

# **SPECIAL EDUCATION SERVICES BULLYING AND HARASSMENT POLICY AND PROCEDURES**

## General Statement of Policy

Special Education Services (“SES”) is committed to a work and learning environment that encourages mutual respect and civility. To that end, this policy (the “Policy”) SES prohibits any and all forms of bullying, cyber-bullying, sexual harassment, and harassment based on an individual’s actual or perceived color, race, religion, age, creed, ancestry, national origin, physical or mental disability, sexual orientation, military status, physical appearance, socioeconomic or academic status, pregnancy, homelessness or other protected group status. The Policy is not limited to legally actionable conduct; it also prohibits conduct that is likely to lead to complaints or disruptions of the working and learning environment at SES.

It is illegal according to Illinois and Arizona state law and a violation of the Policy for any Individual<sup>1</sup> to harass or intimidate any other Individual while that Individual is on school property or engaging in school activities or school business. It is illegal according to Illinois and Arizona state law and a violation of the Policy for any Individual to bully another Individual while that Individual is on school property or engaging in school activities or school business.

It is also illegal according to Illinois and Arizona state law and a violation of the Policy for any employee to tolerate bullying or harassment, as defined by this Policy, by any Individual while on school property or engaging in school activities or school business.

It is also a violation of the Policy for any Individual to retaliate against anyone who in good faith reports or investigates bullying or harassment. The initiation of a complaint of bullying or harassment will not adversely affect the terms and conditions of the complainant’s employment or educational status at SES.

SES will act promptly to investigate all complaints, either formal or informal, verbal or written, of bullying, cyber-bullying, sexual harassment, harassment and retaliation based on an Individual’s actual or perceived color, race, religion, age, creed, ancestry, national origin, physical or mental disability, sexual orientation, military status, physical appearance, socioeconomic or academic status, pregnancy, homelessness or other protected group status. SES will promptly take appropriate action to protect Individuals from further bullying, discrimination, harassment and retaliation, and, if it determines that unlawful bullying, discrimination, harassment or retaliation occurred, to promptly and appropriately discipline any Individual who is found to have violated this Policy and/or to take other appropriate action reasonably calculated to end the bullying, discrimination, harassment or retaliation.

### I. Definitions

#### A. Bullying

For purposes of this Policy, bullying includes cyber-bullying and consists of any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward an Individual that has or can be reasonably predicted to have the effect of one or more of the following:

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<sup>1</sup> For purposes of this Policy, and unless otherwise indicated, “Individual” broadly means employees, students and third parties, such as consultants and contractors.

1. placing the Individual in reasonable fear of harm to the Individual's person or property;
2. causing a substantially detrimental effect on the Individual's physical or mental health;
3. substantially interfering with the Individual's academic or other performance; or
4. substantially interfering with the Individual's ability to participate in or benefit from the services, activities, or privileges provided by SES.

Bullying conduct may include but is not limited to:

- harassment or sexual harassment
- threats or intimidation
- stalking
- physical or sexual violence
- theft or destruction of property
- public humiliation
- retaliation for asserting or alleging an act of bullying

Cyber-bullying is defined as bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, image, sounds, data, or intelligence of any nature transmitted in whole or in part by a by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. Cyber-bullying includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of bullying in this section. Cyber-bullying also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of bullying under Illinois law. See 105 ILCS 5/27-23.7(b).

#### B. Sexual Harassment

For purposes of this Policy, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an Individual's continued employment, affiliation with or educational status; or
2. submission to or rejection of such conduct by an Individual is used as the basis for employment, educational or other decisions affecting that Individual; or
3. such conduct has the purpose or effect of substantially interfering with an Individual's professional performance or educational performance, or creating an intimidating, hostile, or offensive working or educational environment; or

4. such conduct otherwise adversely affects an Individual's professional and learning opportunities.

Sexual harassment may include but is not limited to:

- sexual advances
- sexual physical contact, including but not limited to touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex
- coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts
- coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another
- graffiti of a sexual nature
- sexual gestures
- sexual or dirty jokes
- touching oneself sexually or talking about one's sexual activity in front of others
- spreading rumors about or rating another person as to sexual activity or performance

This Policy does not preclude legitimate, non-sexual physical conduct such as the use of physical management techniques to avoid harm to persons or property, or conduct such as a teacher's consoling hug of a young student, or one student's demonstration of a sports move requiring contact with another student.

#### C. Other Forms of Prohibited Harassment

For purposes of this Policy, other forms of prohibited harassment include unwelcome verbal, physical, or visual conduct relating to an Individual's actual or perceived color, race, religion, age, creed, ancestry, national origin, physical or mental disability, sexual orientation, military status, physical appearance, socioeconomic or academic status, pregnancy, homelessness or other protected group status when:

1. such conduct is sufficiently severe, persistent, or pervasive that it affects a student's ability to participate in, or benefit from, an educational program or activity; or
2. such conduct has the purpose or effect of substantially interfering with an employee's or third party's professional performance or a student's educational performance, or creating an intimidating, hostile, or offensive working or educational environment for any Individual; or
3. such conduct otherwise adversely affects an Individual's learning or professional opportunities.

Examples of specific types of prohibited harassment include but are not limited to the following:

- *Racial and Color Harassment* may include unwelcome verbal, physical, or visual conduct directed at the characteristics of an Individual's actual or perceived race or color, such as nicknames emphasizing stereotypes, racial slurs, comments on manner of speaking, and negative references to racial customs.
- *Religious or Creed Harassment* may include unwelcome verbal, physical, or visual conduct directed at the characteristics of an Individual's actual or perceived religion or creed, such as derogatory comments regarding surnames, religious tradition, or clothing, or religious slurs, or graffiti.
- *National Origin or Ancestry Harassment* may include unwelcome verbal, physical, or visual conduct directed at the characteristics of an Individual's actual or perceived national origin or ancestry, such as negative comments regarding surnames, manner of speaking, customs, language, or ethnic slurs.
- *Disability Harassment* may include unwelcome verbal, physical, or visual conduct directed at the characteristics of an Individual's actual or perceived disabling physical or mental condition, such as manner of speech or movement, or interference with necessary equipment.
- *Sexual Orientation Harassment* may include unwelcome verbal, physical, or visual conduct directed at the characteristics of an Individual's actual or perceived sexual orientation, such as negative name-calling and imitating mannerisms.
- *Physical Appearance* may include unwelcome verbal, physical, or visual conduct directed at the characteristics of an Individual's actual or perceived physical appearance, such as height, weight, size, shape or another bodily characteristic.
- *Socioeconomic Status, Academic Status, Pregnancy Status or Homelessness* may include unwelcome verbal, physical, or visual conduct directed at the characteristics of an Individual's actual or perceived socioeconomic status or academic status, such as income, amount and kind of education, living arrangement or pregnancy status.

Harassment often involves a man harassing a woman, but prohibited harassment can also involve a woman harassing a man or harassment between members of the same race, color, age, religion, creed, ancestry, race, national origin, physical or mental disability, sexual orientation, military status, physical appearance, socioeconomic or academic status, pregnancy, homelessness or other protected group.

Not every incident resulting in hurt feelings or discord will involve a violation of this Policy. At the same time, employees and students should not be quick to dismiss or denigrate complaints or observed incidents of discrimination, harassment or retaliation simply because it would not have bothered them or because they felt it was meant as a joke. All Individuals are encouraged to report even isolated or individual instances of discrimination, harassment or retaliation that they believe may violate this Policy because such instances may be symptomatic of a larger problem.

#### D. Legal Definitions and SES Policy

It is important to bear in mind that stricter standards of behavior than those provided by law may apply under the School's policies in order that we may prevent inappropriate verbal and physical conduct. Conduct need not meet the legal definitions of harassment, discrimination, or bullying to violate the School's expectations for appropriate behavior. The School's efforts to enhance its protection of students in no way expands an individual's rights under the law.

#### E. Conduct Involving Third Parties

This Policy applies when, while on SES property or conducting SES business, Individuals encounter discrimination, harassment or retaliation from third parties, such as consultants, contractors or other personnel who deal with SES. This Policy also applies when an employee or student harasses or retaliates against a consultant, contractor or any other third person who contracts with SES. Harassment involving a third party is covered by this Policy and should be promptly reported. SES is committed to investigating and taking appropriate remedial action to end discrimination, harassment or retaliation involving third parties.

#### F. Sexual Conduct and Romantic Relationships

Sexual conduct and romantic relationships between students and employees are strictly prohibited as it may subject SES and the individuals involved to civil and criminal liability. Employees who have knowledge of a possible violation of this Policy must report it to the SES Human Rights Officer immediately. Failure to report this information is itself a violation of this Policy and can subject an employee to discipline, up to and including discharge.

#### G. Retaliation Prohibition

SES forbids reprisal or retaliation against any Individual who opposes any form of discrimination, harassment or bullying, files a complaint, testifies, assists or participates in any manner in an investigation, proceeding, or hearing, conducted by SES. Forms of retaliation include, but are not limited to, suspension, demotion, failure to hire or consider to hire, failure to give equal consideration in making employment decisions, failure to make impartial employment recommendations, adversely affecting working or learning conditions, or denying any employment or other benefit to said individual. **Proper measures to address misconduct and/or poor performance are not considered retaliation.**

SES will not retaliate or tolerate retaliation against any Individual for making a good faith report or complaint of bullying, harassment, discrimination or retaliation, even if such report or complaint is ultimately not corroborated. The prohibition against retaliation also is intended to protect any Individual who witnesses an incident of prohibited bullying, harassment, discrimination or retaliation or participates in an investigation. Individuals who become aware of any conduct which they reasonably believe to be prohibited retaliation are expected to report it promptly in accordance with this Policy.

#### H. False and Frivolous Complaints

False and frivolous complaints refer to instances where a person makes or participates in a complaint to accomplish some end other than stopping the discrimination, bullying, harassment or retaliation. A complaint made in good faith, but which cannot be proven, is not a false and frivolous complaint. Given the seriousness of the consequences for all concerned,

knowingly making a false and frivolous complaint is a severe offense that can itself result in disciplinary action. No Individual shall be retaliated against for reporting discrimination, harassment, bullying or retaliation in good faith.

## II. Reporting Procedures

Any Individual who believes he or she has been the victim of bullying, discrimination, harassment or retaliation, as set forth above, by any other Individual should report the alleged acts immediately to the SES Human Rights Officers, Cara Sullivan or Richard Grenda, who are the designated individuals who respond to actual notice of an allegation and who oversee the implementation of this Policy. If a student needs assistance in determining whether harassment or sexual harassment has occurred, they are encouraged to discuss the matter with Cara Sullivan, Richard Grenda or another trusted adult at the School.

All employees are mandated reporters and are expected to promptly report possible incidents of discrimination or harassment of students or employees to the SES Human Rights Officers. Parents/guardians and other adults are also encouraged to report any concerns about possible discrimination or harassment of students.

SES Human Rights Officers have the primary responsibility for coordinating the School's efforts related to investigation, resolution, and implementation of corrective measures and monitoring to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this Policy.

In addition, Individuals may report alleged acts of bullying, discrimination, harassment or retaliation in the following ways.

1. Students may report to a teacher, clinician, or principal – all of whom will have the obligation to inform them SES Human Rights Officers. Students may report bullying, discrimination, harassment or retaliation anonymously by telephone or in writing to the SES Human Rights Officers.
2. Employees may report alleged acts of bullying, discrimination, harassment or retaliation to the principal or SES Human Rights Officer.
3. If the complaint involves a SES Human Rights Officer, the complaint should be made to a member of the SES Board of Directors.

SES encourages the reporting Individual or complainant to use the report form available from the principal in each building, but oral reports shall be considered complaints as well. Use of formal report forms is not mandated. Nothing in this Policy shall prevent any Individual from reporting bullying, harassment, discrimination or retaliation directly to a member of the SES Board of Directors; provided, however, that the SES Board of Directors will enforce make a mandatory report to a SES Human Rights Officer.

A. In each school building, the principal is the primary person responsible for receiving oral or written reports of bullying, harassment, discrimination or retaliation based on an Individual's actual or perceived color, race, age, religion, creed, ancestry, national origin, physical or mental disability, sexual orientation, military status, physical appearance, socioeconomic or academic status, pregnancy, homelessness or other protected group status. Any SES employee who receives a report of bullying, discrimination, harassment or retaliation shall inform the principal immediately, unless the bullying, discrimination, harassment or retaliation involves the principal, in which case, reports should be made to an SES Human Rights Officer. Any SES employee who observes, overhears, or otherwise witnesses bullying, discrimination, harassment or retaliation, as set forth above, must immediately report the incident to the principal and/or SES Human Rights Officer, who will take prompt and appropriate interim action to stop the conduct and to prevent its recurrence until the matter can be investigated by one of the persons designated in this Policy. A written report of the incident and the action taken by the employee in response to it must be given to the principal or the SES Human Rights Officer.

Upon receipt of a report, the principal must notify a SES Human Rights Officer immediately, without screening or investigating the report. A written statement of the facts alleged will be forwarded as soon as practicable by the principal to the SES Human Rights Officer. If the report was given verbally, the principal shall personally reduce it to written form within 24 hours and forward it to the SES Human Rights Officer. Failure to forward any bullying, discrimination, harassment or retaliation report or complaint as provided herein will result in disciplinary action against the principal. If the complaint involves the building principal, the complaint shall be made or filed directly with an SES Human Rights Officer by the reporting party or the complainant.

B. The SES Board of Directors has designated the following as the SES Human Rights Officers. At least one of the Human Rights Officers will be female and at least one will be male.

|                   |                                          |
|-------------------|------------------------------------------|
| Name:             | Cara Sullivan                            |
| Title:            | Regional Director                        |
| Site:             | SES Corporate Office                     |
| Address:          | 195 Poplar Place, North Aurora, IL 60542 |
| Telephone Number: | 630-907-2400 or 630-990-1720             |
| Email Address:    | Cara.Sullivan@menta.com                  |

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|-------------------|------------------------------------------|
| Name:             | Richard Grenda                           |
| Title:            | Regional Director                        |
| Site:             | SES Corporate Office                     |
| Address:          | 195 Poplar Place, North Aurora, IL 60542 |
| Telephone Number: | 630-907-2400 or 630-990-1720             |
| Email Address:    | Richard.Grenda@menta.com                 |

The SES Human Rights Officers are charged with responsibility to identify, prevent, and remedy bullying, discrimination, harassment and retaliation. The SES Human Rights Officers shall:

- receive reports or complaints of bullying, sexual harassment, discrimination, retaliation and harassment based on an Individual's actual or perceived color, race, age, religion, creed, ancestry, national origin, physical or mental disability,

- sexual orientation, military status, physical appearance, socioeconomic or academic status, pregnancy, homelessness or other protected group status;
- oversee the investigative process;
- be responsible for assessing the training needs of SES employees and students in connection with the dissemination, comprehension, and compliance with this Policy;
- arrange for necessary training required for compliance with this Policy; and
- ensure that any investigation is conducted by an impartial investigator who has been trained in the requirements of equal educational opportunity, including bullying, discrimination, harassment and retaliation, and who is able to apply procedural and substantive standards which are necessary and applicable to identify unlawful conduct, recommend appropriate discipline and remedies when bullying, discrimination, harassment or retaliation is found, and take other appropriate action to rectify the damaging effects of any prohibited conduct, including interim protection of the victim during the course of the investigation.

If any complaint involves a SES Human Rights Officer, the complaint shall be filed directly with a member of the SES Board of Directors.

C. SES and its Human Rights Officers will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with SES's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

D. Consistent with federal and state laws and rules governing student privacy rights, SES and its Human Rights Officers will notify parents of students involved in alleged incidents of bullying, discrimination, harassment and retaliation incidents within 24 hours of the administration being made aware of the situation and will, if appropriate, discuss the availability of social work services, counseling, psychological services, and other interventions and restorative measures.

E. The right of an Individual to prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the Individual's pursuit of other remedies. Use of these procedures is not a prerequisite to the pursuit of other remedies and use of these procedures does not extend any filing deadline related to the pursuit of other remedies.

F. Several behaviors listed as sexual harassment may also constitute physical or sexual abuse. Thus, under certain circumstances, alleged harassment may also be possible physical and/or sexual abuse under federal, state or local law. Such harassment or abuse is subject to the duties of mandated reporting and must be reported to the appropriate governmental agency immediately. Any questions about the duties of mandated reporting should be directed to the principal or a SES Human Rights Officer.

G. If both parties agree, may be possible to resolve a complaint through a voluntary conversation between the complainant and the Individual accused of bullying, discrimination, harassment or retaliation, facilitated by a SES principal or by the designated SES Human Rights Officer. If the complainant or person accused of bullying, discrimination or harassment is a student under the age of 18, the SES Human Rights Officer should notify the student's parent(s)/guardian(s) if, after initial consultation with the student, such a course of action is determined to be in the best interests of the student. Both the complainant and the person accused of bullying, discrimination, harassment or retaliation may be accompanied by a person



of their choice for support and guidance. If the complainant and the Individual accused of bullying, discrimination, harassment or retaliation feel that a resolution has been achieved, then the conversation may remain confidential and no further action needs to be taken. The results of an informal resolution shall be reported by the facilitator, in writing, to the SES Board of Directors.

H. If the complainant, the Individual accused of harassment, discrimination, retaliation or bullying, or the SES principal/Human Rights Officer chooses not to utilize the informal procedure, or feels that the informal procedure is inadequate or has been unsuccessful, he or she may proceed to the formal procedure. Any student complaint against an SES employee shall be handled through the formal procedure.

### III. Investigation

A. Upon receipt of a report or complaint alleging bullying, discrimination, sexual harassment, harassment or retaliation based on an Individual's actual or perceived color, race, religion, age, creed, ancestry, national origin, physical or mental disability, sexual orientation, military status, physical appearance, socioeconomic or academic status, pregnancy, homelessness or other protected group status, the SES Human Rights Officer shall (i) investigate whether a reported act of bullying, discrimination, harassment or retaliation is within the permissible scope of SES jurisdiction and (ii) immediately undertake or authorize an investigation. That investigation may be conducted by SES officials or, if appropriate, by a third party designated by SES.

B. The investigation may consist of personal interviews with the complainant, the Individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

C. Consistent with federal and state laws and rules, the Human Rights Officer will provide parent(s)/guardian(s) of students who are parties to the investigation information about the investigation and an opportunity to meet with the Human Rights Officer or designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying, discrimination, harassment or retaliation.

D. The person who investigates the complaint will not make the determination whether alleged conduct constitutes a violation of this Policy. In making such determination, SES should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this Policy requires a determination based on all the facts and surrounding circumstances.

E. In addition, SES may take immediate steps, at its discretion, to protect the complainant, students, employees and third parties pending completion of an investigation of alleged bullying, discrimination, harassment or retaliation.

F. An investigation will be completed as promptly as possible typically within 10 school days from the date of the complaint or report. The Human Rights Officer shall report to the Board of Directors upon completion of the investigation. The report shall include a determination of whether the allegations have been substantiated as factual and whether they

appear to be violations of this Policy.

#### IV. Consequences

A. Upon receipt of a report that a violation has occurred, SES will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include but are not limited to counseling or social work services, social-emotional skill building, restorative measures, awareness training, parent-teacher conferences, mediation, warning, suspension, transfer, remediation, or termination. If the SES Human Rights Officer concludes that this Policy has been violated by a certified or licensed SES employee, a report of the findings may be filed with the appropriate governmental agency.

B. The result of SES's investigation of each complaint filed under these procedures will be reported to the complainant by SES in accordance with state and federal law regarding data or records privacy.

C. Copies of all complaints of bullying, discrimination, harassment or retaliation, and the investigations conducted pursuant to them, shall be maintained for an appropriate period of time at the corporate offices of SES.

#### V. Dissemination of Policy and Training

A. Notice of this Policy shall be posted throughout each school building in areas accessible to students, employees and third parties. This notice shall include the names, mailing address, telephone number, and email address of the Human Rights Officers. Notice to students shall be in age-appropriate language and should include examples of the unlawful conduct.

B. This Policy shall appear in student and staff handbooks and on the SES website. It shall be provided to parents, guardians, and students on an annual basis and upon student enrollment in an SES school. It shall be made available upon request of parents, students, employees, and other interested third parties.

C. SES will develop a method of discussing this Policy with students and employees. Training on the requirements of non-discrimination and the appropriate responses to issues of bullying, harassment and retaliation will be provided to all SES employees on an annual basis, new employees when hired, and at such other times as the Board of Directors, in consultation with the Human Rights Officers, determines is necessary or appropriate. Age-appropriate programs for students shall be developed and initiated to effectively inform students about the substance of this Policy and procedures in order to help prevent the conduct prohibited by this Policy.

D. This Policy shall be reviewed at least once every two (2) years for compliance with local, state and federal law.

E. The Human Rights Officers will periodically review SES bullying, discrimination, harassment and retaliation records for the purposes of monitoring: (1) the effectiveness of SES programs and interventions in creating a work and learning environment that encourages mutual respect and civility, and (2) the application of this Policy in a non-discriminatory manner. This review will include, but is not limited to, factors such as:

1. The frequency of incidents of bullying, discrimination, harassment and retaliation
2. The types of bullying, discrimination, harassment and retaliation utilized
3. Identification of areas in the school and work environment in which bullying, discrimination, harassment or retaliation occurs
4. Number of students, employees and third parties involved in each incident of bullying, discrimination, harassment or retaliation
5. Student, staff, and family reports related to safety at school

VII. Special Additional Reporting Procedures for Chicago Public School Students

In addition to the foregoing reporting procedures identified above in Section III, Chicago Public School (CPS) students who experience sex harassment, discrimination or retaliation can also contact the following resources:

- Office of Student Protections and Title IX (OSP) at (773) 535-4400 (student-to-student)(Inquiries regarding sports equity should be directed to ospcompliance@cps.edu)
- Office of Inspector General (OIG) at 833-TELL-CPS (833-835-5277)(adult-to-student) or
- U.S. Department of Education Office for Civil Rights (OCR) at (312) 730-1560 or ocr@chicago.gov

Concerns or inquiries regarding discrimination, harassment or retaliation involving CPS student victims on the basis of disability should be made to:

- District Manager Section 504 Compliance at Section504@cps.edu

Concerns or inquiries regarding discrimination, harassment or retaliation involving CPS student victims on the basis of any other protected category under local, state or federal law should be made to:

- Principal of student's school (student victims)
- Equal Opportunity Compliance Office (EOCO) at 773-553-1013 or ecoo@cps.edu (adult victims)

For further information, see the City of Chicago Board of Education's *Comprehensive Non-Discrimination, Harassment, and Retaliation Policy* at [www.cps.edu/Pages/NonDiscrimination.aspx](http://www.cps.edu/Pages/NonDiscrimination.aspx)

*Note: This policy is based on the engagement of a range of school stakeholders, including students and parents or guardians.*