

# DISCIPLINE POLICY, including the CROWN Act updates (p.8)

## From the Student & Parent Handbook

### IV. DISCIPLINE

**UNLESS STATED OTHERWISE, DISCIPLINARY ACTION FOR VIOLATION OF ANY OF THE FOLLOWING WILL ADHERE TO THE OPTIONS LISTED BELOW:**

First Offense:	Meeting with administrator and parent notification with the potential 1 to 3 day suspension
Second Offense:	Meeting with administrator and parent notification 5 day suspension or dismissal for the semester
Third Offense:	Meeting with administrator and parent notification. Dismissal for the semester or expulsion

\*If deemed necessary, the administrator may refer the student to the Health/Mental Health Team for screening. Further in-school counseling may be mandated for the student and parent.

\*If administration deems the violation as egregious, a first or second offense may result in immediate dismissal, expulsion, and/or referral to legal authorities.

*Please Note: In all cases, communication of any illegal act or action by a student may be forwarded to the appropriate authority or law enforcement agency.*

#### ◆ ARSON

The willful and/or neglectful starting of a fire by any means, or causing an explosion on school property or at any school related event, is strictly prohibited.

1. First Offense: Meeting with administrator, parent and student. Dismissal for the semester; student and/or parent will be required to make restitution. Authorities may or may not be notified at the discretion of the principal.
2. Second Offense: Meeting with administrator, parent and student. Expulsion, student and/or parent will be required to make restitution and legal authorities will be notified.

#### ◆ BOMB THREATS AND FALSE ALARMS

Informing another person that a bomb or other explosive has been placed in a position where persons or property are likely to be injured or destroyed is illegal and strictly prohibited. It is also illegal to interfere with the functioning of a fire alarm or give a false alarm by any means.

1. First Offense: Meeting with administrator, parent and student; dismissal for the semester and referral to legal authorities.
2. Second Offense: Meeting with administrator, parent and student; expulsion and referral to legal authorities.

◆ **BULLYING, INTIMIDATION, HARASSMENT & HAZING POLICY**

When students are afraid to attend school/classes they cannot learn. Bullying prevention programs can help to provide a safe environment in which teachers can teach and students can learn. When a student is *bullied*, his or her ability to participate in and benefit from the school's educational programs or activities is adversely affected. The goal of this policy is to ensure that procedures are in place to prevent bullying, limit the prevalence of bullying, and to make consequences salient to everyone involved.

The staff at Digital Arts and Technology Academy believes that providing an educational environment for all students, employees, volunteers, and families, free from harassment, intimidation, or bullying supports a total learning experience that promotes personal growth, healthy interpersonal relationships, wellness, and freedom from discrimination and abuse. Therefore, harassment, intimidation and bullying are forms of dangerous and disrespectful behavior that will not be tolerated.

**Definitions**

1. "Bullying" means any repeated and pervasive written, verbal or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress upon one or more students in the school, on school grounds, in school vehicles, at a designated bus stop, or at school activities or sanctioned events. Bullying includes, but is not limited to, hazing, harassment, intimidation or menacing acts of a student which may, but need not be based on another student's race, color, sex, ethnicity, national origin, religion, disability, age, sexual orientation, gender identification, or any other class protected by law.
2. "Intimidation" means influencing the actions of another by the use of threats or violence.
3. "Harassment" means knowingly pursuing a pattern of conduct that is intended to annoy, alarm or terrorize another person.
4. "Disability Harassment" is defined as intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the district.

Harassment and Disability Harassment include but are not limited to:

- a. Verbal acts, teasing, use of sarcasm, jokes;
  - b. Name-calling, belittling;
  - c. Nonverbal behavior such as graphic or written statements;
  - d. Conduct that is physically threatening, harmful, or humiliating; or
  - e. Inappropriate physical restraint by adults.
5. "Racial Harassment" consists of physical or verbal conduct relating to an individual's race when the conduct:
    - a. Has the purpose or effect of creating an intimidating, hostile, or

- offensive academic environment;
  - b. Has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or
  - c. Otherwise adversely affects an individual's academic opportunities.
6. "Sexual Harassment" means any unwelcome sexual advances, requests for sexual favors, or other inappropriate verbal, written, or physical conduct of a sexual nature. Sexual harassment may take place under any of the following circumstances:
- a. When submission to such conduct is made, explicitly or implicitly, a term or condition of obtaining an education; or
  - b. Submission to or rejection of that conduct or communication by an individual is used to factor in decisions affecting that individual's education; or
  - c. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's education, or creating an intimidating, hostile or offensive educational environment.
7. "Hazing" means committing an act against a student, or coercing a student into committing an act, that creates a risk of harm to a person, in order for that student to be initiated into or affiliated with a student organization, or for any other purpose. Hazing includes but is not limited to:
- a. Any type of physical brutality such as whipping, beating, striking, branding, shocking, or placing a harmful substance on the body.
  - b. Any type of physical activity such as sleep deprivation, exposure to weather, confinement in a restricted area, calisthenics or other activity that subject the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
  - c. Any activity involving the consumption of any alcoholic beverage, drug, tobacco product or any other food, liquid, or substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
  - d. Any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, embarrassment, shame, or humiliation, that adversely affects the mental health or dignity of the student or discourages the student from remaining in school.
  - e. Any activity that causes or requires the student to perform a task that involves a violation of state or federal law, or district policies.

### **Notice of Prohibition Against Bullying and Anti-Bullying Interventions**

Bullying behavior by any student in the Digital Arts and Technology Academy is strictly prohibited, and such conduct may result in disciplinary action, including suspension and/or expulsion from school. "Bullying" means any repeated and pervasive written, verbal, or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress upon one or more students in the school, on school grounds, in school vehicles, at a designated bus stop, or at school activities or

sanctioned events. Bullying includes, but is not limited to, hazing, harassment, intimidation, or menacing acts of a student which may, but need not be, based on the student's race, color, sex, ethnicity, national origin, religion, disability, age, sexual orientation, or gender identity that a reasonable person under the circumstances should know will have the effect of:

1. Placing a student in reasonable fear of physical harm or damage to the student's property; or
2. Physically harming a student or damaging a student's property; or
3. Insulting or demeaning any student or group of students in such a way as to disrupt or interfere with the school's educational mission or the education of any student; or

Students and parents may file verbal or written complaints concerning suspected bullying behavior to school personnel and administrators. Any report of suspected bullying behavior will be promptly reviewed. If acts of bullying are verified, prompt disciplinary action may be taken against the perpetrator, up to and including suspension and/or expulsion.

### **Prohibition of Prejudice against intersex students and prejudice against students due to gender identity.**

Federal civil rights laws protect all students, including intersex students, from sex discrimination. This protection includes, for example, protection against discrimination because students do not fit stereotypical views about boys and girls or men and women. "Intersex" generally describes people with variations in physical sex characteristics. These variations may involve anatomy, hormones, chromosomes, and other traits that differ from expectations generally associated with male and female bodies. While some people are identified as intersex at birth based on their visible sex characteristics, others may not know they have intersex traits until later in life, if ever. Intersex people may have any gender identity, such as male, female, or nonbinary. DATA prohibits the discrimination and/or bullying of intersex students due to these traits.

Discrimination against someone due to their gender identity is prohibited at DATA. This includes, but may not be limited to, purposefully and repeatedly doing one or both of the following things: misgendering a student or using a name that a student does not prefer.

### **Reporting Intimidation, Harassment, or Bullying Behavior**

1. Any student who believes he/she/they has been the victim of harassment, intimidation, bullying, or hazing by a student or school personnel, or any person with knowledge or belief of such conduct that may constitute harassment, intimidation, bullying, or hazing toward a student should immediately report the alleged acts.
2. The report may be made to any staff member. The staff member will assist the student in reporting to the principal or other district personnel.
3. Teachers and other school staff who witness acts of bullying or receive student

reports of bullying are *required* to promptly notify designated staff.

4. Reports should be done in writing using the Harassment, Intimidation, Bullying, or Hazing Complaint Form. A copy of this form will be submitted to the Safe Schools coordinator.
5. School principal or designee is *required* to accept and investigate all reports of intimidation, harassment or bullying.
6. School principal or designee is *required* to notify the parent or guardian of a student who commits a verified act of intimidation, harassment, or bullying of the response of the school staff and consequences that may result from further acts of bullying.
7. Nothing in this policy shall prevent any person from reporting directly to the office of the Chief Operating Officer.
8. Retaliation against an individual who either orally reports or files a written complaint regarding harassment, intimidation, bullying, or hazing or who participates in or cooperates with an investigation is prohibited.
9. The right to confidentiality, both of the complainant and the accused, shall be preserved consistent with applicable laws.
10. If harassment or bullying continues, the perpetrator will be immediately suspended and removed from the school, pending a long-term hearing.
11. To the extent permitted under the Family Educational Rights and Privacy Act (FERPA) school staff is *required* to notify the parent or guardian of a student who is a target of bullying of the action taken to prevent any further acts of bullying.
12. If you believe that you or another person has been discriminated against—for example, treated differently, denied an educational opportunity, harassed, bullied, or retaliated against—**based on sex or gender identity**, there are a number of steps you can take:
  - a) Tell a teacher or school leader (for example, a principal or student affairs staff member) immediately. If you don't get the help you need, you may file a complaint with the school, school district, college, or university. Keep records of your complaint and responses you receive.
  - b) Write down the details about what happened, where and when the incident happened, who was involved, and the names of any witnesses. Do this for every incident of discrimination, and keep copies of any related documents or other information.
  - c) If you have contacted the school and it has not taken steps to appropriately address your concerns, you can file a complaint (in English or another language) with the Office for Civil Rights of the U.S. Department of Education.

### **Investigating Intimidation, Harassment, or Bullying Behavior**

1. The principal or their designee will appropriately and promptly investigate all reports of harassment, intimidation, bullying, or hazing. In determining whether the alleged conduct constitutes bullying, the totality of the circumstances, the nature of the conduct, the student's history, and the context in which the alleged conduct occurred will be investigated. The administrator will make every effort to inform the parents/guardians of the victim and the

accused of any report of harassment, intimidation, bullying, or hazing *prior* to the investigation taking place.

2. The investigation shall consist of personal interviews with the complainant, the individual(s) against whom the complaint was 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 other methods or documents deemed relevant by the investigator.
3. The district may take immediate steps to protect the complainant, students, teachers, administrators, or other school personnel pending the completion of an investigation.
4. The investigation shall be completed as soon as possible. The principal (or investigator) shall make a written report to the Chief Operating Officer upon completion of the investigation. If the complaint involves the Chief Operating Officer the report shall be filed directly with the New Mexico Public Education Department, Educator Ethics Bureau. 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. A copy of the completed report will be maintained by the district Safe Schools Coordinator.

### **Consequences for Bullying, Intimidation, Harassment and Hazing**

1. Verified acts of these types of behavior shall result in intervention by the building principal or his/her designee that is intended to ensure that the prohibition against them is enforced.
2. Bullying, intimidation, harassment and hazing behavior can take many forms and can vary dramatically in how serious it is, and what impact it has on the targeted individual and other students. Accordingly, there is no one response. While conduct that rises to the level of bullying, intimidation, harassment and hazing as defined above will generally warrant disciplinary action against the perpetrator, whether and to what extent to impose disciplinary action is a matter for the professional discretion of the building principal.
3. Possible disciplinary action may include: a) Referral to the Health/Mental Health Team for screening, b) Mandatory counseling for student and parent, c) Suspension from school, d) Dismissal for the semester, e) Expulsion

### **Consequences for Knowingly Making False Reports**

1. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions. Falsely reporting an incident is considered a disruption to the educational process and will be subject to the same disciplinary actions.

### **Anti-Bullying Included In Health Education Curriculum**

“Health Education” is the instructional program that provides the opportunity to motivate and assist all students to maintain and improve their health, prevent disease, and reduce health related risk behaviors. It allows students to develop and demonstrate

increasingly sophisticated health-related knowledge, attitudes, skills, and practices. It meets the content standards with benchmarks and performance standards as set forth in 6.30.2.19 NMAC. Our curriculum recognizes the importance of bully prevention skills in all grade levels.

### **Threats of Violence**

1. Threats of violence toward other students, school staff, or facilities generally are prohibited and may result in suspension or expulsion, regardless of whether the student has previously engaged in such conduct.
2. All employees and students are required to report evidence of threats of violence to their principal. Such reports shall be investigated by the principal or designee. All such reports shall be documented by the principal.
3. In cases of threats that may constitute a violation of criminal law, the principal, Chief Operating Officer or designee shall notify law enforcement authorities.
4. Students who are charged with violation of this policy shall be placed on short-term suspension pending investigation of the charge(s). Those found, through a due-process hearing, to have violated this regulation shall be subject to discipline, including dismissal or expulsion. For Special Education students administrators will consult with the Director of Special Education regarding the appropriate process.

### ◆ **PROHIBITION AGAINST RACIALLY CHARGED AGGRESSION or DISCRIMINATION**

DATA works to create an inclusive, just, safe, and progressive anti-racist culture and environment so that all students can feel as though they are encouraged and capable of learning. Furthermore, we believe all students have the right to feel safe and included regardless of race, ethnicity, home language, disability, sexual orientation, sex/gender, or any other protected class. Therefore, DATA prohibits actions that are explicitly intended to harm other students based on any protected class.

#### **Racially Charged Aggression or discrimination is defined as:**

- 1) Any usage of a racial epithet as an attack against someone or to make them feel uncomfortable or unwelcome. This can be verbal, written, or digitally posted.
- 2) Any written or digitally posted harassment, joke, or expression that targets, excludes, or makes fun of a specific race or ethnicity.
- 3) The specific targeting of someone because of their race/ethnicity
- 4) The purposeful subjugation or interference of a program, curriculum, or resource designed to help students or staff become more equitable or racially sensitive.
- 5) The purposeful exclusion of an individual or group based on their racial/ethnic background or other protected class.

Any instance of discrimination or racially charged aggression will be investigated by administration. Guardians of both parties, the alleged perpetrator and victim, will be

notified of the incident and that it is being, or has been, investigated. The investigation may involve interviews of both parties, students or staff that may be witnesses, written evidence both online or on paper, and other evidence as it becomes pertinent.

**The consequence for these behaviors will be any of the following depending on the severity of the offense.**

- 1) The student's guardians will be called and there will be a discussion of the offense and its effect on the DATA culture as well as the receiver of the offense (the victim).
- 2) The student will write or orally express a sincere apology to the school/admin and the victim (if the victim agrees).
- 3) The student will attend or take part in a racial sensitivity training provided by the school
- 4) The student will be suspended for three days on the first offense if clear intent to harm was found.
- 5) The student will be removed from any sports teams.
- 6) The student will be expelled if the student's behavior continues.

### **Crown Act**

In April 2021 Gov. Michelle Lujan Grisham signed into law the CROWN Act ("Create a Respectful and Open Workplace/World for Natural Hair" Act) which prohibits discrimination, discipline or disparate treatment for New Mexico school students on the basis of their hair style or cultural or religious headdress.

DATA prohibits discrimination on the basis of hair style, protective style, type and texture if that style or texture is commonly associated with a particular race or national origin.

DATA commits to creating more equitable outcomes for students, recognizing that student hair and headdress has a direct relationship to the expression of race, culture and heritage. Preventing discrimination on the basis of hair and headdress is an issue of creating more equitable outcomes for students, breaking down barriers which disproportionately impact Black, Indigenous and other Peoples of Color to see themselves as scholars and learners.

### ◆ **DRUGS, TOBACCO & ALCOHOL**

DATA believes that there is neither any reason nor excuse to possess, use, or be under the influence of alcohol, tobacco, or any illegal drug at school or at school sponsored events. This also includes "look-alikes," whether or not they are capable of producing a change in behavior or altering a state of mind. Offenses with drugs, tobacco and alcohol fall into three categories: possession on campus, under the influence or use on campus, and sale on campus.

1. **Possession:** The possession of drugs, drug paraphernalia, or alcohol on campus



2. ***Suspected Use or Under the Influence:*** The use of drugs or alcohol on campus or arriving on campus under the influence of drugs or alcohol
3. ***Sale of drugs or alcohol:*** The sale or distribution of drugs or alcohol on campus will result in immediate dismissal for the semester. A second offense at any time during the student's DATA career will result in expulsion with no opportunity to reenroll. The administration has the right to expel for egregious sale or distribution of drugs or alcohol.
4. **Students who smoke or use any tobacco product on school property or in sight of school property will be warned. A second offense will result in suspension and participation in an after school smoking cessation program. Anyone using a tobacco product in school will be suspended.**

◆ **FIGHTING**

Intending or performing physical harm and/or causing present fear of imminent danger to a person, with or without a weapon, are strictly prohibited. This includes fights resulting from verbal action, and/or bodily harm. Any fight or threat of fight may warrant suspension.

◆ **INSUBORDINATION**

Willful failure to comply with directions or requests from school personnel is prohibited. This includes failure to show your identification card when requested by faculty or staff. This will result in disciplinary action which could include a warning, parent conference, suspension, or movement of placement to online learning if the behavior continues.

◆ **SEARCH OF PERSON OR VEHICLE**

1. Vehicle Searches – Search of a student's vehicle while parked on school property may be conducted only if a certified school employee, school security officer, or campus security aide has reasonable suspicion that a crime or breach of the disciplinary code is being committed by the student.
2. Physical Searches – Search of a student's person or property may be conducted only where there is individualized, reasonable suspicion that the student being searched has committed a crime or a breach of the disciplinary code.

**Minimally Intrusive Searches** – Searches such as emptying of pockets, searches of student backpacks and purses, removal of hats, socks and shoes may be conducted by any certified school employee, school security officer, or campus security personnel.

**More Intrusive Searches** – Searches such as pat downs and frisks may only be conducted by an authorized person of the same sex as the student being searched.

Students have the right to request parent notification prior to a search.

◆ **THEFT & VANDALISM**

Theft or the unauthorized possession, damage, or misuse of school property, other property on campus or property belonging to any member of the DATA community will result in financial responsibility for loss or damage, as well as the following consequences:

1. First Offense: Meeting with administrator, parent and student. Three day suspension, student and/or parent will be required to make restitution.
2. Second Offense: Five day suspension or dismissal. Student and/or parent will be required to make restitution.
3. Third Offense: Expulsion from DATA, student and/or parent will be required to make restitution.
4. Expulsion may be utilized after first offense if the vandalism or theft is egregious such that it destroys personal property of another purposefully such that it can't be recovered.

◆ **TRESPASSING & UNAUTHORIZED PRESENCE**

Students are not allowed to be on school grounds or in school facilities after school hours unless they are participating in a school-sponsored activity with a DATA staff sponsor present.

◆ **WEAPONS**

Possession and/or use of a weapon includes, but is not limited to, firearms; any type of gun, knife, or club; explosives; spiked wrist band, chains, or other items that may cause or are intended to cause injury or death. This also includes "look-alike" guns and knives.

**Possession and/or use of a weapon of any kind with intent to cause harm will result in immediate expulsion from DATA.**

◆ **LIABILITY**

No school employee who in good faith reports any known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy.