:

EXTRACURRICULAR PUNISHMENT. Most schools have a “good conduct” policy by which they may govern out-of-school conduct of students who participate in extracurricular activities. A bully may be punished under a good conduct policy by being suspended from extracurricular activities, including being banned from school dances, prom, being a member of student council, or being elected to class office, as well as suspended from interscholastic activities. This is true even if any or all of the following are true:

- The school cannot suspend the cyberbully from class because there is an insufficient nexus to school
- Law enforcement does not or cannot prosecute the student or defers prosecution or punishment of the student
- The student is found not guilty of criminal wrongdoing

The standard of proof needed to punish a student under a good conduct policy is NOT the criminal standard of “beyond a reasonable doubt.” In some states, such as Iowa, the standard is not even a preponderance of the evidence. In Iowa, the standard is that there must be “some evidence” of wrongdoing – a very low standard that reflects the law in Iowa that students have no right to participate in extracurricular activities.

PROTECTING THE TARGET

Just as – if not more – important than punishing the perpetrator is taking appropriate steps designated to protect the target. Here are some steps school officials should consider that are directly related to protection of targeted students:

- Notify the perpetrator and perpetrator's parents of the allegation

⁶ Iowa law treats bullying and harassment synonymously. Where one term is used in this document, both are included.

- Just because you may not have a sufficient nexus to discipline the perpetrator doesn't mean that you ignore him/her. Call that student and parents into your office for a heart-to-heart.
- Keep an extra eye on the perpetrator...and let the perpetrator and his/her family know that you will be doing so.
- Give target's family option of notifying law enforcement
 - In Iowa, the crimes of harassment and terrorism can be committed by electronic means. So just because a school may not be able to take action, law enforcement should be contacted if the family is willing to cooperate.
 - If the misconduct involves a viable threat, notify law enforcement directly and inform the families of both students that you have done so.
 - Of course, the school must fully cooperate with law enforcement.
 - NOTE: If the targeted student's family is reluctant to have law enforcement involved, be firm with the family that you are going to do so under these circumstances:
 - The misconduct involves a viable and serious threat,
 - Criminal conduct has occurred on school property
 - Criminal conduct has occurred involving the use of school property (such as a computer)
 - If you are unsure whether conduct is a crime, call law enforcement to as a hypothetical question
- Do not discourage target's family from exploring civil actions (defamation, invasion of privacy, intentional infliction of emotional distress)
- Gather evidence and investigate
 - Confiscate the electronic device(s) in question for as long as you need to investigate
 - Learn how to do this or find an expert
 - See information about school policy in next section
 - Document, document, document
 - Keep target and target's family posted as to progress made during investigation, but remember not to tell them what discipline is ultimately imposed against the perpetrator.
- Check with the target often to make sure s/he is not suffering any retaliation from the initial perpetrator or friends of the perpetrator
- Make sure staff knows the lines of communication. Staff should be *required* to report harassment
- Make sure students know how to report incidents.

- Offer counseling/mental health support to the target

This law is covered in depth in several documents online at:

http://www.iowa.gov/educate/index.php?searchword=bullying&ordering=&searchphrase=all&Itemid=1&option=com_search.

Appendices B, C, and D at the end of this document are investigation procedures, a sample complaint form, and notes to the interviewer.

LIABILITY NOTE

Knowing about harassment and doing nothing is “deliberate indifference,” and ensures that you will be sued, and the lawsuit will probably be successful.

There is no requirement to eradicate harassment; the only requirement is to take steps that are reasonably calculated to alleviate or prevent harassment.

CONFIDENTIALITY

(Iowa Code Section 622.10(6))

Section 622.10(6) states, “A qualified school guidance counselor ... who obtains information by reason of the counselor’s employment as a qualified school guidance counselor shall not be allowed, **in giving testimony**, to disclose any confidential communications properly entrusted to the counselor by a pupil or the pupil’s parent or guardian in the counselor’s capacity as a qualified school guidance counselor and necessary and proper to enable the counselor to perform the counselor’s duties as a qualified school guidance counselor.” [Emphasis added.]

Things to know:

- 622.10(6) only applies to testimony
 - in court
 - in a deposition
- A counselor cannot waive the privilege; the privilege belongs to the student or student’s parent
- If ordered by a judge to talk, consider the privilege waived
- There is no “privilege” outside of the realm of testifying. **The counselor’s code of ethics and common sense prevail.**
 - Incredibly, even though the issue often presents itself, as of yet no court has answered the question whether a counselor is excused from reporting a student’s pregnancy to her parent/guardian. Two federal courts (one in the East and one in the South) have made “side comments” called *dicta* on the subject; *dicta* is not the same as a ruling and is not binding. The 11th Circuit Court of Appeals (South) stated that it is a matter of “common sense” for counselors to notify parents when the

counselors know that counselees are pregnant, and the 3rd Circuit (East) was clearly offended that parents were potentially faced with interference in their right to rear their child as they saw fit when a counselor “hid behind the counselor’s code of ethics”. Neither court went so far as to rule that it was a duty of a counselor. [*Arnold v. Board of Education*, 880 F.2d 305 (11th Cir. 1989); *Gruenke v. Seip*, 225 F.3d 290 (3rd Cir. 2000).]

If you receive a subpoena, PLEASE let your school’s attorney know.

LIABILITY NOTE

If a school counselor violates section 622.10, the counselor will very likely have no chapter 670 protections. The more likely scenario will involve being sued for disclosure (or non-disclosure) of nontestimonial information. Liability is then determined on a case-by-case basis as explained under “Miscellaneous” below.

- Could the death have been foreseen and prevented by school authorities?
- Did the counselor or other school official create or enhance the danger that the student would commit suicide? For instance:
 - Did the counselor hold himself out as a source of aid to the student, cutting off other possible avenues of help? [See *Wyke* case below.]
 - Did the Counselor undertake an assessment of the student without proper training, improperly evaluating the risk?
- Would a reasonable person in the place of the counselor or other school official notify the student’s parent/guardian or speak to a mental health professional to get further guidance?

MISCELLANEOUS

Stuff happens. Students get hurt; some die. Grieving parents, sometimes wracked with guilt, have to find *somebody* to blame. You get sued.

LIABILITY NOTE

If a school counselor is just doing his/her job, the counselor will very likely be protected under chapter 670. In a lawsuit, the jury cannot be told that the counselor and school are represented by an insurance company, so the jury is still asked to determine liability. Liability is determined on a case-by-case basis, but some determinative factors are as follows:

- Could the injury or death have been foreseen and prevented by school authorities?
- Did the counselor or other school official create or enhance the danger that the student would be harmed?
 - Did the counselor hold himself out as a source of aid to the student, cutting off other possible avenues of help?
 - Did the counselor undertake an assessment of the student without proper training, improperly evaluating the risk?
- Would a reasonable person in the place of the counselor or other school official notify the student's parent/guardian or speak to a mental health professional to get further guidance?

Will a waiver or release form do any good? Such forms do not absolve a school or school official of liability for negligence, but the forms can be relevant to show that the student and family were advised of and acknowledged relevant risks.

APPENDIX A
Registrant Request Form

This form shall be used to document the Principal's response to an individual's, on the Sex Offender Registry (SOR) (hereinafter "registrant") request to come onto school grounds.

[Requests will be considered only from registrants who are the parent/legal guardian of a student or the person designated by the parent/legal guardian to have access to the student.]

Registrants whose request is granted shall keep a copy of this completed form with them each time they come onto school grounds.

To be Completed by Registrant

Full Name _____ Phone Number _____
(first, middle, last)

Address _____ Email Address _____
Requested Visit Date _____ Building or location to be visited _____

Reason for request (*check at least one*):

- Confer with school staff concerning my child's academic, disciplinary or placement, including matters required by federal or state law.
- Attend a school activity [*in which my child is participating.*] (*activity name*) _____
- Attend a nonschool sponsored activity which is (*activity name*) _____

Registrant recognizes that permission to be on school grounds is at the discretion of the principal, or designee. Permission is granted for the sole reason, time, location, etc. listed below. Registrant recognizes that he/she is not permitted to be in any location, including restrooms, other than that listed below.

Signature _____ Date _____

Principal's Response

- Registrant is required to provide additional information as follows:
- Registrant must follow check-in and check-out requirements as follows:
- Registrant must be directly supervised while on school grounds by the following individual(s) designated by the Principal:*
- Registrant is restricted to the following designated location(s) on schools grounds:
- Registrant may only be on school grounds during the following time period:
- Request by registrant to be on school grounds is denied.

Principal's Signature _____ Date _____

The completed form shall be kept on file at school. A copy of this completed form shall be provided to the registrant.

APPENDIX B

ANTI-HARASSMENT/BULLYING INVESTIGATION PROCEDURES

Individuals who feel that they have been harassed should:

- Communicate to the harasser that the individual expects the behavior to stop, if the individual is comfortable doing so. If the individual wants assistance communicating with the harasser, the individual should ask a teacher, counselor or principal to help.
- If the harassment does not stop, or the individual does not feel comfortable confronting the harasser, the individual should:
 - tell a teacher, counselor or principal; and
 - write down exactly what happened, keep a copy and give another copy to the teacher, counselor or principal including:
 - what, when and where it happened;
 - who was involved;
 - exactly what was said or what the harasser did;
 - witnesses to the harassment;
 - what the student said or did, either at the time or later;
 - how the student felt; and
 - how the harasser responded.

COMPLAINT PROCEDURE

An individual who believes that the individual has been harassed or bullied will notify _____, the designated investigator. The alternate investigator is _____. The investigator may request that the individual complete the Harassment/Bullying Complaint form and turn over evidence of the harassment, including, but not limited to, letters, tapes, or pictures. The complainant shall be given a copy of the completed complaint form. Information received during the investigation is kept confidential to the extent possible.

The investigator, with the approval of the principal, or the principal has the authority to initiate a investigation in the absence of a written complaint.

INVESTIGATION PROCEDURE

The investigator will reasonably and promptly commence the investigation upon receipt of the complaint. The investigator will interview the complainant and the alleged harasser. The alleged harasser may file a written statement in response to the complaint. The investigator may also interview witnesses as deemed appropriate.

Upon completion of the investigation, the investigator will make written findings and conclusions as to each allegation of harassment and report the findings and conclusions to the principal. The investigator will provide a copy of the findings of the investigation to the principal.

RESOLUTION OF THE COMPLAINT

Following receipt of the investigator's report, the principal may investigate further, if deemed necessary, and make a determination of any appropriate additional steps which may include discipline.

Prior to the determination of the appropriate remedial action, the principal may, at the principal's discretion, interview the complainant and the alleged harasser. The principal will file a written report closing the case and documenting any disciplinary action taken or any other action taken in response to the complaint. The complainant, the alleged harasser and the investigator will receive notice as to the conclusion of the investigation. The principal will maintain a log of information necessary to comply with Iowa Department of Education reporting procedures.

POINTS TO REMEMBER IN THE INVESTIGATION

- Evidence uncovered in the investigation is confidential.
- Complaints must be taken seriously and investigated.
- No retaliation will be taken against individuals involved in the investigation process.
- Retaliators will be disciplined up to and including suspension and expulsion.

CONFLICTS OF INTEREST

If the investigator is a witness to the incident, the alternate investigator shall investigate.

APPENDIX C

Harassment/Bullying Complaint Form

Is this form being filed because of retaliation for filing an earlier complaint? Yes_____ No_____

Name of complainant:_____ *(Student, Parent, Employee, Other – Please Specify)*

Date of complaint:_____

Name(s) of student(s) alleged to be responsible for incident:_____

Date and place of incident or incidents:_____

Describe what happened: *(Use back of form or attach additional pages if necessary)*_____

Name(s) of witness(es)_____

Is there any documentation of the incident? Yes_____ No_____ Please attach evidence OR explain why not._____

Any other relevant information:_____

I feel I was harassed based upon:_____ *(LIST ALL THAT APPLY)*
sexual orientation, gender identity, physical attribute, race, color, creed, age, national origin, religion, disability, ethnicity, political party preference, sex, marital status, familial status, socioeconomic status, political belief, ancestry

I agree that all of the information on this form is true to the best of my knowledge.

Complainant's signature:_____

APPENDIX D

Bullying & Harassment Interview Notes

1. Do not hand the interview form to the person to be interviewed to have them fill out. As the interviewer, it is your task to make notes as you interview the person.
2. Have the person interviewed (whether the target or a witness) review front side and all attachments thoroughly before having them sign. If you wish to make notes on a separate sheet and then legibly fill out this form later, that's fine. This is the document for the person interviewed to review and sign.
3. Make sure to get the basics (who, where, when); ask leading questions if necessary to get all necessary details known. For instance, when interviewing the target, ask the following questions:
 - a. Have the actions against you made you fear for your safety? How? Where (just at school? Home? Both?)?
 - b. Have the actions against you made you fear that harm would come to any of your personal property? How?
 - c. Has your health – physical, emotional, mental – been affected? How? (seen by a doctor? Missing school?)
 - d. Have your academics been affected? How? (increase in tardies/absences? Grades going down? Missed assignments?)
 - e. Have you quit any extracurricular activities?
 - f. Have you changed any of your usual routine at school? (using different hallway, skipping lunch in lunchroom or using different lunch period, taking different route to school, etc.)
 - g. Why do you think this happened to you (or to the target)?
4. Keep a copy of this signed form in your investigations file.