

320 – Bullying, Cyber-Bullying, Hazing, Abusive Conduct and Retaliation Policy



Bullying, cyber-bullying and hazing of students and employees are prohibited, are against federal, state and local policy, and are not tolerated by George Washington Academy (GWA). GWA is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. To that end, GWA has in place policies, procedures, and practices designed to reduce and eliminate bullying, cyber-bullying, and hazing—including civil rights violations or actions based on a student’s or employee’s actual or perceived race, color, national origin, sex, disability, religion, religious clothing, gender identity, sexual orientation, or other physical or mental attributes—as well as processes and procedures to deal with such incidents. Bullying, cyber-bullying, and hazing of students and/or employees by students and/or employees will not be tolerated in GWA.

School officials have the authority to discipline students for off-campus speech and behavior that causes or threatens a substantial disruption on campus or during school activities, including violent altercations, or a significant interference with a student’s educational performance and involvement in school activities. If after an investigation, a student is found to be in violation of this policy, the student shall be disciplined by appropriate measures up to, and including, suspension and expulsion, pursuant to Utah Code Section 53G-8-205 and, loss of participation in extracurricular activities, and/or probation. If after an investigation, a school employee is found to have violated this policy, the employee shall be disciplined by appropriate measures up to, and including, termination.

Definitions

1. “Abusive conduct” means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine:
 - a. is intended to cause intimidation, humiliation, or unwarranted distress;
 - b. results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or
 - c. exploits an employee's known physical or psychological disability
 - i. a single act does not constitute abusive conduct, unless it is an especially severe and egregious act that meets the standard under Subsection (A)(1), (2), or (3).
2. “Bullying” means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:
 - a. causing physical or emotional harm to the school employee or student;
 - b. causing damage to the school employee's or student's property;
 - c. placing the school employee or student in reasonable fear of:
 - i. harm to the school employee's or student's physical or emotional well- being; or
 - ii. damage to the school employee's or student's property;
 - d. creating a hostile, threatening, humiliating, or abusive educational environment due to:
 - i. the pervasiveness, persistence, or severity of the actions; or
 - ii. a power differential between the bully and the victim; or
 - e. substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
 - f. the conduct described above constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

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- g. “bullying” includes relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.
- 3. “Civil rights violation” means bullying, cyber-bullying, or hazing that is targeted at a student or employee upon the students’ or employees’ identification as part of any group protected from discrimination under the following federal laws:
 - a. Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race, color, or national origin;
 - b. Title IX of the Education Amendments of 1972, including discrimination on the basis of sex; or
 - c. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including discrimination on the basis of disability;
- 4. “Cyber-bullying” means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.
- 5. “Disruptive student behavior” means the same as that term is defined in Utah Code Subsection 53G-8-210(1)(a).
 - a. disruptive student behavior includes:
 - i. the grounds for suspension or expulsion described in Utah Code Section 53G8-205 ;and
 - ii. the following conduct described in Utah Code Subsection 53G-8-209 (2)(b):
 - 1. use of foul, abusive, or profane language while engaged in school related activities;
 - 2. illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Utah Code Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and
 - 3. hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.
- 6. “Hazing” means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:
 - a. endangers the mental or physical health or safety of a school employee or student;
 - i. involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
 - ii. involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or
 - iii. involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and
 - b. is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for in a school or school sponsored team, organization, program, club, or event; or

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- c. is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.
 - d. the conduct described in this Subsection F constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
7. “Parent” means a student’s parent or guardian.
 8. “Restorative justice practice” means a discipline practice designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.
 9. “Retaliation” means an act of communication intended:
 - a. as retribution against a person for reporting bullying, cyber-bullying, or hazing; or
 - b. to improperly influence the investigation of, or the response to, a report of bullying or hazing.
 10. “School” means a public elementary or secondary school, including a charter school
 11. “School board” means:
 - a. a local school board; or
 - b. a charter school governing board.
 12. “School employee” means an individual working in the individual’s official capacity as:
 - a. a school teacher;
 - b. a school staff member;
 - c. an administrator; or
 - d. an individual who is employed, directly or indirectly, by a school, school board, or school district;
 13. “Trauma-Informed Care” means a strengths-based service delivery approach grounded in an understanding of and responsiveness to the impact of trauma, emphasizing physical, psychological, and emotional safety for both offenders and victims, and creating opportunities for victims to rebuild a sense of control and empowerment.
 14. “Volunteer” means a person working under the direct supervision of a licensed educator.

Training

1. All students, school employees, coaches, and volunteers at GWA will receive annual training from a qualified professional regarding bullying, cyber-bullying, and hazing and retaliation. This training will address:
 - a. overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;
 - b. relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;
 - c. bullying, cyber-bullying, and hazing of a sexual nature or with sexual overtones;
 - d. cyber-bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;
 - e. bullying, cyber-bullying, hazing and retaliation based upon the students’ or employees’ identification as part of any group protected from discrimination under the following federal laws:
 - i. Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race, color, or national origin;

- ii. Title IX of the Education Amendments of 1972, including discrimination on the basis of sex; or
 - f. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including discrimination on the basis of disability; and training on civil rights violations will include compliance when civil rights violations are reported;
 - g. bullying, cyber-bullying, hazing and retaliation including training and education specific to bullying based upon students' or employees' actual or perceived, characteristics, including race, color, national origin, sex, disability, religion, religious clothing, gender identity, sexual orientation, or other physical or mental attributes or and conformance or failure to conform to stereotypes; and
 - h. awareness and intervention skills such as social skills training.
2. A licensed educator shall supervise volunteers and is responsible for ensuring the volunteer is trained in the above areas. Volunteers shall report to their supervisor if the volunteer witnesses or is notified of a bullying, cyber-bullying, hazing, or retaliation incident among students or if the volunteer has reason to suspect such an incident. Volunteers shall not engage in bullying activities themselves and must follow policy requirements or may be asked to leave GWA if in violation of this policy.
3. GWA will implement a youth suicide prevention program for students as described in Utah Code Section 53E-9-702.
4. All licensed educators must complete 2 hours of professional development in youth suicide prevention training once every license renewal cycle.
5. In addition to training for all school employees, students, employees, and volunteer coaches involved in any extra-curricular activity shall:
 - a. participate in initial bullying and hazing prevention training prior to participation in the extra-curricular activity;
 - b. participate in initial bullying, cyber-bullying, and hazing prevention training to be completed by every employee by January 30, 2019 and repeated at least every three years thereafter;
 - c. receive information annually of the prohibited activities list provided previously in this Policy and the potential consequences for violation of this Policy.
6. Annually, all students who are at least eight years old, parents, and school employees shall sign that they have reviewed this policy.
7. A copy of Board Policy G-20 shall be included in all student handbooks and provided to students and parents during registration.
8. A copy of Board Policy G-20 shall be included in all employee handbooks.
9. At least once every other year, each school will also conduct a student assessment of the prevalence of bullying in the school, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.

Prohibitions

1. A school employee or student shall not engage in bullying a school employee or student:
 - a. on school property;
 - b. at a school related or sponsored event
 - c. while the school employee or student is traveling to or from a location or event described above in Subsection A (1) or (2)
2. A school employee or student shall not engage in hazing or cyber-bullying a school employee or student at any time or in any location.
3. A school employee or student shall not engage in retaliation against:

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- a. a school employee;
 - b. a student; or
 - c. an investigator for, or witness of, an alleged incident of bullying, cyber-bullying, hazing, or retaliation.
4. A school employee or student shall not make a false allegation of bullying, cyber-bullying, hazing, or retaliation against a school employee or student.
 5. Students and employees shall not create, possess, or share recordings maliciously (to intimidate, embarrass, or retaliate).
 - a. Nothing in this policy is meant to prohibit recordings shared responsibly with GWA for reporting purposes. GWA will distinguish between recordings shared maliciously and recordings shared responsibly for reporting purposes.
 6. Any bullying, cyber-bullying, or hazing that is found to be targeted at a federally protected class is further prohibited under federal anti-discrimination laws and is subject to compliance regulations from the Office for Civil Rights.

Investigations

GWA will promptly and reasonably investigate allegations of bullying, cyber-bullying, and/or hazing. GWA Administration and/or counselor will be responsible for handling all complaints by students and employees alleging bullying, cyber-bullying, or hazing, as outlined in the procedures below:

1. gather reports (written if at all possible) from all parties involved.
2. determine if statements from witnesses (and parents) are warranted and gather those statements.
3. determine if a violation of school policy has occurred.
4. if violations have occurred determine what consequences would be appropriate with the goals of:
 - a. ensuring all students are able to have access to the most appropriate education setting possible
 - b. ensuring all students are safe and able to attend school
 - c. correcting future inappropriate behaviors related to bullying, hazing, etc.
5. verify all parties involved understand confidentiality and the need to not discuss the issues with others not outlined in this policy.

It is GWA's policy, in compliance with state and federal law, that students have a limited expectation of privacy on the school's Internet system, and routine monitoring or maintenance may lead to discovery that a user has violated district policy or law. Also, individual targeted searches will be conducted if there is reasonable suspicion that a user has violated policy or law. Personal electronic devices of any student suspected of violation of the above policy will be confiscated for investigation and may be turned over to law enforcement.

1. In accordance with State Board of Education Administrative Rule Subsection R277-613-4(1)(c), school administrators shall
 - a. investigate allegations of incidents of bullying, cyber-bullying, hazing, and retaliation in accordance with this section; and
 - b. provide an individual who investigates allegations of incidents of bullying, cyber-bullying, hazing, and retaliation with adequate training on conducting an investigation.
2. GWA is required to investigate allegations of incidents described in Subsection (A)(1) by interviewing at least the alleged victim and the individual who is alleged to have engaged in prohibited conduct.
 - a. GWA may also interview the following as part of an investigation:
 - i. parents of the alleged victim and the individual who is alleged to have engaged in prohibited conduct;

- ii. any witnesses;
 - iii. school staff; and
 - iv. other individuals who may provide additional information.
 - b. An individual who investigates an allegation of an incident shall inform an individual being interviewed that:
 - i. to the extent allowed by law, the individual is required to keep all details of the interview confidential; and
 - ii. further reports of bullying may become part of the investigation.
3. The confidentiality requirement in Subsection (B)(2) does not apply to:
 - a. conversations with law enforcement professionals;
 - b. requests for information pursuant to a warrant or subpoena;
 - c. a state or federal reporting requirement; or
 - d. other reporting required by this rule.
4. In conducting an investigation under this section, GWA may:
 - a. review disciplinary reports of involved students; and
 - b. review physical evidence, consistent with search and seizure law in schools, which may include:
 - i. video or audio;
 - ii. notes;
 - iii. email;
 - iv. text messages;
 - v. social media; or
 - vi. graffiti.
5. GWA will coordinate investigations of bullying, cyber-bullying, and retaliation with law enforcement if there is a possibility that the alleged behavior has in any way violated the law.

Actions Required if Prohibited Acts are Reported

1. Each reported complaint will include:
 - a. the name of complaining party;
 - b. the name of offender (if known);
 - c. the date and location of incident(s); and
 - d. a statement describing the incident(s), including names of witnesses (if known).
2. Each reported violation of the prohibitions noted previously will be promptly investigated by a school administrator or an individual designated by a school administrator. A report of bullying, cyberbullying, hazing, and retaliation may be made anonymously, but GWA will not take formal disciplinary action based solely on an anonymous report.
3. Verified violations of this policy and/or these procedures shall result in consequences or penalties. Any retaliation by a student or employee will be cause for discipline. Making a false report is also a violation for which a student or employee may be disciplined. Consequences or penalties may include but are not limited to:
 - a. For students such discipline may include:
 - i. suspension or removal from school;
 - ii. suspension or removal from a school-sponsored team or activity;
 - iii. suspension of school sponsored transportation;
 - iv. lesser disciplinary action; and/or
 - v. other appropriate interventions.

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- b. For employees such discipline must include formal disciplinary action (see, Administrative Procedures for Board Policy P-4: Discipline of District Employees). Formal disciplinary actions include, but are not limited to:
 - i. written reprimand;
 - ii. suspension with or without pay;
 - iii. probation;
 - iv. demotion; and
 - v. dismissal.
 - c. For parents, adverse actions include, but are not limited to:
 - i. removal from the school;
 - ii. restricted access to campus;
 - iii. restricted access to school events or school sponsored activities; and
 - iv. restricted/directed communication with district employees and activities.
 - d. Malicious sharing of recordings of incidents - students who create, possess, or share recordings (audio, video, or digital) of bullying, cyber-bullying, hazing, abusive conduct, or retaliation will be subject to disciplinary action in accordance with school policies.
 - i. Disciplinary responses may include, but are not limited to:
 - 1. confiscation of the recording and device (in compliance with school search and seizure policies);
 - 2. parental notification and required meeting;
 - 3. restorative or educational interventions;
 - 4. suspension or loss of technology privileges; and/or
 - 5. other consequences consistent with school discipline procedures.
 - 6. students who appropriately provide evidence to GWA during an investigation will not face disciplinary action for doing so.
4. If an investigation confirms that an incident of bullying, cyber-bullying, harassment, or retaliation has occurred, the supervisor may, if appropriate, take positive restorative justice practice action and support involved students through trauma-informed practices. Such actions must be in conjunction with other appropriate disciplinary actions.
- a. Administration will document the incident in our SIS system.
 - b. A victim is not required to participate in a restorative justice practice.
 - c. If the school or district would like a student victim to participate in a restorative justice practice, the school must notify the victim's parent of the proposed restorative justice practice and obtain consent from the victim's parent before including the victim in the process.
 - d. School administrators must contact the student services department prior to implementing any restorative justice practice.
5. The school administration will notify parents by email or phone call if their student threatens to commit suicide, or if the student is involved in an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation. GWA shall provide the parent with prevention materials, including suicide prevention and information on ways to limit the student's access to fatal means, including a firearm or medication. The school administration will ensure that parents are communicated with regularly during the course of an investigation and notified about the result of the investigation. School administrators shall then work with students and their parents to ensure that the students involved can appropriately and safely continue with their education.

- a. The school will produce and maintain a record in the SIS system that verifies that the parent was notified of the incident or threat. See, Record of Parent Notification of Student Threat or Incident.
 - b. This record shall not be kept in any student’s cumulative file.
 - c. The school will maintain this record in accordance with state and federal privacy laws.
 - d. The Family Educational Rights and Privacy Act does not permit sharing information regarding any discipline a school may have imposed on a student perpetrator with the victim or victim’s parents.
 - e. The school shall provide a student a copy of this record that relates to the student if the student requests a copy of the record.
 - f. The school shall expunge this record, by shredding or deleting digital files, if the student to whom the record relates has graduated from GWA and requests the record be expunged.
6. Compliance with the Office for Civil Rights when Civil Rights Violations Occur:
- a. the school is responsible for identifying bullying, cyber-bullying, and hazing incidents about which it knows or reasonably should have known when it involves a protected class. The school must take immediate and appropriate action to investigate or otherwise determine what occurred.
 - i. these duties are the school’s responsibility to investigate regardless of whether a person makes a complaint, a person requests the school to take action, or a person identifies the bullying, cyber-bullying or hazing as a form of discrimination.
 - b. if it is determined that the bullying, cyber-bullying, or hazing occurred as a result of the student-victim’s membership in a protected class, the school shall take prompt and effective steps reasonably calculated to:
 - i. end the bullying, cyber-bullying, or hazing
 - ii. eliminate any hostile environment,
 - iii. assess prevalence in school culture, physical facilities, and systemic practices to prevent its recurrence
7. Actions must also include, as appropriate:
- a. procedures for protecting the victim and other involved individuals from being subjected to: a. further bullying, cyber-bullying, or hazing, and b. retaliation for reporting the bullying, cyber-bullying or hazing;
 - b. prompt reporting to law enforcement of all acts of bullying, cyber-bullying, hazing, or retaliation that constitute suspected criminal activity;
 - c. creation of an Individualized Action Plan – when an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation is verified, the administration will develop a written Action Plan in consultation with relevant staff, parents/guardians, and, when appropriate, the student(s) involved.
 - i. the Action Plan will:
 1. identify the specific supports and interventions for the targeted student(s);
 2. outline the corrective and educational actions for the student(s) who engaged in the behavior;
 3. establish safety measures and monitoring procedures;
 4. include timelines for implementation and follow-up.
 - d. parent communication and updates - parents/guardians of both the targeted student(s) and the student(s) who engaged in the behavior will be notified in writing when an Action Plan is created.

- i. the school will provide:
 1. an initial summary of the Action Plan within five (5) school days of verification of the incident;
 2. regular updates (at least once every 30 days, or more frequently as needed) regarding the progress and implementation of the Action Plan;
 3. a final communication when the Action Plan is considered completed or closed.
- ii. parents/guardians may request a meeting with administration at any point during the Action Plan to discuss supports, progress, or concerns.
- e. procedures for a fair and timely opportunity for the accused to explain the accusations and defend his/her actions prior to student or employee discipline; and
- f. procedures for providing due process rights under Utah Code Section 53G-11-501 (licensed staff) and local employee discipline policies prior to employee discipline or Utah Code Section 53G-8-202 and local policies (students) prior to long term (more than 10 day) student discipline.

Annual Reporting of Allegations of Bullying, Cyber-bullying, Hazing, and Retaliation

1. GWA is required by Utah Code Subsection 53E-3-401 (3) and State Board of Education Administrative Rule R277-613 to report the following annually, on or before June 30, to the Superintendent (USBE) in accordance with the Superintendent's submission requirements:
 - a. a copy of GWA's policy required in Section R277-613-4;
 - b. implementation of the signed statement requirement described in Utah Code Subsection 53G-9-605 (3)(g);
 - c. verification of GWA 's training of school employees relating to bullying, cyber- bullying, hazing, and retaliation , and abusive conduct described in Utah Code Section 53G-9-607;
 - d. incidents of bullying, cyber-bullying, hazing, and retaliation;
 - e. the number of incidents described in Subsection (4) required to be reported separately under federal law, including the reporting requirements in:
 - i. Title VI of the Civil Rights Act of 1964;
 - ii. Title IX of the Education Amendments of 1972; or
 - iii. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990; and
 - iv. the number of incidents described in Subsection (4) that include a student who was bullied, cyber-bullied, hazed, or retaliated against due to or based on the student's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation.

Grievance Process for Incident of Abusive Conduct

1. For purposes of this policy, “abusive conduct” means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.
 - a. a school employee who has experienced an incident of abusive conduct and is not satisfied with initial efforts to resolve the issue, may submit a written grievance with the school employee’s Executive Director within thirty (30) calendar days of the incident.
 - b. the written grievance described in Subsection (1) shall include:

- i. the date of the incident;
 - ii. circumstances of the incident;
 - iii. and the signature of the school employee submitting the grievance to the Executive Director.
- c. within ten (10) business days of receiving the written grievance, the Executive Director shall meet with the school employee to discuss the grievance and possible resolutions.
- d. within ten (10) business days after the meeting described in Subsection (3), the Executive Director shall respond to the school employee in writing explaining the Executive Director’s position and offer options for substantive resolution of the complaint.
- e. if the response by the Executive Director described in Subsection (4) does not satisfactorily resolve the issue, the school employee may appeal the Executive Director’s response in writing within ten (10) business days after receipt of the response to the Charter School Board.
- f. within ten (10) business days after receipt of the grievance appeal described in Subsection (5), GWA’s Charter School Board shall meet with the school employee to discuss the grievance and possible resolutions.
- g. within fifteen (15) calendar days after the meeting, GWA’s Charter School Board shall respond in writing with a final resolution of the grievance.
- h. the LEA’s Charter School Board written response shall be the final administrative action in the matter.

Additional Notes

1. This policy does not prohibit expressive activity protected by the First Amendment of the United States Constitution. However, if off-campus speech that may constitute a bullying, cyber-bullying, or hazing incident creates a substantial disruption to the school environment, under *Tinker v. Des Moines*, 393 U.S. 503 (1969), GWA may take disciplinary action against the student who initiated the speech. Factors that GWA may consider in determining whether a substantial disruption has occurred are:
 - a. whether there is a verbal or physical confrontation over the incident at school;
 - b. whether there is likely to be a verbal or physical confrontation based on evidence of a prior relationship between the victim and the student who initiated the speech;
 - c. whether any part of the speech that gave rise to the incident was repeated at school;
 - d. whether students are discussing the incident during class or if it otherwise is disrupting school work;
 - e. whether there is a widespread whispering campaign or rumor sparked by the off- campus incident that disrupts the school environment and students’ abilities to focus on school;
 - f. whether administrators who dealt with the incident were pulled from their ordinary tasks to address the incident and how much time it took out of an administrator’s day to do so;
 - g. whether speech similar to the off-campus speech in this incident has occurred in the past and has resulted in violence or near violence at school;
 - h. whether there is a negative effect on classroom activities as a result of the off-campus incident; or
 - i. whether the speech was violent or whether there is a history of violence from the student/s who initiated the speech (Note: true threats are not protected by the First Amendment if it advocates “imminent” violence or unlawful conduct. Thus, a message that threatens physical harm, even if it isn’t meant to be serious, may not be protected by the First Amendment and the person who utters such a message may be disciplined by GWA.).