

BULLYING, HARASSMENT, AND ABUSE AGAINST STUDENTS

It is the policy of Mountain Home School District No. 193 (MHSD) to maintain a safe school learning environment that is free from bullying, harassment, and/or abuse for all students while attending school, riding the school bus, and attending district-sponsored activities on school premises or at other locations. Bullying, harassment, and/or abuse, regardless of the specific nature of the students' behavior, are disruptive to a safe school environment and will not be tolerated. Each student has the right to attend school in an atmosphere that promotes equal opportunities and that is free from all forms of discrimination and conduct that can be considered bullying, harassing, intimidating, abusive, coercive, and/or disruptive.

The Board of Trustees does not condone, tolerate, or allow bullying, harassment, and/or abuse of any measure of its students, whether engaged in by fellow students, teachers, volunteers, or any person or minor. Consequently, bullying, harassment, and/or abuse by employees, students, volunteers, or any person are unacceptable.

Bullying, harassment, and/or abuse is defined as any action or conduct that is sufficiently severe, pervasive, or persistent so as to interfere with or poses a threat to the health and safety of students, or visitors, and/or is disruptive to the educational process of the Mountain Home School District, and/or limits the ability of an individual to participate in or benefit from the district's programs.

Bullying, harassment, and/or abuse is also defined as any unwanted aggressive or any intentionally harmful behavior including, but not limited to written, verbal, or physical, and/or misconduct by a student(s) or employee(s), which is characterized by the aggressor(s) repeatedly engaging in negative actions against another student(s) in an attempt to exercise control over that person; intentionally cause that person grief; intentionally cause that person to become intimidated; intentionally cause that person to become frightened; intentionally cause that person to lessen his/her sense of worth, etc., that:

- a. Has the purpose or effect of creating an intimidating, threatening, abusive, or hostile educational environment for students, and visitors.
- b. Unreasonably interferes with an individual's educational performance.
- c. Otherwise, adversely affect an individual's educational opportunities.

No student or minor present on school property or at school activities shall intentionally commit, or conspire to commit, an act of bullying, harassment, or abuse against another student. Such behaviors foster a climate of fear and disrespect that can seriously impair the physical and psychological health of its victims, create conditions that negatively affect learning, and undermine the ability of students to achieve their full potential.

The Board of Trustees encourages the reporting of all incidences of bullying, harassment, and abuse. Each student has the right to attend school and work in an atmosphere that promotes equal opportunities and that is free from all forms of discrimination and conduct that could be considered bullying, harassing, coercive, or disruptive.

The policy extends not only to actions taking place on school grounds, but also actions originating at remote locations and carried out via all technological devices or means, including, but not limited to, the use of a landline, car phone, cellular or wireless telephone, social media, or through the use of data or computer software that is accessed through a computer, computer system, or computer network.

The discipline rules related to the MHSD bullying, harassment, and abuse policies and procedures applies to all conduct on the school district premises/grounds before, during, or after school hours; or conduct at any other time when the school is being used by a school group; conduct off school grounds at any school activity, function, or event, or at school-sponsored events; conduct during transportation to and from school and school-sponsored events; to conduct off the district's premises that has an adverse effect upon a student's educational environment. The Superintendent or designee will govern the implementation of the procedures regarding this policy.

BULLYING (*see also MHSD Adolescent Relationship Abuse Policy, MHSD Sexual Harassment Policy, and MHSD School Safety & Discipline Policy & Procedures*) (I.C. 6-904A, 16-1619, 18-917A, 18-3302I, 18-3313, 33-205, 33-512, 33-1612)

1. **BULLYING** is defined as action or conduct that poses a threat to the health and safety of students, or visitors, and/or is disruptive to the educational process of the Mountain Home School District, and/or limits the ability of an individual to participate in or benefit from the district's programs to include, but not limited to, any intentional gesture or any intentional written, verbal or physical act or threat by a student that a reasonable person under the circumstances should know, will have the effect of:
 - a. Harming a student; or
 - b. Damaging a student's property; or
 - c. Placing a student in reasonable fear of harm to his or her person; or
 - d. Placing a student in reasonable fear of damage to his or her property; or
 - e. Is sufficiently severe, persistent, or pervasive that it creates an intimidating, hostile, threatening, or abusive educational environment for a student; or
 - f. Unreasonably interferes with an individual's educational performance; or
 - g. Otherwise adversely affects an individual's educational opportunities.
 - h. Threats including, but not limited to, verbal, written, digital/electronic, graphic and/or photographic/images, and/or via social media.
 - i. Acts including, but not limited to creating an intimidating or hostile environment.
 - j. Acts including, but not limited to, bullying, cyber-bullying, postings via social media.
 - k. Unacceptable conduct relating to an individual's sex or sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, and/or disability.
 - l. An act of bullying, harassment, or abuse may also be committed through the use of a landline, car phone, or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system, or computer network.
 - m. Bullying, harassment, and abuse also includes any act of retaliation taken against (1) any person bringing a complaint of bullying, harassment, and abuse; (2) any person assisting another person in bringing a complaint of bullying, harassment, and abuse or; (3) any person participating in an investigation of an act of bullying, harassment, and abuse.

2. **CYBERBULLYING** is an aggressive, intentional act carried out by a group or individual using electronic forms of contact. These include but are not limited to:
 - a. Text message bullying involves sending unwelcome texts that are threatening or cause discomfort.
 - b. Picture/video-clip bullying via mobile phone cameras is used to make the person being bullied feel threatened or embarrassed, with images usually sent to other people.
 - c. Phone call bullying via mobile phone uses silent calls or abusive messages.
 - d. Email bullying uses email to send bullying or threatening messages
 - e. Chat room bullying involves sending menacing or upsetting responses to children or young people when they are in a web-based chat room.
 - f. Bullying through instant messaging (IM) is an Internet-based form of bullying where students are sent messages as they conduct real-time conversations online.
 - g. Bullying via websites includes the use of defamatory blogs (web logs), personal websites, and online personal polling sites.

HARASSMENT - SEXUAL AND OTHERWISE (*see also MHSD Adolescent Relationship Abuse Policy, MHSD Sexual Harassment Policy, and MHSD School Safety & Discipline Policy & Procedures*) (I.C. 6-904A, 16-1619, 18-917A, 18-3302I, 18-3313, 33-205, 33-512, 33-1612)

1. **HARASSMENT** is defined to include, but not limited to, verbal, written, graphic, or physical conduct relating to an individual's sex, sexual orientation, race, color, national origin, age, religious beliefs, ethnic background or disability that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the district's programs that:
 - a. Has the purpose or effect of creating an intimidating or hostile environment.
 - b. Unreasonably interferes with an individual's educational performance.
 - c. Otherwise adversely affects an individual's educational opportunities.
 - a. Physical acts of aggression or assault, damage to property, or and implied or overt threats of violence motivated by the victim's sex, sexual orientation, race, color, national origin, age, religious beliefs, ethnic background or disability.
 - b. Demeaning jokes and racial jokes, taunting, slurs and derogatory "nicknames," innuendos, or other negative remarks relating to the victim's sex, sexual orientation, race, color, national origin, age, religious beliefs, ethnic background or disability;
 - c. Graffiti and/or slogans or visual displays such as cartoons or posters depicting slurs or derogatory sentiments related to the victim's sex, sexual orientation, race, color, national origin, age, religious beliefs, ethnic background or disability; and
 - d. Unacceptable conduct relating to an individual's sex or sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, and/or disability.
 - e. Criminal offenses directed at persons because of their sex, sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, or disability.
 - f. Harassment also includes an act of retaliation taken against (1) any person bringing a complaint of harassment, (2) any person assisting another person in bringing a complaint of harassment, or (3) any person participating in an investigation of an act of harassment.

SEXUAL HARASSMENT (see also MHS D Sexual Harassment Policy, Procedure, & Forms, MHS D Adolescent Relationship Abuse & Sexual Assault Policy, and MHS D School Safety & Discipline Policy & Procedures)(Idaho Code Sections: 6-904A, 16-1619, 18-917A, 33-205, 33-512, 33-1612)

1. **SEXUAL HARASSMENT** is a form of misconduct that undermines the student's relationship with educators and with other students. No student, male or female, should be subject to unasked for and unwelcome sexual overtures or conduct, either verbal or physical. Sexual harassment refers to sexual overtures or conduct, including those that relate to the student's sexual orientation, that is unwelcome, personally offensive, and affecting morale, thereby interfering with a student's ability to study or participate in school activities. Sexual harassment includes, but is not limited to:
 - a. Sexual overtures or conduct that is unwelcome, personally offensive, and affecting morale, thereby interfering with a student's ability to study or participate in school activities.
 - b. Sexual harassment is a form of misconduct that includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct of a sexual nature when:
 - (1) Submission to such conduct is made either explicitly or implicitly a term of condition of an individual's participation in the educational process;
 - (2) Submission to or rejection of such conduct by an individual is used as a factor for educational decisions affecting the individual; or
 - (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's education, or creating an intimidating, hostile, or offensive educational environment.
 - c. Unwelcome verbal statements of a sexual or abusive nature, including requests or demands for sexual activity, sexual jokes, and obscene comments, etc.
 - d. Unwelcome sexually motivated or inappropriate touching, pinching, or other unwelcome physical contact;
 - e. Unwelcome cyber communications, including, but not limited to, sending sexually explicit photographs or messages via any electronic communication devices ("sexting"), including postings on social media sites;
 - f. Unwelcome sexual behavior or communications, regardless of the method of such communication, accompanied by implied or overt threats concerning an individual's education;
 - g. Unwelcome behavior or communications directed at an individual because of his/her gender; and
 - h. Stalking or unwelcome, sexually motivated attention
 - i. Acts including, but not limited to, sexual abuse, be it violent or potentially violent and is against the law.
 - j. Unwelcomed sexually motivated attention or implied attention including, but not limited to, audio and/or video depictions of any kind, digital/electronic, cyber, via social media, etc.
2. **SEXTING** is the distribution of sexually explicit or sexually suggestive images using an electronic device.
 - a. Students engaged in sexting will result in:
 - (1) Notification of parents
 - (2) Notification of police

- (3) Other appropriate disciplinary action
- b. Any form of harassment related to sexting is strictly forbidden.

ABUSE (*Idaho Code Sections 6-904A, 33-1612, IDAPA 08.02.03.160, Title IX of the Education Amendments of 1972, Idaho Coalition Against Sexual & Domestic Violence, ©2014 Center for Healthy Teen Relationships, MHS Adolescent Relationship Abuse and Sexual Assault Policy, © Moore, Smith, Buxton, Turcke, Chtd.*)

1. **ABUSE** is defined to include, but not limited to the intentional use of physical, sexual, verbal, or emotional abuse against a person, including bullying, harassment, sexual harassment, adolescent relationship abuse, sexual assault, or using technology to cause abuse is a form of prohibited harassment. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in the educational process.
 - a. **Physical abuse** against a student including, but not limited to, hitting, pushing, tripping, kicking, blocking, or restraining another's movement; causing damage to another's clothing or possessions; and another's belongings.
 - b. **Verbal abuse** against a student including, but not limited to, name-calling, threatening, taunting, and malicious teasing.
 - c. **Psychological abuse** against a student including, but not limited to, spreading harmful or inappropriate rumors regarding another, drawing inappropriate pictures or writing inappropriate statements regarding another, and intentionally excluding another from groups, or similar activities.
2. **STUDENT RELATIONSHIP ABUSE** is defined to include, but not limited to the intentional use of physical, sexual, verbal, emotional, or technological abuse against a peer or dating partner, to harm, threaten, intimidate, or control another person in a relationship of a romantic or intimate nature, regardless of whether that relationship is continuing or has concluded or the number of interactions between the individuals involved.
 - a. **Abusive behavior** includes, but is not limited to, the intentional use of physical, sexual, verbal, or emotional abuse against a peer or dating partner, including harassment, sexual harassment, sexual assault, bullying, technologically, or implicitly a term or condition of an individual's participation in the educational process.
 - (1) Submission to or rejection of such conduct by an individual is used as a factor for educational decisions affecting the individual; or
 - (2) Such conduct has the purpose or effect of unreasonably interfering with an individual's education, or creating an intimidating, hostile, or offensive educational environment; or
 - (3) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in the educational process.
 - b. Dating partner means any person, regardless of sexual orientation or gender identity, involved in a relationship with another person, where the relationship is primarily characterized by social contact of a sexual or romantic nature, whether casual, serious, short-term, long-term, or as defined by both persons.

PROHIBITED BEHAVIOR:

The discipline rules related to bullying, harassment, and abuse apply when a student is (1) on school grounds before, during, or after school hours; or at any other time when the school is being used by a school group; (2) off school grounds at any school activity, function or event; or (3) traveling to or from school or a school activity, function, or event.

Students attending district schools are prohibited from engaging in the following behaviors:

1. Physical abuse against a student, including, but not limited to, hitting, pushing, tripping, kicking, blocking, or restraining another's movement; sexual misconduct; causing damage to another's clothing or possessions; and taking another's belongings.
2. Verbal and non-verbal abuse against a student, including, but not limited to, name calling, threatening, sexual misconduct, taunting, malicious teasing, or making rude gestures.
3. Psychological abuse against a student, including, but not limited to, spreading harmful or inappropriate rumors regarding another, drawing inappropriate pictures or writing inappropriate statements regarding another, intentionally excluding another from groups or activities, and stalking.
4. Bullying including any act of retaliation taken against any person bringing a complaint of bullying, any person assisting another person in bringing a complaint of bullying, or any persons participating in an investigation of an act of bullying.
5. Cyberbullying, including, but not limited to, using any electronic communication device to convey a message in any format (audio or video, text, graphics, photographs, or any combination thereof) that intimidates, harasses, or is otherwise intended to harm another individual.
6. Prohibited from engaging in any conduct that could reasonably be construed as constituting bullying, harassment, and abuse on the basis of sex, race, color, national origin, age, religious beliefs, ethnic background, or disability.
7. Prohibited from sexually harassing other students;
8. Unacceptable conduct relating to an individual's sex or sexual orientation, race, color, national origin, age, religious beliefs, ethnic background, and/or disability.
9. An act of bullying, harassment, or abuse may also be committed through the use of a landline, car phone, or wireless telephone, wireless notepad, notebook, or tablet, or through the use of data or computer software that is accessed through a computer, computer system, or computer network.
10. Conduct based on a student's actual or perceived race, color, national origin, sex, gender identity or expression, sexual orientation, physical or mental disability, religion, physical appearance and characteristic, or socio-economic status; or a student's association with a person or group with one or more of these actual or perceived characteristics.
11. Conspiring with another individual to commit any act of bullying, harassment, or abuse against another student; or perpetuating such conduct by spreading hurtful or demeaning material created by another person (e.g., forwarding offensive e-mails or text messages).
12. Retaliatory actions against another for reporting an act of bullying, harassment, or abuse.
13. Engaging in any conduct, which includes, but is not limited to, that could reasonably be construed as constituting bullying, harassment, and abuse based on sex (including sexual orientation), race, color, national origin, age, religious beliefs, ethnic background, or disability.

14. Sexually harassing other students, and patrons.
15. Physical abuse, including, but not limited to, hitting, pushing, tripping, kicking, blocking, or restraining another's movement; sexual misconduct; causing damage to another's clothing or possessions; and taking another's belongings.
16. Verbal abuse, including, but not limited to, name-calling, threatening, sexual misconduct, taunting, and malicious teasing.
17. Psychological abuse, including, but not limited to, spreading harmful or inappropriate rumors regarding another, drawing inappropriate pictures or writing inappropriate statements regarding another, and intentionally excluding another from groups, or similar activities.
18. Cyberbullying, including, but not limited to, using any electronic communication device to convey a message in any format (audio or video, text, graphics, photographs, postings on social media, or any combination thereof) that intimidates, harasses, or is otherwise intended to harm another individual.
19. Bullying, harassment, and/or abuse, including any intentional gesture or any intentional written, verbal, or physical acts or threats that
 - a. A reasonable person under the circumstances should know will have the effect of:
 - (1) Harming a person; or
 - (2) Damaging a person's property; or
 - (3) Placing a person in reasonable fear of harm to his or her person; or
 - (4) Placing a person in reasonable fear of damage to his or her property; or
 - b. Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for a person(s).
20. Conspiring with another individual to commit any act of bullying, harassment, or abuse, against another person(s).

REPORTING PROCEDURES

1. Any student, and/or parent of a student, who believes the student is being bullied, harassed, intimidated, and/or abused, or a victim of relationship abuse as defined by this **policy** are encouraged to and should immediately report the situation to the building principal, school personnel, or school superintendent.
2. All district employees who receives a report of bullying, harassment, and/or abuse, from a student, becomes aware that a student is being subjected to bullying, harassment, and/or abuse, or in good faith believes that a student is being subjected to bullying, harassment, and/or abuse, is required to report the matter, in a timely and responsive manner, to the building principal or school superintendent immediately.
 - In the event the complaint involves the principal, the matter must be immediately reported to the superintendent.
3. Reports may be made anonymously, but formal disciplinary action may not be based solely on the basis of an anonymous report
4. Any district employee who witnesses bullying, harassment, and/or abuse, of a student should take immediate, appropriate action to intervene to stop the bullying, harassment, and/or abuse.
5. Any student, employee, or person on school property who becomes aware that a fellow student or person is being subjected to bullying, harassment, and/or abuse, should immediately report the incident to a counselor, teacher, building principal, district administration, or law enforcement.

6. Annually, the district shall report bullying incidents to the state department of education in a format as set forth in rule by the state board.

INVESTIGATION AND REPORT

The school superintendent or designee will investigate any allegations of misconduct that are reasonably characterized as bullying, harassment, and/or abuse within ten (10) workdays. At the discretion of the superintendent and/or investigator, the alleged perpetrator(s) may be suspended and/or expelled pending the outcome of the investigation.

The school principal or designee will promptly investigate any allegations of misconduct that are reasonably characterized as bullying, harassment, or abuse. At the discretion of the school principal and/or superintendent, the alleged perpetrator(s) may be suspended pending the outcome of the investigation.

If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall (1) take appropriate disciplinary action; (2) notify the parent/guardian of the perpetrator; (3) notify the parent/guardian of the victim; and to the extent allowed under state and federal law, (4) notify the parent/guardian of the action taken to prevent any further acts of bullying or retaliation.

When a report of bullying, harassment, and/or abuse is received by the principal or the superintendent, immediate steps will be taken to do the following (*see also procedure and forms*):

1. Obtain a written statement from the complainant regarding the allegations;
2. Obtain a written statement from the accused;
3. Obtain written statements from witnesses, if any; and
4. Prepare a written report detailing the investigation.

An investigator may be appointed to conduct the investigation or the principal or superintendent may conduct the investigation. The investigation should be completed within ten (10) workdays. In the event the complaint involves a principal, superintendent or board members an independent investigation will be completed by an individual or individuals not employed by the school district and appointed by the board of trustees.

DISCIPLINARY ACTION

If the allegation of bullying, harassment, and/or abuse involves a teacher or other school employee or volunteer, the principal will submit the report of the investigation to the superintendent. If there is sufficient evidence to support the allegation, disciplinary action, up to and including dismissal/termination may be taken against the offender.

If the allegation of bullying, harassment, and/or abuse is against a student and there is sufficient evidence to support the allegation, disciplinary action, up to and including suspension and/or expulsion, may be taken against the offender.

If there is insufficient evidence to support the allegation, no record will be made of the allegation in the complaining student's permanent record. No record of the allegation will be placed in the accused employee's personnel record or in an accused student's permanent record if insufficient evidence supports the allegation.

In the event the investigation discloses that the complaining student has falsely accused another individual of bullying, harassment, and/or abuse knowingly or in a malicious manner, the complaining student may be subject to disciplinary action, up to and including expulsion.

In the event that it can be proven that cyberbullying took place using district resources, i.e. computers or phones, the student found to have used district equipment may be subject to disciplinary action, up to and including expulsion.

Students who engage in bullying, harassment, or abuse will be disciplined through the use of consequences that may include, but are not limited to, referral to counseling, diversion, use of juvenile specialty courts, restorative practices, in-school suspension, out-of-school suspension, and expulsion.

Each school will take prompt and effective steps reasonably calculated to end the bullying, harassment, or abuse; eliminate any hostile environment and its effects; and prevent the bullying, harassment, and abuse from recurring. Appropriate steps to end bullying, harassment, and abuse may include separating the victim and the perpetrator, or providing counseling for the victim and perpetrator.

In the event the bullying, harassment, and/or abuse involves violent or other conduct, which could be reasonably considered to be criminal in nature, the principal/superintendent will refer the matter to the local law enforcement agency for violation of Idaho Code 18-917A..

PROTECTION AGAINST RETALIATION

No retaliation will be taken by this district or by any of its employees or students against a student, parent, or employee who reports bullying, harassment, and/or abuse in good faith. Any person found to have retaliated against another individual for reporting an incident of bullying, harassment, and/or abuse may be subject to the same disciplinary action provided for bullying, harassment, and/or abuse offenders up to and including expulsion or termination. Those persons who assist or participate in an investigation of bullying, harassment, and/or abuse are also protected from retaliation under this policy.

TRAINING

Ongoing professional development: The district will provide ongoing professional development to build skills of all school staff members to prevent, identify, and respond to bullying, harassment, and abuse.

The district recognizes that in order to have the maximum impact, it is important to train school employees who have significant contact with students on school policies and procedures regarding

bullying, harassment, and abuse. Training will provide staff members with a clear understanding of their roles and responsibilities and the necessary skills to prevent, identify, and respond to bullying.

The district encourages the implementation of school and community wide bullying education and prevention programs.

REPORT TO LAW ENFORCEMENT

The school administrator will refer allegations of bullying, harassment, and/or abuse to law enforcement if he/she reasonably believes that the student has engaged in conduct, including bullying, harassment, and/or abuse, in violation of Idaho Code Section 18-917A.

CONFIDENTIALITY

Any investigation will be conducted, to the maximum extent possible, in a manner that protects the privacy of both the complainant and the accused. However, if it is suspect that child abuse has occurred, such abuse will be reported to the proper authorities as required by state law.

RECORD OF ALLEGATIONS

This district will keep and maintain a written record, including, but not limited to, witness statements, investigative reports, and correspondence, from the date any allegation of bullying, harassment, and/or abuse is reported to district personnel. The information in the written record will also include the action taken by the district in response to each allegation.

- a. The written record will be kept in the district’s administrative offices and will not, at any time, be purged by district personnel.

NOTICE

The district will provide each student and parent/guardian with written annual notice of this policy in a manner consistent with students’ age, grade, and level of academic achievement through publication in the student handbook.



LEGAL REFERENCE:

- Idaho Code Sections, 6-904A, 16-1619, 18-917A - Student Harassment-Intimidation Bullying, as amended by HB0246
- Law Chapter 289 of the 2015 Legislature Session
- 18-302I, 18-3313, 33-205, 33-512(6) – Governance of Schools
- IDAPA 08.02.03.160
- Title VII, Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- U.S. Department of Education Office of Civil Rights, January 2001

42 U.S.C. 2000e-2(a)
Franklin v. Gwinnett Co. Public Schools, 112 S. Ct. 1028 (1992)
Gebser v. Lago Vista Independent School District, 118 S. Ct. 1989 (1998)
Davis v. Monroe County Board of Education, 119 S. Ct. 1661 (1999)
Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (U.S. Dept. of Education Office of Civil rights, January 2001)
Office for Civil Rights, “Dear Colleague” letters dated October 21, 2014 and October 26, 2010
MHSD Sexual Harassment Policy
MHSD School Safety & Discipline Policy & Procedures
MHSD Adolescent Relationship Abuse and Sexual Assault Policy
Moore, Smith, Buxton & Turcke, Chtd. & Eberharter-Maki & Tappen. LLC

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