



DoDEA ADMINISTRATIVE INSTRUCTION 1353.01

STUDENT RIGHTS AND RESPONSIBILITIES

Originating Division: Education – Policy and Operations

Approved: April 6, 2021

Effective: July 1, 2021

Releasability: Cleared for public release. Available on the DoDEA Policy Website.

Incorporates and Cancels: DoDEA Administrative Instruction 2051.02, “Student Rights and Responsibilities,” April 17, 2012

Approved by: Thomas M. Brady, Director

Purpose: This Issuance establishes policy, assigns responsibilities and prescribes procedures for student rights and responsibilities for students enrolled in DoDEA schools. This Issuance is to be reviewed biannually.

TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION	4
1.1. Applicability.	4
1.2. Policy.	4
1.3. Information Collection.	5
SECTION 2: RESPONSIBILITIES	6
2.1. DoDEA Director.	6
2.2. DoDEA Chief Academic Officer.	6
2.3. DoDEA Civil Rights Program Manager.	6
2.4. DoDEA Region Directors for Student Excellence, District Superintendents, Community Superintendents, and Chiefs of Staff.	6
2.5. DoDEA School Principals.	6
2.6. DoDEA School Employees.	7
2.7. DoDEA Students.	8
SECTION 3: STUDENT RIGHTS AND RESPONSIBILITIES AND RELATED SCHOOL DUTIES	10
3.1. General.	10
3.2. Prohibited Sexual or Sex-Based Conduct.	10
a. Sexual Harassment.	10
b. Sexual Assault.	10
c. Other Related Abusive Misconduct.	11
d. Generally Prohibited Sexual Behavior.	11
e. Acts by a Student.	11
f. Right to Report.	11
g. Right to Investigation and Corrective Action.	11
h. Right to Due Process.	12
i. Right to Counseling.	12
j. Right to Be Free from Retaliation and False Allegations.	12
3.3. Right to be Free From Discrimination.	12
3.4. Equal Access for Student-Sponsored Non-Curriculum-Related Groups.	12
3.5. Freedom of Expression.	12
a. Speech.	12
b. School-Sponsored Publications, Productions, and Other Media.	13
c. Non-School Sponsored Publications, Productions, and Other Media.	13
d. Dress Code.	14
e. Patriotic Exercise.	14
3.6. Religious Expression.	14
3.7. Search and Seizure.	15
a. Random Searches.	15
b. Reasonable Suspicion and Searches.	16
c. Surveillance.	17
d. Seizure.	17
e. Interview and Questioning of Students.	17
f. Portable Electronic Mobile Devices.	17
3.8. Student Complaints.	18

SECTION 4: STANDARDS FOR DISALLOWING STUDENT EXPRESSIVE RIGHTS..... 20

- 4.1. Disallowing Student Expressive Rights..... 20
 - a. Interfere with Orderly Conduct..... 20
 - b. Endanger Health, Safety, or Well-Being of Others. 20
 - c. Be Perceived to Advocate Misconduct. 20
 - d. Engage in Inappropriate Language or Conduct. 20
 - e. Engage in Inappropriate School Performances. 20
 - f. Discriminate..... 20
 - g. Violate Laws and Policies..... 20

GLOSSARY 21

- G.1. Acronyms..... 21
- G.2. Definitions..... 21

REFERENCES 24

APPENDIX 25

- Appendix 1: Internal Controls Evaluation Checklist..... 25

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This Issuance applies to the DoDEA Headquarters Organization, the DoDEA Americas Region, the DoDEA Europe Region, the DoDEA Pacific Region, and to include all schools under the DoDEA authority, and when applicable, volunteers, students, support personnel, student teachers, contractors, and sponsors, parents, and legal guardians.

b. This Issuance applies to all students enrolled or participating in, or traveling to or from school programs or activities on school-provided transportation, including home-schooled students who use or receive auxiliary services and/or attend courses, classes, and activities in DoDEA schools or settings.

1.2. POLICY.

a. The following rights are retained by students:

(1) Right to a free appropriate public education, including the opportunity to participate in all school related activities, in accordance with DoD Instruction 1342.12.

(2) Right to a discrimination-free learning environment in which no individual, on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent, shall be excluded from participation in, be denied the benefits of, or be subjected to, discrimination in a DoDEA-conducted or -sponsored education or training program or activity, pursuant to Executive Order 13160, DoD and DoDEA policy, and Federal law.

(3) Right to a safe environment conducive to learning.

(4) Rights of freedom of speech, expression of views, and assembly under the First Amendment to the United States Constitution; freedom from unwarranted search and seizure under the Fourth Amendment to the United States Constitution; and due process under the Fifth Amendment to the United States Constitution. These rights shall be recognized, respected, and balanced with the responsibility of DoDEA schools to maintain an environment conducive to learning and free from disruption.

(5) Right to fair and appropriate discipline in accordance with DoDEA Administrative Instruction 1347.01.

b. Students shall treat teachers, administrators, and other school staff as expected within the code of conduct in this Issuance, to include courtesy, fairness, and respect; and teachers, administrators, and other school staff shall treat students as expected within the code of conduct in this Issuance, to include courtesy, fairness, and respect.

c. This Issuance shall not be construed to limit the authority of DoDEA or its employees to maintain order and discipline in accordance with DoDEA Administrative Instruction 1347.01.

d. Schools shall allow equal access to school facilities by student sponsored non-curriculum-related activities or groups in accordance with Section 3.2. of this Issuance.

e. This Issuance creates no rights or remedies other than those already in law, required by an executive orders, or other DoD or DoDEA issuances, and it does not establish a basis independent of such other law or regulation and may not be relied upon by any person, organization, or other entity to allege a denial of any rights or remedies in any administrative, judicial, or other forum.

1.3. INFORMATION COLLECTION. This Issuance may result in the collection of information due to its policy and procedures. Any collection of information must follow all applicable Federal, DoD, and DoDEA regulations, policies, and guidance.

SECTION 2: RESPONSIBILITIES

2.1. DODEA DIRECTOR. The DoDEA Director shall oversee the implementation of this Issuance.

2.2. DODEA CHIEF ACADEMIC OFFICER. The DoDEA Chief Academic Officer shall oversee a review of this Issuance bi-annually.

2.3. DODEA CIVIL RIGHTS PROGRAM MANAGER. The DoDEA Civil Rights Program Manager will provide timely guidance and education to anyone with responsibilities under this Issuance related to protecting students from unlawful discrimination.

2.4. DODEA REGION DIRECTORS FOR STUDENT EXCELLENCE, DISTRICT SUPERINTENDENTS, COMMUNITY SUPERINTENDENTS, AND CHIEFS OF STAFF. The DoDEA Region Directors for Student Excellence, District Superintendents, Community Superintendents, Region and District Chiefs of Staff shall ensure that district and school procedures reflect the policies and procedures of this Issuance.

2.5. DODEA SCHOOL PRINCIPALS. The DoDEA School Principals, under the authority, direction, and control of the cognizant DoDEA District and Community Superintendents shall:

- a. Comply with the policies and procedures in this Issuance.
- b. Ensure current school procedures are aligned with the policies in this Issuance, and establish new procedures, as necessary, to implement the guidance contained herein.
- c. Ensure DoDEA students and sponsors, parents, and legal guardians are provided notice (e.g., through a student handbook or by publication on the school Website) each school year of DoDEA school policies, regulations, and procedures.
- d. Respect students' rights while recognizing the need for taking disciplinary action when necessary.
- e. Ensure that school staff maintain accurate attendance records that will be used by the school administration to notify sponsors, parents, and legal guardians when excessive or unexcused absences occur and ensure that the school records excused absences in writing, in accordance with DoDEA Regulation 2095.01.
- f. Ensure that students are disciplined in a fair and appropriate manner, in accordance with DoDEA Administrative Instruction 1347.01.
- g. Operate and maintain a safe school environment that is conducive to learning.

h. Promptly respond to and equitably resolve incidents or complaints involving students made by students, sponsors, parents, and legal guardians, teachers, DoDEA staff members, or community members. Make any reasonable inquiry or investigation necessary to determine the facts and arrive at a finding. Such complaints may include, but are not limited to, incidents of discrimination, sexual harassment, non-sexual harassment, intimidation, hazing, bullying (including cyberbullying), or retaliation.

i. Ensure that no retaliation is taken against a student for raising concerns, reporting claims, or filing complaints alleging discrimination, sexual harassment, or non-sexual harassment (including intimidation, hazing, or bullying, such as cyberbullying) based on race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent or for testifying, assisting, or participating in any matter in an investigation or other proceeding raising such claims. A student who is found by the school administration to have made an intentional false claim, complaint, etc., may be disciplined in accordance with DoDEA Administrative Instruction 1347.01, as appropriate.

j. Establish and render decisions regarding a student's eligibility to participate or to hold a leadership position in said activity when a student has been involved in inappropriate conduct.

k. Select from a list of applicants and in accordance with any extra-duty compensation requirements, school staff to serve as sponsors or advisors of school-sponsored student activities and ensure that such sponsors or advisors supervise all said activities.

l. Decide whether it is appropriate to curtail, or disallow, student expressive rights under this Issuance, including student speech and dress, student participation in organizations, and student or organizational access to school facilities, if the student or organization engages in conduct that the DoDEA School Principal determines has met or is likely to meet the standards described in accordance with Section 4 of this Issuance.

m. Decide whether to allow a limited open forum to operate on the campus. Nothing in this Issuance requires the DoDEA School Principal to establish a limited open forum; however, if a school has given at least one (1) non-curriculum related student group access to school facilities, it must either discontinue its practice of allowing such groups access to school facilities or provide equal access to all other non-curriculum related student groups.

2.6. DODEA SCHOOL EMPLOYEES. The DoDEA school employees shall:

a. Comply with the policies and procedures in this Issuance.

b. Respect a student's rights while recognizing the need for taking disciplinary action when necessary.

c. Promptly report to the DoDEA School Principal, or designee, the following:

(1) Incidents or complaints by students, sponsors, parents, and legal guardians, teachers, other DoDEA staff members, or community members, including, but not limited to, complaints about discrimination, sexual assault, and/or discriminatory harassment, based on race, sex, color,

national origin, disability, religion, age, sexual orientation; or status as a sponsor, parent, and legal guardian intimidation, hazing, bullying (including cyberbullying), or retaliation against persons who report or participate in the investigation of such incidents herein.

(2) Violations of any reporting obligation vested in DoDEA school employees by law or regulation, such as the reporting of suspected child abuse or injuries as required by DoDEA Administrative Instruction 1443.02, DoDEA Administrative Instruction 1356.01, and DoDEA Administrative Instruction 6055.01.

2.7. DODEA STUDENTS. DoDEA students shall:

- a. Actively participate in the educational process, including school-sponsored activities in and outside of the classroom, as appropriate.
- b. Comply with the policies and procedures in this Issuance.
- c. Comply with the standards for student behavior outlined in DoDEA school policy and school procedures.
- d. Refrain from conduct or behavior that is disruptive or causes, or might reasonably be predicted to cause, disruption at school, on school-provided transportation, and at school-sponsored and school-supervised activities on or off campus. Also refrain from interfering with the education of other students or the orderly operation of the school.
- e. Respect the rights and human dignity of other students and all school employees, which includes refraining from discrimination, sexual harassment, sexual assault, and/or other discriminatory harassment, based on race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a sponsor, parent, or legal guardian; intimidation; hazing; or bullying (including cyberbullying); or retaliation.
- f. Attend school and classes regularly and punctually, except when excused.
- g. Make a conscientious effort in all classes.
- h. Participate in and take advantage of educational opportunities provided by DoDEA schools.
- i. Assist DoDEA school employees in operating a safe school by abiding by the laws of the United States, the local military installation, the host nation, and DoDEA policies, regulations, and procedures, and by complying with the directions of DoDEA School Principal, teachers, educational assistants, and other authorized school employees when the student is properly under the authority of school employees.
- j. Properly maintain school property and use school property and equipment for educationally authorized purposes.

k. Not endanger themselves, other DoDEA students, DoDEA school employees, or the public by possessing materials, illegal objects, or abusive substances (including but not limited to items such as, knives, razors, box cutters, ice picks, guns, explosives, drugs, alcohol) that are potentially hazardous and/or prohibited by law to have on school grounds in the United States, the regulations governing military installations, or the laws of the host nation.

l. Dress in a manner that complies with the school dress code.

m. Promptly bring to the attention of a DoDEA school employee behavior or activities that may endanger the safety and well-being of themselves or others and to cooperate with school threat assessment procedures.

n. Promptly report to the DoDEA School Principal, or another DoDEA school employee, incidents or complaints, including, but not limited to, discrimination, sexual harassment, sexual assault, or non-sexual harassment, based on race, sex, color, national origin, disability, religion, age, sexual orientation or status as a sponsor, parent or legal guardian; intimidation, hazing, bullying (including cyberbullying), or retaliation against persons who report or participate in the investigation of such incidents herein.

o. Accept the consequences of their actions, including discipline, in accordance with DoDEA Administrative Instruction 1347.01 and understand their rights to appeal or make complaints pursuant to this Issuance.

SECTION 3: STUDENT RIGHTS AND RESPONSIBILITIES AND RELATED SCHOOL DUTIES

3.1. GENERAL. In relation to this Issuance, some of the various policies, procedures, and regulations that students should be mindful of are listed below:

- a. The student dress code for their specific school.
- b. Academic and behavioral (disciplinary) requirements that students must meet to participate in school-sponsored extracurricular activities or to hold a leadership position in a curriculum-related club, team, or student organization.
- c. General standards of access to school facilities and support (i.e., reasonable time, place, and manner in which an activity may be held) based on matters other than the philosophical, religious, or political content of the student activity.
- d. The school's authority to conduct random and periodic searches of school property and to seize contraband items belonging to students, including notice of the school's authority to search student possessions and person when there is reasonable suspicion that the student is in possession of items prohibited by DoDEA Administrative Instruction 1347.01.
- e. The presence of surveillance equipment in public locations on school property and on school provided transportation. Furthermore, students may be disciplined based on evidence gathered through surveillance equipment.

3.2. PROHIBITED SEXUAL OR SEX-BASED CONDUCT. DoDEA is committed to ensuring no student is subjected to sexual harassment, sexual assault, or other related abusive misconduct in accordance with DoDEA Administrative Instruction 1443.02.

a. Sexual Harassment. Sexual harassment is unwelcome words or behaviors that are sexual or sex-based in nature committed by students or adults (whether or not they are of a different sex, gender, or sexual orientation) that interfere with a DoDEA student's ability to learn, study, work, or participate in school or extracurricular activities. It can be words said or written, something visual, or some form of unwanted physical touching that is sexual or targets a student based on their sex or gender. The conduct makes a student feel embarrassed, sad, scared, pressured, upset, uncomfortable, humiliated, or angry and is so sufficiently serious it interferes with their ability to focus on what they are doing or to feel safe at school or during school-related activities. It can happen on or off school grounds, in person or through other ways, such as by email or social media. It can range from offensive comments or actions to unwanted touching and, in extreme cases, sexual assault.

b. Sexual Assault. Sexual assault is a potentially criminal form of sexual harassment that involves physical contact of a clearly sexual nature acted on against a person's will or when the person is incapable of giving voluntary or lawful consent due to the person's age, intellectual or developmental disability, or being under the influence of mind-altering substance(s). Sexual

assault includes acts of molestation and rape. Depending upon the circumstances, minor acts of touching another student's private body parts that are clearly not intended to be sexual, such as a brief act done merely to tease, embarrass, anger or annoy, may be addressed as sexual harassment with assault rather than as a sexual assault.

c. Other Related Abusive Misconduct. Other related abusive misconduct is any behavior or conduct by a DoDEA student, employee, or volunteer that consists of sexual or sex-based physical and/or emotional mistreatment expected to make a student feel pressured, uncomfortable, physically threatened, in pain, embarrassed, or offended, but that does not rise to the level of sexual harassment or sexual assault, as those terms are defined in DoDEA Administrative Instruction 1443.02. It also includes when a student, employee or volunteer tries to exploit their position of authority or undue influence over a student to manipulate that student into an inappropriate, coerced, or unlawful romantic or sexual relationship, regardless of whether or not the victim objects or the behavior is overtly sexual. Examples of prohibited conduct may be found in Section 3.4. of DoDEA Administrative Instruction 1443.02. Any romantic or physically intimate relationship between a DoDEA student and an employee or adult volunteer is strictly prohibited, even if the student is of legal age of consent.

d. Generally Prohibited Sexual Behavior. DoDEA students are prohibited from willingly engaging in any form of behaviors of a sexual nature, either alone or with others, including sexting, sharing of youth-produced nude images, sexual activity, or any other inappropriate behaviors of a sexual nature (unrelated to approved legitimate school instruction or curriculum) while at school, on buses or other transport, or when participating in any DoDEA-conducted or sponsored programs, activities, or events.

e. Acts by a Student. Sexual harassment, sexual assault, or other related abusive misconduct committed by a DoDEA student against other students, staff, volunteers, or other participants in DoDEA programs or activities is prohibited, even if committed against someone of the same sex, gender, or sexual orientation. Depending on the nature and severity of the offense, appropriate disciplinary action can be taken against an offending student in accordance with applicable DoDEA student disciplinary policies, up to and including expulsion.

f. Right to Report. Any DoDEA student who believes they are being or have been, or who knows of a student who is being or has been, subjected to sexual harassment, sexual assault, or other related abusive misconduct, has the right to report such misconduct to any DoDEA employee or adult volunteer, to the Program Director where the offense occurred, or directly to their DoDEA School Principal. Reports may be made verbally or in writing, and anonymous reports will be accepted, too. Reports may also be submitted to the DoDEA Civil Rights Program at Civil.Rights@doea.edu for forwarding to the appropriate DoDEA official for action.

g. Right to Investigation and Corrective Action. DoDEA students have the right to have their allegations investigated by an appropriate DoDEA official according to the guidelines of DoDEA Administrative Instruction 1443.02 and any other applicable DoDEA policy and have their school take whatever reasonable action may be needed to prevent, correct, and, if necessary, discipline prohibited behavior. DoDEA students have a responsibility to cooperate truthfully with any investigation of allegations of sexual harassment, sexual assault, or other related abusive misconduct.

h. Right to Due Process. Any DoDEA student who alleges violation of, or who is alleged to have violated, the prohibition against sexual harassment, sexual assault, or other related abusive misconduct, has the right to be treated in a fair and equitable manner and afforded the benefits of due process, to include the right to be heard and to provide evidence in their favor prior to any finding of violation or imposition of disciplinary action.

i. Right to Counseling. Any DoDEA student who alleges they have been the target of sexual harassment, sexual assault, or other related abusive misconduct, and any student who is alleged to have committed such misconduct, is entitled to the neutral confidential services of school counselors available for counseling and support.

j. Right to Be Free from Retaliation and False Allegations. Retaliation against a DoDEA student who has made a report of sexual harassment, sexual assault, or other related abusive misconduct, or who cooperated in any investigation of such report, is prohibited and subject to discipline. A DoDEA School Principal, or their designee, may also take disciplinary measures against anyone who is found to have intentionally made a false allegation of sexual harassment, sexual assault, or other related abusive misconduct or who otherwise attempted to submit false information or undermine a fair and equitable inquiry into any such allegations.

3.3. RIGHT TO BE FREE FROM DISCRIMINATION. Although DoDEA cannot guarantee every student a learning and activities environment free from annoyances, petty slights, or minor offenses, in accordance with Volume 2 of DoDEA Administrative Instruction 1443.01, DoDEA is committed to creating and maintaining an environment free from unlawful discrimination and will not tolerate incidents of unequal treatment, unequitable impact of policies and practices, or the creation of a hostile environment based on a student's race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a sponsor, parent or legal guardian. DoDEA also shall not retaliate or permit retaliation against anyone because they have made a complaint, testified, assisted, or participated in any manner in an investigation related to an allegation of discrimination.

3.4. EQUAL ACCESS FOR STUDENT-SPONSORED NON-CURRICULUM-RELATED GROUPS. If the DoDEA School Principal permits a school to operate a limited open forum by maintaining a practice of allowing any single non-curriculum-related student group access to school facilities, access must be in accordance with DoDEA policy.

3.5. FREEDOM OF EXPRESSION.

a. Speech.

(1) Students:

(a) May express their individual views in a respectful manner that does not violate the standards in Section 4 of this Issuance.

(b) Shall respect the rights of fellow students to hold and express an individual or different viewpoint.

(c) Shall refrain from the use of vulgar or plainly offensive, obscene, or sexually explicit language, symbols, caricatures, drawings, or any other visual, auditory, or sensory expression in any media that detracts from a positive learning environment, is inconsistent with the goal of maintaining an atmosphere of mutual respect, or undermines the mission of the school.

(2) DoDEA school employees shall encourage tolerance of different viewpoints that do not violate the standards of Section 4 of this Issuance and respect for each student's right to his or her opinion. However, such expressive rights may be curtailed in accordance with Section 4 of this Issuance.

b. School-Sponsored Publications, Productions, and Other Media.

(1) Newspapers, yearbooks, school-sponsored websites and social media pages, and literary magazines, graduation speeches, and school-sponsored productions, such as school plays, shall be approved by the DoDEA School Principal or designee.

(2) DoDEA School Principal or designee may edit content or prevent dissemination of publications if the content or activity violates any of the standards described in Section 4 of this Issuance.

(3) As with other school-sponsored activities, the DoDEA School Principal or designee shall identify for each publication and production a faculty member or advisor who shall:

(a) Establish, with the input of the student editorial staff, publication requirements and guidelines.

(b) Ensure that a variety of viewpoints are represented and that students have the opportunity to express their views within the requirements and guidelines of the activity.

c. Non-School Sponsored Publications, Productions, and Other Media.

(1) DoDEA students may distribute or display non-school sponsored publications or materials in accordance with school guidelines established by the DoDEA School Principal or designee.

(2) DoDEA School Principal or designee shall:

(a) Establish the time, place, and manner of distribution or display based on reasonable content-neutral guidelines. Distribution or display may include designating a bulletin board, wall space, or other area that may be used to post non-school sponsored materials.

(b) Edit or prevent the distribution or display of publications or materials that violate the standards prescribed by Section 4 of this Issuance.

- (c) Inform students of the reason if distribution or display is edited or prevented.

d. Dress Code.

(1) DoDEA students shall not be prohibited from self-expression in their style of dress or grooming, or discriminated against, unless it violates the school dress code, or the standards prescribed by Section 4 of this Issuance.

(2) Student exemption to a school dress code policy may be requested by a sponsor, parent, or legal guardian for a religious or philosophical belief, disability, medical reason, due to financial hardship, or for other reasons that would require an exemption. The DoDEA School Principal or designee may require a written request at the beginning of each school year stating the basis for the exemption.

(3) Absent obtaining an exemption to a school dress code policy, DoDEA students may be subject to discipline for acts of insubordination, in accordance with DoDEA Administrative Instruction 1347.01, particularly for repeat offenses, and for refusing to cooperate with teacher or school administrator requests to bring the student into compliance with the school dress code.

e. Patriotic Exercise. DoDEA students shall:

(1) Have a daily opportunity to participate in patriotic exercises, such as reciting the “Pledge of Allegiance” under Section 4 of Title 4, United States Code and saluting the United States Flag. However, they may not be compelled to participate if they or their sponsors, parents or legal guardians object, and may decline to do so and abstain without disruption.

(2) Not be disciplined or stigmatized for participating or abstaining from participating in patriotic exercises but may be disciplined for conduct that disrupts or interferes with school activities or the educational environment in accordance with DoDEA Administrative Instruction 1347.01.

(3) Respect and not interfere with the rights of others who wish to participate or abstain from participation in patriotic exercises.

(4) Respect the customs and flags of all nations.

3.6. RELIGIOUS EXPRESSION.

a. DoDEA students shall:

(1) Ensure they do not violate the rights of other students when exercising their own religious expression under the First Amendment of the United States Constitution.

(2) Show proper respect for the religious or non-religious beliefs of other individuals.

b. DoDEA school employees shall ensure that:

(1) Religion, religious beliefs or practices, and/or prayer are neither encouraged nor discouraged and that organized prayer is not offered as part of daily school activities.

(2) School-sponsored courses, activities, or events neither encourage nor discourage religion or religious practice.

(3) DoDEA students are not coerced to participate in student-initiated religious activities.

(4) They avoid creating the appearance of either encouraging or discouraging prayer or religious activity at school or in school activities through their official capacity as DoDEA employees.

c. DoDEA students may:

(1) Engage in independent religious discussion to the same degree that they may engage in other types of permissible speech. The freedom to engage in religious expression in school does not include the right to compel other students to participate in religious discussion.

(2) Observe religious practice in school, such as private prayer, saying grace before meals, and wearing yarmulkes and head scarves, as long as the practice does not violate the standards prescribed in Section 4 of this Issuance or any other school or military installation rule or policy.

(3) Express their beliefs about religion in the form of homework, artwork, presentations, and other written and oral assignments, free from discrimination by school faculty or other students based on the religious content of their submissions. Such assignments and submissions shall be assessed by curricular standards or other relevant instructional criteria. This expression is subject to the standards in Section 4 of this Issuance.

3.7. SEARCH AND SEIZURE.

a. Random Searches.

(1) DoDEA School Administrators may conduct a random, search of school property (e.g., desks, lockers, storage spaces, school computers, including data and internet access records) on a periodic or random basis.

(2) The search should be conducted by a DoDEA School Principal or Assistant Principal in the presence of another DoDEA school employee, who will serve as a witness. When practicable, DoDEA teachers will not be used to perform or serve as witness during search functions.

(3) The school should afford DoDEA students and sponsors, parents, or legal guardians adequate prior notice of its random search policy by alerting students and sponsors, parents, or legal guardians of the search policy each school year. This is done by issuing a memorandum, publishing and distributing a student handbook containing the notice, or publishing such a notice on the school Website.

(4) Random searches of school spaces and property may be conducted in cooperation with the appropriate military installation authorities or military police, including dogs trained to detect the presence of contraband. Canines may be used to sniff desks, lockers, book bags, etc., but should not be used to sniff individual students.

b. Reasonable Suspicion and Searches. DoDEA School Administrators may conduct a reasonable suspicion search of a student's personal belongings, including bags, personalized electronic mobile devices (PEMD), and the interior of student vehicles on school property; and in a student's desk, locker, storage space, school computer, or other property of the school when the DoDEA School Administrator determines that reasonable suspicion exists to believe the DoDEA student possesses a prohibited item, and that the item may be found in the place or on the person to be searched. Prohibited items include illegal drugs, weapons, or other items that are evidence of misconduct, as defined in DoDEA Administrative Instruction 1347.01, in violation of Federal, state, or local law, or DoD (or any military installation thereof), or other DoDEA policies, rules, or regulations. Such items shall be confiscated.

(1) Reasonable suspicion searches may be conducted whenever the student is involved in a school sponsored or school-supervised activity or event so long as there is reasonable suspicion to believe that the student possesses a prohibited item and the item may be found in the location to be searched.

(2) A reasonable suspicion search of the student's person should only be conducted under exigent circumstances. When possible, a targeted search of the student's person shall be conducted in a private room, or non-public area, by a school official of the same sex as the student being searched and witnessed by one (1) additional school employee of the same sex as the student. When practicable, DoDEA teachers will not be used to perform search functions.

(3) Reasonable efforts to locate the student and to notify the sponsor, parent, or legal guardian should be made prior to a reasonable suspicion search, or as soon as is practicable under the circumstances. To the extent practical, the DoDEA School Principal, or designee, shall advise the student and sponsor, parent, or legal guardian of the facts and circumstances justifying the search and seizure.

(4) Evidence found during a random search, or a dog sniff, that alerts authorities to potential contraband, may provide reasonable suspicion to believe that a student possesses a prohibited item sufficient to conduct a reasonable suspicion search.

(5) DoDEA School Administrators are not required to seek or obtain the consent of the DoDEA student or sponsor, parent, or legal guardian in order to conduct any search, but may consider obtaining the consent of the DoDEA student or the sponsor, parent, or legal guardian, and may do so whether or not reasonable suspicion to conduct a search exists. For a search

based upon consent to be valid, the consent must be knowing and voluntary (i.e., given freely and free of threats, pressure, or coercion).

c. Surveillance.

(1) DoDEA schools may use video surveillance in public locations of school property to monitor school grounds and on school-provided transportation.

(2) DoDEA School Principals or designees shall post in a visible place, notification regarding the presence of surveillance equipment and that students may be disciplined based on evidence gathered through surveillance equipment.

d. Seizure.

(1) Illegal drugs, weapons, or other items prohibited by or constituting evidence of misconduct under DoDEA Administrative Instruction 1347.01, that belong to or are found in the possession of any DoDEA student and are found during a random or reasonable suspicion search, shall be confiscated. Appropriate discipline will be imposed for possession of the seized evidence in accordance with DoDEA policy, U.S. law, and/or host nation law.

(2) Unless possession of confiscated items is illegal or dangerous, the confiscated items shall be returned to the rightful student-owner or to the student-owner's sponsors, parents, or legal guardians soon as is practicable and safe, or otherwise, a receipt for its retention shall be issued until such time as it may be returned.

(3) The confiscation of items shall not be considered a disciplinary action, but is accomplished to preserve health and safety or to provide evidence incidental to the exercise of disciplinary action.

e. Interview and Questioning of Students. DoDEA School Administrators and DoDEA school staff may interview and question a DoDEA student regarding any school-related matter, including in response to the search and seizure of contraband or other property. DoDEA school employees should consider the age and maturity of the DoDEA student, the student's disabilities, if any, the seriousness of the matter being discussed, and any exigent circumstances present when making a determination of whether or not to contact the student's sponsor, parent, or legal guardian prior to conducting an interview of the student.

f. Portable Electronic Mobile Devices.

(1) PEMD include all personal portable electronic mobile devices such as cell phones, digital cameras, iPads and similar devices, personal laptop computers, etc., that are used by an individual to store and maintain digital information.

(2) The presence of a PEMD in the school environment can present special challenges to DoDEA school employees. DoDEA schools may have different policies on the possession and use of such devices during the school day (e.g., school policy may prohibit possession or use of a PEMD on campus; or may allow a PEMD during the school day, or only during lunch or non-class hours).

(3) With interconnectivity and shared application and storage accounts, the information accessible on a PEMD may belong to the student, sponsors, parents, and legal guardians, or other individuals. An individual's right to privacy is very important. At the same time, a PEMD may also contain evidence of student misconduct, a school infraction, or a serious violation of law (e.g., sexting/child pornography, illegal drug usage, weapons violations, etc.). Use the following standardized guidelines when an incident involves a PEMD:

(a) A DoDEA student's PEMD should not be searched when its mere possession by the DoDEA student is not related to the school infraction or student misconduct.

(b) A DoDEA student's PEMD should not be searched because the DoDEA student had possession of a PEMD during a prohibited time of the school day, and there are no facts to support a reasonable suspicion search of the device.

(c) If reasonable suspicion exists that a DoDEA student's PEMD may contain digital information or other evidence of student misconduct or a school infraction, school personnel should contact the Region Office of General Counsel for legal advice prior to conducting a search of the device.

(d) If reasonable suspicion exists that a DoDEA student's PEMD may contain digital information of an immediate threat to themselves or the safety of others, school personnel should conduct a search of the device and immediately contact the Office of General Counsel upon the conclusion of the search.

(e) DoDEA School Administrators may expand the search of a PEMD beyond the initial scope of the search as suspicions evolve, or the presence of evidence becomes available. If evidence of criminal activity is discovered, contact military installation or local law enforcement for assistance, as appropriate.

(f) Confiscation of the PEMD is an appropriate option while contacting the Office of General Counsel or law enforcement personnel for assistance in determining the appropriateness and/or scope of the search.

(g) Upon the conclusion of any search, turn over confiscated PEMDs to law enforcement or returned to the sponsor, parent, or legal guardian or student, as appropriate, based upon the facts and circumstances of the situation.

3.8. STUDENT COMPLAINTS.

a. A DoDEA student with a complaint about misconduct or other inappropriate conduct, including a violation of this Issuance, may report the complaint to any DoDEA school employee with whom they feel comfortable making such a report (e.g., teacher, counselor, psychologist, coach, administrator).

(1) Students may personally, or through a representative, file a written complaint alleging a violation of this Issuance. Complainants alleging sexual harassment, sexual assault, or other related abusive misconduct may also be filed in accordance with DoDEA Administrative

Instruction 1443.02. Complaints alleging discrimination by DoDEA based on race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent should be submitted in writing in accordance with Volume 2 of DoDEA Administrative Instruction 1443.01.

(2) Any DoDEA school employee who receives a complaint by a DoDEA student or sponsor, parent, or legal guardian that involves misconduct or other inappropriate conduct, including a violation of this Issuance, shall promptly notify the DoDEA School Principal or designee and assist as necessary in the inquiry/investigation of the complaint.

b. A DoDEA School Principal or their designee shall:

(1) Establish and publicize procedures by which a student who alleges a complaint will know how to report such incidents.

(2) Promptly report a complaint involving an allegation of child abuse to the local Family Advocacy Program in accordance with DoDEA Administrative Instruction 1356.01.

(3) Promptly and effectively inquire/investigate and equitably resolve complaints.

(4) Ensure confidentiality to the maximum extent possible about the complaint, any resulting inquiry/investigation, resolution, and any other information pertaining to the complaint.

(5) Follow proper protocol if the nature of a complaint requires communication of the complaint information to other officials.

SECTION 4: STANDARDS FOR DISALLOWING STUDENT EXPRESSIVE RIGHTS

4.1. DISALLOWING STUDENT EXPRESSIVE RIGHTS. The DoDEA School Principal or their designee shall deny or curtail student expressive rights, including access to facilities, described in this Issuance, when the DoDEA School Principal, determines that a DoDEA student or student group has or is likely to:

a. Interfere with Orderly Conduct. Materially and substantially interfere with the orderly conduct of educational activities within the school or threaten good order or discipline on school premises.

b. Endanger Health, Safety, or Well-Being of Others. Threaten or advocate practices that endanger the health, safety, or well-being of DoDEA students, school staff, or any other persons.

c. Be Perceived to Advocate Misconduct. Be reasonably perceived to advocate misconduct, including, but not limited to, student drug, alcohol, and/or tobacco use; violence, or bullying, or discriminatory harassment based on race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a sponsor, parent, or legal guardian.

d. Engage in Inappropriate Language or Conduct. Employ language or conduct that is vulgar, plainly offensive, obscene, or sexually explicit or engages in speech that is knowingly or recklessly false, defamatory, libelous, or slanderous.

e. Engage in Inappropriate School Performances. Engage in performances for the school as a whole and employ activities or speech that the DoDEA School Principal, or designee, deems to be inappropriate for the intended audience (e.g., because of mature or adult subject matter).

f. Discriminate. Discriminate or advocate discrimination, including denial of the right to attend or participate at meetings or other school-related activities, based upon race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a sponsor, parent, or legal guardian.

g. Violate Laws and Policies. Violate any Federal, state, or local law, or DoD or DoDEA regulation or policy, or host nation law or agreements.

GLOSSARY

G.1. ACRONYMS.

PEMD portable electronic mobile device

G.2. DEFINITIONS. Unless otherwise noted, these terms and their definitions are for the purpose of this Issuance only.

bullying. Physical, verbal, psychological, or written acts of intimidation towards another individual. This includes, but is not limited to, conduct or words that are threatening, taunting, hazing, name calling, insulting, cursing, gesturing, coercing, manipulating, humiliating, or abusive.

cyberbullying. Bullying committed through the use of electronic communications or using electronic communications to convey a message in any form (i.e., text, image, audio, or video). Includes, but is not limited to, the use of computers, mobile phones, other electronic devices, or the Internet, social networking sites, and instant messaging at or outside of school.

defamatory. Tending to disgrace or lower public opinion about an individual or to harm an individual's reputation (i.e., the confidence, esteem, respect, or goodwill in which others hold a person).

discriminatory harassment. Conduct towards another based on race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a sponsor, parent, or legal guardian that is unwelcome, objectively offensive, and so sufficiently severe, persistent, and/or pervasive that it denies or limits the equal access of a DoDEA student, employee, or other beneficiary to participate in or benefit from DoDEA conducted or sponsored educational or training programs or activities.

disruptive behavior. Any behavior that detracts from a positive learning environment, is inconsistent with the goal of maintaining an atmosphere of mutual respect or undermines the mission of the school.

DoDEA student. An individual enrolled full- or part-time in any DoDEA school or program, or an auxiliary enrolled student (e.g., home schooled student) participating in school or non-school related activities.

exigent circumstances. Certain circumstances that lead school personnel to reasonably conclude that they must act swiftly and without prior authorization or approval in order to resolve an unusual or immediate situation.

harassment. See “discriminatory harassment” or “sexual harassment.”

incidental costs. Lighting, heat, power, and other expenses necessary for the daily operation and use of school facilities.

libelous. Pertaining to false written statements or words about an individual that tend to harm an individual's reputation or lower public opinion about the individual.

limited open forum. A school granting an offering to or opportunity for one (1) or more non-curriculum related student groups using school facilities during non-instructional time.

media. Means of communication, includes, but is not limited to, newspapers, yearbooks, social media, messages on clothing, etc.

non-curriculum related student groups. Student-led groups not directly related to a school's curriculum because of one of the following:

The subject matter of the group is not actually taught, or will not soon be taught, in a regularly offered course at the school.

The subject matter of the group does not concern the school's body of courses as a whole.

Participation in the group is not required for a particular course.

Participation in the group does not result in academic credit.

non-instructional time. Time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends. Schools that permit the use of facilities during lunch and recess periods shall make this time available to all non-curriculum-related student groups.

non-school persons. Persons who are not students, employees, or authorized volunteers of the school.

private body parts. A person's sexual body parts routinely required to be covered when in public according to school dress codes (e.g., genitals, anus, buttocks, or breasts).

prohibited sexual behavior. Any willingly engaged in behaviors of a sexual nature, either alone or with others, including sexting, sharing of youth-produced nude images, sexual activity, or any other inappropriate behaviors of a sexual nature (unrelated to approved legitimate school instruction or curriculum) while at school, on buses or other transport, or when participating in any DoDEA-conducted or sponsored programs, activities, or events.

reasonable suspicion. Information sufficient to induce an ordinary, prudent, and cautious individual under circumstances to believe there is a moderate chance of finding evidence of misconduct.

sex-based. Conduct that is based on or motivated by a person's sex, sexual orientation, or gender, including stereotypes based on sex, sexual orientation, or gender.

sexting. Sending, receiving, or forwarding sexually explicit messages, photographs, or images, primarily between mobile phones. It may also include the use of a computer or any digital device.

sexual activity. A variety of acts of a sexual nature done either alone or with/directed towards another person that results, or is intended to result, in sexual arousal and physiological changes in the aroused person.

sexual assault. Physical contact of a clearly sexual nature acted on against a person's will or when the person is incapable of giving voluntary or lawful consent due to the person's age, intellectual or developmental disability, or being under the influence of mind-altering substance(s).

sexual harassment. A form of discriminatory harassment that involves conduct that is sexual or sex-based in nature, unwelcome, objectively offensive, and so sufficiently severe, persistent, and/or pervasive that it denies or limits the equal access of a student, employee, or other beneficiary to participate in or benefit from DoDEA conducted or sponsored educational or training programs and activities.

sexual in nature. Refers to a range of conduct or behaviors that are an expression of sexuality or that have sexual connotations.

slanderous. Pertaining to a false oral statement about an individual that tends to harm an individual's reputation or lower public opinion about the individual.

substantial disruption. A disruption that creates a significant likelihood of harm to persons and/or property, or materially interferes in the normal and routine conduct of classes, school activities, or operation of the school. When determining whether there is a substantial disruption, the following factors should be taken into account:

History of disruption at the school or during school activities and its causes.

Whether the activity in question would be likely to lead students to act in a disruptive manner.

Whether the activity in question is similar to an activity that has proven disruptive in a similar environment.

REFERENCES

- DoD Instruction 1342.12, “Provision of Early Intervention and Special Education Services to Eligible DoD Dependents,” June 17, 2015
- DoDEA Administrative Instruction 1347.01, “Student Disciplinary Rules and Procedures,” April 7, 2021
- DoDEA Administrative Instruction 1356.01, “DoDEA Family Advocacy Program Process for Reporting Incidents of Suspected Child Abuse and Neglect,” November 5, 2018
- DoDEA Administrative Instruction 1443.01, Volume 2, “Executive Order 13160 Administration: Discrimination Complaints Processing”, February 21, 2019
- DoDEA Administrative Instruction 1443.02, “Prohibited Sexual, Sex-Based, and Other Related Abusive Misconduct Reporting and Response,” February 21, 2019
- DoDEA Administrative Instruction 6055.01, “DoDEA Safety Program,” November 27, 2017
- DoDEA Regulation 2095.01, “School Attendance,” August 26, 2011, as amended
- Executive Order 13160, “Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs,” June 23, 2000
- United States Code, Title 4, Section 4
- United States Constitution

APPENDIX

APPENDIX 1: INTERNAL CONTROLS EVALUATION CHECKLIST

Provide students and sponsors, parents, or legal guardians a notice each school year of DoDEA school policies, regulations, and procedures.

- On school website
- On student handbook

Ensure that school staff maintain accurate attendance records that will be used by the school administration to notify sponsors, parents, and legal guardians when excessive or unexcused absences occur and ensure that the school records excused absences in writing, in accordance with DoDEA Regulation 2095.01.

Create and follow process for investigation of any alleged violation of the rights outlined in this Issuance. Ensure that process includes trained employees and provides equal access to all students regardless of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a sponsor, parent, or legal guardian.

Select from a list of applicants and in accordance with any extra-duty compensation requirements, school staff to serve as sponsors or advisors of school-sponsored student activities and ensure that such sponsors or advisors supervise all said activities.

Clearly establish in school policy areas where the school may curtail, or disallow, student expressive rights under this Issuance, including student speech and dress, student participation in organizations, and student or organizational access to school facilities.

Determine whether to allow a limited open forum to operate on the campus for facilities, public addresses, or school publications.