



Abusive Behavior, Bullying, Cyberbullying, Harassment, and Hazing Policy

References: 53G-9-601; 53G-9-605; 53G-8-205

PURPOSE

Abusive behavior, bullying, cyberbullying, harassment, and hazing are not tolerated at Merit Preparatory Academy. These behaviors are in violation of the school's mission, accepted and appropriate conduct and federal, state, and local law. This policy outlines Merit Preparatory Academy's prohibitions of and procedures for managing such behavior.

DEFINITIONS

- I. Abusive conduct: 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 single act does not constitute abusive conduct.
- II. Action plan: a process to address an incident.
- III. Bullying: 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;
 - B. Causing damage to the school employee's or student's property;
 - C. Placing the school employee or student in reasonable fear of:
 - 1. Harm to the school employee's or student's physical or emotional well being; or
 - 2. Damage to the school employee's or student's property;
 - D. Creating a hostile, threatening, humiliating, or abusive educational environment due to:
 - 1. The pervasiveness, persistence, or severity of the actions; or
 - 2. A power differential between the bully and the target; or
 - E. Substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
- IV. Communication: the conveyance of a message, whether verbal, written, or electronic.

- V. Civil Rights Violation: bullying, cyber-bullying, harassment, or hazing that is targeted at a student or employee, based 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;
 - B. Title IX of the Education Amendments of 1972;
 - C. Section 504 of the Rehabilitation Act of 1973; or
 - D. Title II of the Americans with Disabilities Act of 1990.
- VI. Cyber-bullying: 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.
- VII. Federally protected class: any group protected from discrimination under federal law, including:
 - A. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of *race, color, or national origin*.
 - B. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of *sex*.
 - C. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 prohibits discrimination on the basis of **disability**.
 - D. Other areas included under these acts include *religion, gender identity, and sexual orientation*.
- VIII. Hazing: 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;
 - B. 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;
 - C. 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
 - D. 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**
 - E. is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or
 - F. 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.

- G. The conduct described constitutes hazing, regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- IX. Harassment: repeated communication that is demeaning, disparaging, or threatening, contributing to a hostile learning or working environment.
- X. Retaliation: an act or communication intended:
 - A. as retribution against a person for reporting abusive behavior, bullying, cyberbullying, harassment, or hazing; or
 - B. to improperly influence the investigation of, or the response to, a report of abusive conduct, bullying, cyberbullying, harassment or hazing.
- XI. School employee: an individual working in the individual's official capacity as:
 - A. A school teacher;
 - B. A school staff member;
 - C. A school administrator;
 - D. An individual who:
 - 1. is employed, directly or indirectly, by a school, or an LEA governing board; and
 - 2. works on a school campus.

POLICY

I. Conduct

- A. No school employee or student may engage in ***bullying, harassing, or abusive behavior*** of a school employee or student:
 - 1. on school property;
 - 2. at a school related or sponsored event;
 - 3. on a school bus;
 - 4. at a school bus stop; or
 - 5. while the school employee or student is traveling to or from a location or event described above in Subsection 1-4.
 - 6. No school employee or student may engage in ***hazing or cyberbullying*** a school employee or student at any time or in any location.
- B. No school employee or student may engage in retaliation against:
 - 1. a school employee;
 - 2. a student; or
 - 3. an investigator for, or witness of, an alleged incident of abusive behavior, bullying, harassing, cyberbullying, hazing, or retaliation

II. Reporting

- A. No school employee or student may make a false allegation of abusive behavior, bullying, harassing, cyberbullying, hazing, or retaliation against a school employee or student.
- B. Reports of an incident will be made to either school counsellors, or the administration. Administrators will be informed of all reports.
- C. Each reported complaint shall include:
 - 1. Name of the complaining party,
 - 2. Name of the offender (if known),
 - 3. Date and location of the incident,
 - 4. A description of the incident, including witness names (if known).

III. Investigation:

- A. Each reported violation of the prohibitions noted previously will be promptly and reasonably investigated.
 - 1. Investigations will be handled by the Director, Assistant Director, or a designated employee
 - 2. If the Director is accused of such behavior, the Board of Trustees will handle the investigation
- B. The investigation process includes:
 - 1. Incident details, consequences, and an action plan will be recorded in the behavior section of the student's official record.
 - 2. Parental notification via email, phone, or voicemail.
 - 3. If necessary, police or law enforcement will be notified.
- C. It is Merit Academy'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 school policy of law.
- D. Individual targeted searches will be conducted if there is reasonable suspicion that a user has violated policy or law.
 - 1. Searches will be conducted by two employees under the direction of the Director or Assistant Director.
 - 2. 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.
- E. Actions must also include, as appropriate:
 - 1. procedures for protecting the victim and other involved individuals from being subjected to:
 - a. further abusive behavior, bullying, cyberbullying, harassment, and hazing; and
 - b. retaliation for reporting such conduct.
 - 2. prompt reporting to law enforcement of all acts of abusive behavior, bullying,

cyberbullying, harassment, hazing, or retaliation that constitute suspected criminal activity.

3. prompt reporting to the Office for Civil Rights (OCR) of all acts of abusive behavior, bullying, cyberbullying, harassment, hazing, or retaliation that may violate student(s)' or employee(s)' civil rights.
4. procedures for a fair and timely opportunity for the accused to explain the accusations and defend his actions prior to student or employee discipline.
5. procedures for providing due process rights under Section 53G-11-501 (licensed staff) and local employee discipline policies, or
6. Section 53G-8-204 and local policies (students) prior to long term (more than 10 day) student discipline or employee discipline.
7. Records may be expunged by request after the student graduates from school.
8. All information received in a complaint and the names of the complainant shall be treated with the utmost confidence to the extent possible.
9. Administrators shall notify the complainant before revealing his or her name.

IV. Disciplinary action:

- A. Formal disciplinary action is prohibited based solely on an anonymous report of abusive behavior, bullying, harassment, cyberbullying, hazing, or retaliation.
- B. 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:
 1. Student suspension or removal from a school-sponsored team or activity including school sponsored transportation; or
 2. Suspension and expulsion from the Academy, pursuant to Utah Code Ann. 53G-8-205 and or in accordance with the U.S. Department of Education Office for Civil Rights.
 3. A clearly written and enforced discipline plan will be followed and a written record will be maintained in the student's official school record.
- C. School officials have the authority to discipline students for off-campus speech that causes or threatens a substantial disruption on campus, including school activities, violent altercations, or a significant interference with a student's educational performance and involvement in school activities.
- D. If after an investigation, a school employee is found to be in violation of this policy, the employee shall be disciplined by appropriate measures up to, and including, employment reassignment or termination for cause.

V. Compliance with the Office for Civil Rights when Civil Rights Violations are Reported:

- A. Once Merit Academy knows or reasonably should know of possible student-on-student bullying, cyber-bullying, harassment or hazing, the school must take immediate and appropriate action to investigate or otherwise determine what occurred.
- B. If it is determined that the bullying, cyber-bullying, harassment or hazing did occur as a result of the student-victim's membership in a protected class, Merit Academy shall take prompt and effective steps reasonably calculated to:
 1. end the bullying, cyber-bullying, harassment, or hazing;

2. eliminate any hostile environment; and
3. prevent its recurrence.

C. These duties are Merit Academy's responsibilities even if the misconduct also is covered by a separate anti-bullying policy and regardless of whether the student makes a complaint, asks the school to take action, or identifies the bullying, cyberbullying, harassment or hazing as a form of discrimination.

VI. Training

A. The training of school employees shall include training regarding abusive behavior, bullying, cyberbullying, harassment, hazing, and retaliation.

B. The training should include training on civil rights violations and compliance when civil rights violations are reported.

C. To the extent possible, programs or initiatives designed to provide training and education regarding the prevention of abusive behavior, bullying, cyberbullying, hazing, harassment and retaliation should be implemented.

D. In addition to training for all students and school employees, students, employees, and volunteer coaches involved in any extra-curricular activity shall:

1. participate in bullying and hazing prevention training prior to participation;
2. repeat bullying and hazing prevention training at least every three years (schedule of training, if necessary, will be established by Admin at the beginning of the year);
3. be informed annually of the prohibited activities list provided previously in this Policy and the potential consequences for violation of this Policy.

VII. Grievance Process: The Administration, Counselors, and Hope Squad will support the grievance process in accordance with 53G-9-605-3F.

VIII. This policy will be developed with input from (1) students, (2) parents, (3) teachers, (4) school administrators, (5) school staff, or (6) law enforcement agencies.

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