

Washington Youth Academy
July 24, 2013

Prohibition of Harassment, Coercion, Intimidation, Bullying, and Retaliation

Procedures

A. Introduction

Washington Youth Academy strives to provide cadets with optimal conditions for learning by maintaining a Academy environment where everyone is treated with respect and no one is physically or emotionally harmed. In order to ensure respect and prevent harm, it is a violation of academy guidance for any person to be harassed, coerced, intimidated, or bullied by others in the Academy community, at Academy sponsored events, or when such actions create a substantial disruption to the educational process. The Academy community includes all cadets, Academy employees, Washington Military Department employees, contractors, unpaid volunteers, families, patrons, and other visitors. Individuals will not be harassed because of their race, color, religion, ancestry, national origin, gender, sexual orientation, including gender expression or identity, mental or physical disability, or other distinguishing characteristics.

Any Academy staff member, volunteer, community member, or cadet who observes, overhears, or otherwise witnesses harassment, coercion, intimidation or bullying or to whom such actions have been reported must take prompt and appropriate action to stop the harassment and to prevent its reoccurrence. Any person who fails to report the incident or who allows harassment/bullying to occur is as responsible as the bully.

B. Definitions

Aggressor is a cadet, staff member, or other member of the Academy community who engages in the harassment, intimidation or bullying of a cadet.

Business days refer to the business days that Academy staff members are normally present at work and the Academy is in operation (e.g., does not include imposed furloughs, etc.).

Cadet refers to a student whose status may be an applicant, candidate, cadet (in residential status), or post-residential graduate of the Washington Youth Academy.

Cyberbullying is bullying using electronic devices to initiate repeated negative behavior toward a less-powerful person. Electronic name-calling, shunning and shaming are all forms of cyberbullying. So are spreading rumors, gossiping and making threats online. Schools are permitted to discipline students who engage in cyberbullying if it disrupts the orderly operation of school.

Harassment, coercion, intimidation, or bullying (including cyberbullying) is an intentional electronic, written, verbal, or physical act that:

- Physically harms an individual or damages the person's property.
- Has the effect of substantially interfering with the victim's education and/or work environment.

- Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment.
- Has the effect of substantially disrupting the orderly operation of the Academy.

Retaliation is when an aggressor harasses, intimidates, or bullies an individual who has reported incidents of bullying.

Staff includes, but is not limited to, educators, administrators, counselors, Academy nurses, DFAC workers, custodians, mentors, advisors to extracurricular activities, classified staff, substitute and temporary teachers, volunteers, or paraprofessionals (both employees and contractors).

Targeted Individual is the person against whom harassment, intimidation or bullying has allegedly been perpetrated.

Conduct that is “substantially interfering with an individual’s education” or work environment will be determined by considering a targeted person’s grades/performance evaluation, attendance, demeanor, interaction with peers, participation in activities, and other indicators. Conduct that may rise to the level of harassment, coercion, intimidation and/or bullying may take many forms, including, but not limited to: slurs, rumors, jokes, innuendoes, demeaning comments, hazing, drawings, cartoons, pranks, ostracism, physical attacks or threats, gestures, or acts relating to an individual or group whether electronic, written, oral, or physically transmitted messages or images. There is no requirement that the targeted person actually possess the characteristic that is the basis for the harassment, intimidation or bullying.

Incident Report Forms may be used by cadets, families, or staff to report incidents of harassment, intimidation or bullying. A sample form is provided on the Office of Director of Public Instruction’s (OSPI) Academy Safety Center website:

www.k12.wa.us/SafetyCenter/BullyingHarassment/default.aspx

A copy of a Serious Incident Report (SIR) form is located on the staff sharedrive.

C. Relationship to Other Laws/Policies

This procedure applies only to RCW 28A.300.285 – Harassment, Intimidation and Bullying prevention. There are other laws and procedures to address related issues such as sexual harassment or discrimination.

At least four Washington laws and several other agency policies may apply to harassment or discrimination:

- National Guard Bureau/Washington Military Department, Cooperative Agreement, Jan. 2013, “Hands-Off Leadership” policy.
- RCW 28A.300.285 – Harassment, Intimidation and Bullying
- RCW 28A.640.020 – Sexual Harassment
- RCW 28A.642 – Prohibition of Discrimination in Public Schools
- RCW 49.60.010 – The Law Against Discrimination

- WMD Policy No. HR-245-11 Violence in the Workplace
- WMD Policy No. HR-226-98u Sexual Harassment
- Cross References: Cadet/Cadre Handbooks, revised 2013

The academy will ensure its compliance with the National Guard Cooperative Agreement (Jan. 2013) including the “hands off leadership” guidance and with all applicable state/federal laws regarding harassment, intimidation or bullying. Nothing in this procedure prevents a cadet, parent/guardian, Academy employee or other individual from taking action to remediate harassment or discrimination based on a person’s gender or membership in a legally protected class under local, state, or federal law.

D. Prevention

1. Dissemination

The academy’s website will prominently post information on reporting harassment, intimidation and bullying; the name and contact information for making a report to a Academy administrator; and the name and contact information for the Academy compliance officer. The director will ensure that a statement summarizing the guidance and procedure is provided in cadet, staff, volunteer, and parent handbooks, and that they are available in Academy offices and/or hallways, or is posted on the academy’s website.

Additional distribution of the guidance and procedure is subject to the requirements of Washington Administrative Code 392-400-226.

2. Education

Each class cycle cadets will receive age-appropriate information on the recognition and prevention of harassment, intimidation or bullying at cadet orientation sessions and on other appropriate occasions. The information will include a copy of the Incident Report Form or a link to a web-based form.

3. Training

Staff will receive annual training on the Academy’s guidance and procedure, including staff roles and responsibilities, how to monitor common areas and the use of the Academy’s Incident Report Form.

4. Prevention Strategies

The Academy will implement a range of prevention strategies including individual, classroom, Academy, and agency-level approaches. Whenever possible, the Academy will implement evidence-based prevention programs that are designed to increase social competency, improve the educational and work climate, and eliminate harassment, intimidation and bullying.

E. Compliance Officer

The academy compliance officer will:

1. Serve as the Academy’s primary contact for harassment, coercion, intimidation and bullying.
2. Provide support and assistance to the director or designee in resolving complaints.
3. Receive copies of all Incident Report Forms, discipline Referral Forms, and letters to parents providing the outcomes of investigations.

4. Be familiar with the use of the cadet/student information system. The compliance officer may use this information to identify patterns of behavior and areas of concern.
5. Ensure implementation of the director's guidance and procedure by overseeing the investigative processes, including ensuring that investigations are prompt, impartial, and thorough.
6. Assess the training needs of staff and cadets to ensure successful implementation throughout the academy, and ensure staff members, cadets, volunteers, and members of the WYA community (as applicable) receive annual training.
7. Provide the OSPI Safety Center with notification of guidance or procedure updates or changes on an annual basis.
8. In cases where, despite Academy efforts, a targeted individual experiences harassment, intimidation or bullying that threatens their health and safety; the compliance officer will facilitate an intervention meeting. If the targeted individual is a staff member, mentor, volunteer, or member of the Academy community the meeting will include the individual, the compliance officer, the harasser (if safe to do so), the victim, and the director or designee.

If the targeted individual is a cadet, the meeting will include the cadet, the cadet's parents/guardians (phone conference when necessary), and Academy staff (teachers, cadre, etc.) who will develop a safety plan to protect the cadet. A sample safety plan is available on the OSPI website:

www.k12.wa.us/SafetyCenter/default.aspx

F. Staff Intervention

All staff members shall intervene when witnessing or receiving reports of harassment, coercion intimidation or bullying. Minor incidents that staff are able to resolve immediately, or incidents that do not meet the definition of harassment, intimidation or bullying, may require no further action under this procedure.

G. Filing an Incident Report Form

Any person who believes he or she has been the target of unresolved, severe, or persistent harassment, intimidation or bullying, or any other person in the Academy community who observes or receives notice that an individual has or may have been the target of unresolved, severe, or persistent harassment, intimidation or bullying may report incidents verbally or in writing to any staff member.

H. Addressing Bullying – Reports

Step 1: Filing an Incident Report Form

In order to protect a targeted individual from retaliation, a person need not reveal his identity on an Incident Report Form. The form may be filed anonymously, confidentially, or the individual may choose to disclose his or her identity (non-confidential).

Status of Reporter

a. Anonymous

Individuals may file a report without revealing their identity. No disciplinary action will be taken against an alleged aggressor based solely on an anonymous report. The academy has a complaint

box and form for receiving anonymous, unsigned reports. Possible responses to an anonymous report include enhanced monitoring of specific locations at certain times of day or increased monitoring of specific cadets or staff. (Example: An unsigned Incident Reporting Form dropped on a teacher's desk led to the increased monitoring of the boys' dormitory during free time.)

b. Confidential

Individuals may ask that their identities be kept secret from the accused and other individuals. Like anonymous reports, no disciplinary action will be taken against an alleged aggressor based solely on a confidential report. (Example: A cadet tells a cadre supervisor about another cadet being bullied but asks that nobody know who reported the incident. The supervisor says, "I won't be able to punish the bullies unless you or someone else who saw it is willing to let me use their names, but I can start hanging out near the basketball court, if that would help.")

c. Non-confidential

Individuals may agree to file a report non-confidentially. Complainants agreeing to make their complaint non-confidential will be informed that due process requirements may require that the academy release all of the information that it has regarding the complaint to any individuals involved in the incident, but that even then, information will still be restricted to those with a need to know, both during and after the investigation. The academy will, however, fully implement the anti-retaliation provision of this policy and procedure to protect complainants and witnesses.

Step 2: Receiving an Incident Report Form

All staff are responsible for receiving oral and written reports. Whenever possible staff who initially receive an oral or written report of harassment, coercion, intimidation, or bullying shall attempt to resolve the incident immediately. If the incident is resolved to the satisfaction of the parties involved, or if the incident does not meet the definition of harassment, intimidation or bullying, no further action may be necessary under this procedure.

All reports of unresolved, severe, or persistent harassment, intimidation, or bullying will be recorded on an Incident Report Form and submitted to the director or designee, unless the director or designee is the subject of the complaint. In this case the form shall be submitted to the next level in the chain of command.

**It is important to note that investigations involving complaints against academy teachers and/or staff members (state employees, volunteers, etc.) will be conducted in accordance with current state law and WMD agency policy; and applicable Collective Bargaining Agreements (CBA's) for represented employees/teachers. The processes below are primarily directed at cadet's and may vary from the policies, procedures, and/or collective bargaining agreements of state employees and/or represented employees and/or teachers.*

Step 3: Investigations of Unresolved, Severe, or Persistent Harassment, Coercion, Intimidation, and Bullying

All reports of unresolved, severe, or persistent harassment, coercion, intimidation, or bullying will be investigated with reasonable promptness. Any cadet or reporting individual may have a trusted adult with them throughout the report and investigation process.

a. Upon receipt of the Incident Report Form that alleges unresolved, severe, or persistent harassment, intimidation or bullying, the director or designee will begin the investigation. If there is potential for clear and immediate physical harm to the complainant, the investigating employee will immediately contact law enforcement and the complainant, and if the complainant is a cadet, also inform the cadet's parent/guardian.

b. During the course of the investigation, the Academy will take reasonable measures to ensure that no further incidents of harassment, coercion, intimidation, or bullying occur between the complainant and the alleged aggressor. If necessary, the academy will implement a safety plan for the individual(s) involved. The plan may include changing seating arrangements for the complainant and/or the alleged aggressor in the classroom, at lunch, or on the bus; changes to the complainant's workplace environment; identifying a staff member who will act as a safe person for the complainant; altering the alleged aggressor's schedule and access to the complainant, and other measures.

c. Within two (2) Academy days after receiving the Incident Report Form, the Academy designee will notify the families of any cadets involved that a complaint was received and direct the families to the Academy's policy and procedure on harassment, intimidation and bullying.

d. In rare cases, where after consultation with the complainant and appropriate staff (such as a manager/supervisor, counselor, or administrator) the Academy has evidence that it would threaten the health and safety of the complainant or the alleged aggressor to involve his or her parent/guardian, the district may initially refrain from contacting the parent/guardian in its investigation of harassment, intimidation and bullying. If professional Academy personnel suspect that a cadet is subject to abuse and neglect, they must follow Academy guidance and procedures (and any state law or WMD policy) for reporting suspected cases to Child Protective Services.

e. The investigation shall include, at a minimum:

- An interview with the complainant;
- An interview with the alleged aggressor;
- A review of any previous complaints involving either the complainant or the alleged aggressor; and
- Interviews with other cadets or staff members who may have knowledge of the alleged incident.

f. The director or designee may determine that other steps must be taken before the investigation is complete.

g. The investigation will be completed as soon as practicable but generally no later than five (5) Academy days from the initial complaint or report. If more time is needed to complete an investigation, the Academy will provide the parent/guardian (as appropriate) and/or the complainant with weekly updates.

h. No later than two (2) Academy days after the investigation has been completed and submitted to the compliance officer, the director or designee shall respond in writing or in person to the complainant and/or the parent/guardian of the complainant (as appropriate) and the alleged aggressor stating:

- The results of the investigation;
- Whether the allegations were found to be factual;
- Whether there was a violation of policy; and
- The process for the complainant to file an appeal if the complainant disagrees with results.

Because of the legal requirement regarding the confidentiality of cadet and employee records, the director or designee may not be able to report specific information to the targeted individual's or cadet's parent/guardian about any disciplinary action taken unless it involves a directive that the targeted individual must be aware of in order to report violations.

If the academy chooses to contact the complainant or his/her parent/guardian by letter, the letter will be mailed to the complainant and/or parent/guardian of the complainant (as appropriate) and alleged aggressor by United States Postal Service with return receipt requested unless it is determined, after consultation with the cadet and appropriate staff (manager/supervisor, counselor, administrator, etc.) that it could endanger the complainant or the alleged aggressor to involve his or her family. If professional Academy personnel suspect that a cadet is subject to abuse or neglect, as mandatory reporters they must follow Academy's guidance and procedures for reporting suspected cases to Child Protective Services. If the incident cannot be resolved at the Academy level, the director or designee shall request assistance from the Washington Military Department and/or the agency's Assistant Attorney General.

Step 4: Corrective Measures for the Aggressor

After completion of the investigation, the Academy director or designee will institute any corrective measures necessary. Corrective measures will be instituted as quickly as possible, but in no event more than five (5) Academy days after contact has been made to the complainant or the families or guardians (as appropriate) regarding the outcome of the investigation. Corrective measures that involve cadet discipline will be implemented according to the Academy's Program Guidance Letter; *Cadet and Employee Prohibition of Harassment, Coercion, Intimidation, Bullying, and Retaliation*, dated July 24, 2013. If the accused aggressor is appealing the imposition of discipline, the Academy may be prevented by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.

If in an investigation a director or designee found that a complainant knowingly made a false allegation of harassment, intimidation or bullying, that cadet may be subject to corrective measures, including discipline.

Step 5: Targeted Individual's Right to Appeal

1. If the complainant or parent/guardian is dissatisfied with the results of the investigation, they may appeal to the director or his or her designee by filing a written notice of appeal within five (5) Academy days of receiving the written decision. The director or his or her designee will

review the investigative report and issue a written decision on the merits of the appeal within five (5) Academy days of receiving the notice of appeal.

2. If the targeted complainant remains dissatisfied after the initial appeal to the director, the cadet may appeal to the disciplinary appeal council by filing a written notice of appeal with the disciplinary appeal council on or before the fifth (5) Academy day following the date upon which the complainant received the director's written decision. The disciplinary appeal council will be composed of the director, the deputy director, the lead counselor, the RPM coordinator, the school principal, and the commandant of residential operations.

3. An appeal before the disciplinary appeal council must be heard on or before the tenth (10th) Academy day following the filing of the written notice of appeal to the board. The disciplinary appeal council will review the record and render a written decision on the merits of the appeal on or before the fifth (5th) Academy day following the termination of the hearing, and shall provide a copy to all parties involved. The council's decision will be the final district decision.

Step 6: Academy Corrective Action

The Academy will take prompt and equitable corrective measures within its authority on findings of harassment, intimidation or bullying. Depending on the severity of the conduct, corrective measures may include counseling, education, discipline, and/or referral to law enforcement.

Corrective measures for a cadet who commits an act of harassment, intimidation or bullying will be varied and graded according to the nature of the behavior, the developmental age of the cadet, or the cadet's history of problem behaviors and performance. Corrective measures that involve cadet discipline will be implemented according to Academy guidance and standards contained in the CA, Academy guidance and procedure, and the Cadet Handbook.

If the conduct was of a public nature or involved groups of cadets or bystanders, the Academy should strongly consider Academy-wide training or other activities to address the incident.

If staff members have been found to be in violation of this policy and procedure, The Adjutant General of the WMD may impose employment disciplinary action, up to and including termination; in accordance with state law, agency policy, and progressive discipline measures for state employees; and applicable CBA's for represented state employees.

If a certificated educator is found to have committed a violation of WAC 181-87, commonly called the Code of Conduct for Professional Educators, OSPI's Office of Professional Practices may propose disciplinary action on a certificate, up to and including revocation. Contractor violations of this policy may include the loss of contracts.

Step 7: Support for the Targeted Cadet

Persons found to have been subjected to harassment, intimidation, coercion, or bullying will have appropriate academy and, if applicable Human Resource Office, support services made available to them, and the adverse impact of the harassment on the cadet shall be addressed and remedied as appropriate.

I. Immunity/Retaliation

No Academy employee, cadet, or volunteer may engage in reprisal or retaliation against a targeted cadet, witness, or other person who brings forward information about an alleged act of harassment, intimidation or bullying. Retaliation is prohibited and will result in appropriate discipline through the appropriate channel depending upon the individual's employment, volunteer, or cadet status.

J. Other Resources

Cadets and families should use the Academy's complaint and appeal procedures as a first response to allegations of harassment, intimidation and bullying. However, nothing in this procedure prevents a cadet, parent/guardian, employee, or the Academy from taking action to remediate discrimination or harassment based on a person's membership in a legally protected class under local, state or federal law. A harassment, intimidation or bullying complaint may also be reported to the following state or federal agencies:

- Washington Military Department Human Resources Office
- Depart of Personnel Employee Advisory Service, (877) 313-4455 or www.dop.wa.gov/eap
- OSPI Equity and Civil Rights Office 360.725.6162 Email: equity@k12.wa.us www.k12.wa.us/Equity/default.aspx
- Washington State Human Rights Commission 800.233.3247 www.hum.wa.gov/index.html

- Office for Civil Rights, U.S. Department of Education, Region IX 206.607.1600 Email: OCR.Seattle@ed.gov, website: www.ed.gov/about/offices/list/ocr/index.html
Department of Justice Community Relations Service 877.292.3804, www.justice.gov/crt/
Office of the Education Ombudsman 866.297-2597 Email: OEOinfo@gov.wa.gov or
www.governor.wa.gov/oeo/default.asp, OSPI Safety Center 360.725-6044
www.k12.wa.us/SafetyCenter/BullyingHarassment/default.aspx

K. Other WMD/WYA or School District Policies and Procedures

Nothing in this policy or procedure is intended to prohibit discipline or remedial action for inappropriate behaviors that do not rise to the level of harassment, intimidation or bullying as defined herein, but which are, or may be, prohibited by other Academy rules.