

SCHOOL SAFETY & DISCIPLINE PROCEDURE 1 – COMPLAINT, REVIEW,
INVESTIGATION, & REPORT

Any allegation of harassment, intimidation, or bullying will be promptly reviewed and investigated, as appropriate. Confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances. At the discretion of the superintendent or designee, and after possible consultation with legal counsel for the district, the alleged **student** offender may be suspended, **alleged certified employee may be placed on administrative leave with pay, and alleged classified employee may be suspended**, pending completion of the investigation and review of the investigation report.

Please refer to the MHSD Bullying, Harassment, **Intimidation**, and Abuse of Students Policy (506.50), Bullying, Harassment, **Intimidation**, and Abuse of Students Procedures (506.50P1, 506.50P2, 506.50P3) for other investigative reporting options.

The “Three-Point Criteria” used to evaluate a harassment, intimidation, or bullying complaint under this policy is as follows:

1. Criterion One: Did harm or threat of harm occur?
 - a. Did the conduct involve an imbalance of power between the offender and the victim?
 - b. What effect did the conduct have on the victim? Did the conduct create or have the potential to create a hostile or intimidating environment for the victim?
 - c. Was there an intentional act that caused physical or emotional pain? (Note: an intentional act refers to the individual’s choice to engage in a behavior(s); it does not refer to the intent of the individual to hurt the victim.)

- 30 d. Is the behavior related to a protected class: race or ancestry; color; national origin or
31 ethnic group identification; marital status; sex; sexual orientation; genetic information;
32 religion; age; mental or physical disability; or military or veteran’s status.

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34 2. Criterion Two: Is the action unwelcome?

- 35
36 a. Was the conduct unwelcome by the recipient? Consent does not mean that the action
37 is welcome (i.e. hazing).

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39 3. Criterion Three: Is the action severe, persistent, or pervasive?

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41 a. Severe behavior can be established with a single action (i.e. physical assault).
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43 b. Persistent behavior occurs repeatedly. If the victim asks the offender to stop, but the
44 act(s) continues, this is persistent behavior.
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46 c. Pervasive behavior is when the behavior is rampant throughout the school. Generally,
47 there is not one specific offender in these cases.
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49 d. Do the actions violate the district’s School Safety and Discipline Policy (208)? Do the
50 actions violate the district’s Sexual Harassment Policy (414), **the Adolescent**
51 **Relationship Abuse & Sexual Assault Policy (554), the Bullying, Harassment,**
52 **Intimidation, & Abuse Against Students Policy (506.50) and Procedures, the Child**
53 **Abuse Policy (406), the Drugs & Alcohol-Free Workplace Policy for Employees &**
54 **Students Policy (208.10), Nondiscrimination Policy?**

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56 If the answer to any of the questions that make up the Three-Point Criteria is no, then the incident
57 does not involve bullying/harassment.

59 Upon receiving a complaint of alleged **bullying**, harassment, **intimidation**, or **abuse**, the
60 administrator/supervisor or superintendent shall:

- 61
- 62 1. Take any immediate necessary action to ensure the safety and well-being of the involved
63 staff member(s) **and students**, and
64
 - 65 2. Make a preliminary assessment applying a Three-Point Criteria, as defined herein, to
66 determine whether **bullying**, harassment, **Intimidation**, or **Abuse** is actually alleged
67 and/or whether there is enough information available to make that determination.
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69 If, upon initial examination of the complaint, the administrator/supervisor or superintendent
70 determines that the complaint does not meet the Three-Point Criteria, a **bullying**, harassment,
71 **intimidation**, or **Abuse** investigation shall not be initiated. However, other disciplinary
72 interventions may still be necessary depending on the facts and circumstances of the incident(s).
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74 If, upon initial examination of the complaint, the administrator/supervisor or superintendent
75 determines that the complaint does meet the Three-Point Criteria and that **bullying**, harassment,
76 **intimidation**, or **Abuse** may have occurred or there is not adequate information to make an initial
77 determination, an investigation shall be initiated. The investigation will follow the procedure set
78 forth below.

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80 When a report of harassment, intimidation or bullying, **abuse**, or retaliation for making or
81 providing information relating to such report, is received by the principal or the superintendent,
82 immediate steps will be taken to do the following:

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- 84 1. The complainant and alleged offender will be interviewed, as well as other individuals who
85 may have knowledge regarding the allegations. The investigator may also obtain written
86 statements from these individuals.
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- 88 2. Complaints will be investigated by the superintendent, the district’s discrimination
89 compliance officer, or other designee.
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- 91 3. Upon completion of the investigation, the investigator will prepare a written report that
92 contains factual findings regarding the allegations and the investigator’s conclusion as to
93 whether or not harassment, intimidation, bullying, **abuse**, or retaliation occurred, based on
94 the Three-Point Criteria. If harassment, **intimidation, bullying, abuse**, or retaliation is
95 found to have occurred, the report shall make recommendations regarding any disciplinary
96 action or other measures to be imposed. The written report should also include a summary
97 of the witnesses interviewed and the evidence considered.
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- 99 4. If the investigation is inconclusive or it is determined that there has been no unlawful
100 harassment, **intimidation, bullying, abuse**, or retaliation occurred, but some potentially
101 problematic conduct is revealed, the superintendent may recommend a corrective action
102 plan to the board and the board may impose such corrective action plan.
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- 104 5. Promptly after the investigation is concluded, the superintendent and/or the discrimination
105 compliance officer will separately meet with the complainant and the person alleged to
106 have committed the offenses to notify them in person of the findings of the investigation.
107 If harassment, **intimidation, bullying, abuse**, or retaliation occurred is found, the
108 complainant will only be advised that the district is taking appropriate steps to ensure that
109 the harassment will not re-occur.
110
- 111 6. The complainant and the person alleged to have committed the offenses may submit
112 statements to the superintendent and/or discrimination compliance officer challenging the
113 factual basis of the findings. Any such statement must be submitted no later than five (5)
114 working days after the meeting in which the findings of the investigation are discussed.
115
- 116 7. Promptly after the superintendent and/or discrimination compliance officer have met with
117 both parties and reviewed any written statements challenging the findings of the

118 investigation, and after consultation with legal counsel for the district, a decision will be
119 made as to what action, if any, should be recommended to the board.

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121 **REPORTING PROCEDURES**

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123 1. Employees who believe they are being harassed, intimidated, or bullied in violation of this
124 policy should firmly and promptly notify the offender that his/her behavior is unwelcome.
125 The employee may report the complaint verbally or in writing to the lowest level
126 administrator/supervisor who is not involved in the alleged harassment and has the
127 authority to remedy the alleged issues.

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129 2. If the employee chooses not to report the complaint to his/her supervisor/building principal,
130 the employee may report the incident directly to the superintendent. If the complaint in any
131 manner involves the superintendent, the employee should report the complaint to a school
132 board member.

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134 3. It is a violation of the law and this policy to retaliate against any individual filing a
135 complaint. Any employee experiencing retaliation because they filed a harassment,
136 **intimidation, bullying,** or retaliation occurred complaint should file a separate complaint
137 regarding the alleged retaliation.

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139 4. An employee, at any time, may file a discrimination or harassment claim with the Idaho
140 Human Rights Commission (IHRC) and/or the Equal Employment Opportunity
141 Commission (EEOC). The addresses of these organizations are:

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Idaho Human Rights Commission
317 W. Main St.
Boise, Idaho 83702

Equal Employment Opportunity Commission
909 1st Ave, Ste. #400
Seattle, Washington 98104

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144 **DISCIPLINARY ACTION**

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146 If the allegation of harassment, **intimidation, bullying, abuse**, or retaliation occurred involves a
147 teacher or other school employee, the principal will submit the report of the investigation to the
148 superintendent. If there is sufficient evidence to support the allegation, disciplinary action, up to
149 and including dismissal, may be taken against the offender, consistent with the requirements of
150 applicable state law, district policies, and/or collective bargaining agreements.

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152 If deemed appropriate, the superintendent or board will refer the complaint to local law
153 enforcement at any time prior to, during, or after the investigation.

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155 **PROTECTION AGAINST RETALIATION**

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157 Retaliation in any manner against a person for filing or initiating in good faith a charge or
158 complaint of discrimination, harassment, **intimidation, bullying, abuse**, or retaliation occurred
159 testifying in an investigation, providing information or assisting in an investigation is expressly
160 prohibited. Any person found to have retaliated against another individual for reporting an incident
161 of **discrimination**, harassment, **intimidation, bullying, abuse, or** testifying in an investigation or
162 providing information or assisting in an investigation may be subject to the same disciplinary
163 action provided for harassment offenders. Those persons who assist or participate in an
164 investigation of **discrimination**, harassment, **intimidation, bullying, or abuse** are also protected
165 from retaliation under this policy. The superintendent and the board will endeavor to take
166 reasonable steps to protect the victim and other potential victims from further harassment or related
167 consequences.

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169 **FALSE COMPLAINTS**

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171 Discipline will result, up to and including termination, when it is conclusively determined that an
172 employee made a complaint of **discrimination**, harassment, **intimidation, bullying, abuse**, or

173 retaliation knowing it to be false and/or knowingly participated in the falsehood. This section is
174 not intended to discourage employees from making complaints regarding unlawful employment-
175 based behavior. An employee will not be disciplined for reporting actual behavior that in good
176 faith the employee believed was unlawful employment-based behavior. However, false complaints
177 adversely impact the workplace and the career of the accused, even when disproved, and will not
178 be tolerated.

179

180 **CONFIDENTIALITY**

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182 Any investigation will be conducted, to the maximum extent possible, in a manner that protects
183 the privacy of both the complainant and the accused. However, the district's obligation to
184 investigate, provide a safe environment, and take corrective action may supersede an individual's
185 right to privacy. Pending the completion of the investigation, the district may take any action
186 necessary to protect the safety and well-being of its students, employees, and property.

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188 **RECORD OF ALLEGATIONS**

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190 1. Documentation of disciplinary action related to any violation of this policy, including false
191 allegations and retaliatory actions, will be placed in the employee's personnel file.

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193 2. If there is insufficient evidence to support the allegation, no record will be made of the
194 allegation in the accused employee's personnel record.

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196 3. The district will keep and maintain a written record, including, but not limited to, witness
197 statements, investigative reports, and correspondence, from the date any allegation of
198 **discrimination**, harassment, **intimidation**, **bullying**, or **abuse** is reported to district
199 personnel. The information in the written record will also include the action taken by the
200 district in response to each allegation. The written record will be kept in the district's
201 administrative offices and will not, at any time, be purged by district personnel.

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205 **LEGAL REFERENCE:**

206 Idaho Code Sections

207 33-513

208 33-518

209 33-1210

210 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)

211 Title II of the Americans with Disabilities Act as amended (ADAA), 42 U.S.C. § 12101, and 28

212 CFR Part 35 (comprehensive civil rights protections for “qualified individuals with
213 disabilities”)

214 Section 504 of the Rehabilitation Act of 1973

215 Age Discrimination in Employment Act (ADEA) of 1967, 29 U.S.C. § 621

216 Age Discrimination Act of 1975, 29 U.S.C. § 6101

217 MSBT-EMT – Harassment Policy (423)

218 Bullying, Harassment, & Abuse of Students Policy and Procedures (506.50)

219 Sexual Harassment Policy & Procedure (414)

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