

**SCHOOL SAFETY & DISCIPLINE FORM 1 – COMPLAINT, REVIEW,  
INVESTIGATION, & REPORT**

Any allegation of harassment, discrimination, intimidation, bullying, abuse, or retaliation 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 MHSB Bullying, Harassment, and Abuse of Students Policy (506.50), Bullying, Harassment, and Abuse of Students Procedures (506.50P1, 506.50P2, 506.50P3) for investigative reporting and options.**

The “Three-Point Criteria” used to evaluate a harassment, discrimination, intimidation, abuse, bullying, or retaliation 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.)
- d. Is the behavior related to a protected class: race or ancestry; color; national origin or ethnic group identification; marital status; sex; sexual orientation; genetic information; religion; age; mental or physical disability; or military or veteran’s status.

**2. Criterion Two: Is the action unwelcome?**

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

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

- a. Severe behavior can be established with a single action (i.e. physical assault).
- b. Persistent behavior occurs repeatedly. If the victim asks the offender to stop, but the act(s) continues, this is persistent behavior.

- c. Pervasive behavior is when the behavior is rampant throughout the school. Generally, there is not one specific offender in these cases.
- d. Do the actions violate the district's School Safety and Discipline Policy (208)? Do the actions violate the district's Sexual Harassment Policy (414), the Adolescent Relationship Abuse & Sexual Assault Policy (554), the Bullying, Harassment, & Abuse Against Students Policy (506.50) and Procedures, the Child Abuse Policy (406), the Drugs & Alcohol-Free Workplace Policy for Employees & Students Policy (208.10), Nondiscrimination Policy (410)?

If the answer to any of the questions that make up the Three-Point Criteria is no, then the incident does not necessarily involve bullying, harassment, discrimination, intimidation, abuse, or retaliation, but other disciplinary intervention maybe necessary depending on the facts and circumstances of the incidents.

Upon receiving a complaint of alleged bullying, harassment, discrimination, intimidation, abuse, or retaliation the administrator/supervisor or superintendent shall:

1. Take any immediate necessary action to ensure the safety and well-being of the involved staff member(s) and students, and
2. Make a preliminary assessment applying a Three-Point Criteria, as defined herein, to determine whether bullying, harassment, intimidation, discrimination, abuse, or retaliation is actually alleged and/or whether there is enough information available to make that determination.

If, upon initial examination of the complaint, the administrator/supervisor or superintendent determines that the complaint does not meet the Three-Point Criteria, a bullying, harassment, intimidation, discrimination, or abuse investigation shall not be initiated. However, other disciplinary interventions may still be necessary depending on the facts and circumstances of the incident(s).

If, upon initial examination of the complaint, the administrator/supervisor or superintendent determines that the complaint does meet the Three-Point Criteria and that bullying, harassment, intimidation, abuse, discrimination, or retaliation may have occurred or there is not adequate information to make an initial determination, an investigation shall be initiated. The investigation will follow the procedure set forth below.

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

1. The complainant and alleged offender will be interviewed, as well as other individuals who may have knowledge regarding the allegations. The investigator may also obtain written statements from these individuals.
2. Complaints will be investigated by the superintendent, the district's discrimination compliance officer, or other designee.
3. Upon completion of the investigation, the investigator will prepare a written report that contains factual findings regarding the allegations and the investigator's conclusion as to whether or not harassment, intimidation, discrimination, bullying, abuse, or retaliation occurred, based on the Three-Point Criteria. If harassment, intimidation, discrimination, bullying, abuse, or retaliation is found to have occurred, the report shall make recommendations regarding any disciplinary action or other measures to be imposed. The written report should also include a summary of the witnesses interviewed and the evidence considered.
4. If the investigation is inconclusive or it is determined that there has been no unlawful harassment, intimidation, discrimination, bullying, abuse, or retaliation occurred, but some potentially problematic conduct is revealed, the superintendent may recommend a corrective action plan to the board and the board may impose such corrective action plan.
5. Promptly after the investigation is concluded, the superintendent and/or the discrimination compliance officer will separately meet with the complainant and the person alleged to have committed the offenses to notify them in person of the findings of the investigation. If harassment, intimidation, discrimination, bullying, abuse, or retaliation occurred is found, the complainant will only be advised that the district is taking appropriate steps to ensure that the harassment will not re-occur.
6. The complainant and the person alleged to have committed the offenses may submit statements to the superintendent and/or discrimination compliance officer challenging the factual basis of the findings. Any such statement must be submitted no later than five (5) working days after the meeting in which the findings of the investigation are discussed.
7. Promptly after the superintendent and/or discrimination compliance officer have met with both parties and reviewed any written statements challenging the findings of the investigation, and after consultation with legal counsel for the district, a decision will be made as to what action, if any, should be recommended to the board.

## **REPORTING PROCEDURES**

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

2. If the employee chooses not to report the complaint to his/her supervisor/building principal, the employee may report the incident directly to the superintendent. If the complaint in any manner involves the superintendent, the employee should report the complaint to a school board member.
3. It is a violation of the law and this policy to retaliate against any individual filing a complaint. Any employee experiencing retaliation because they filed a harassment, intimidation, discrimination, bullying, complaint, or retaliation occurred should file a separate complaint regarding the alleged retaliation.
4. An employee, at any time, may file a discrimination or harassment claim with the Idaho Human Rights Commission (IHRC) and/or the Equal Employment Opportunity Commission (EEOC). The addresses of these organizations are:

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

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

### **DISCIPLINARY ACTION**

If the allegation of harassment, intimidation, bullying, abuse, or retaliation occurred involves a teacher or other school employee, 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, may be taken against the offender, consistent with the requirements of applicable state law, district policies, and/or collective bargaining agreements.

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

### **PROTECTION AGAINST RETALIATION**

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

**FALSE COMPLAINTS**

Discipline will result, up to and including termination, when it is conclusively determined that an employee made a complaint of discrimination, harassment, intimidation, bullying, abuse, or retaliation knowing it to be false and/or knowingly participated in the falsehood. This section is not intended to discourage employees from making complaints regarding unlawful employment-based behavior. An employee will not be disciplined for reporting actual behavior that in good faith the employee believed was unlawful employment-based behavior. However, false complaints adversely impact the workplace and the career of the accused, even when disproved, and will not be tolerated.

**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, the district’s obligation to investigate, provide a safe environment, and take corrective action may supersede an individual’s right to privacy. Pending the completion of the investigation, the district may take any action necessary to protect the safety and well-being of its students, employees, and property.

**RECORD OF ALLEGATIONS**

1. Documentation of disciplinary action related to any violation of this policy, including false allegations and retaliatory actions, will be placed in the employee’s personnel file.
2. If there is insufficient evidence to support the allegation, no record will be made of the allegation in the accused employee’s personnel record.
3. The 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 discrimination, harassment, intimidation, bullying, abuse, or retaliation 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. The written record will be kept in the district’s administrative offices and will not, at any time, be purged by district personnel.



**LEGAL REFERENCE:**

The Civil Rights Act of 1866 & 1871

42 USC Section 1981

42 USC Section 1983

Title II of the Americans with Disabilities Act as amended (ADAA)

42 USC Sections 2000(d), 2000(e), 12101, 12111, *et seq.*,

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

Section 504 of the Vocational Rehabilitation Act of 1973  
29 USC Sections 791, 794  
42 USC Sections 2000(d), 2000(e), 12101, 12111, *et seq.*  
Title VI of the Civil Rights Act 1964, as amended by the Equal Employment Opportunity Act of 1972 &  
42 USC Section 2000d, *et seq.*  
Title VII of the Civil Rights Act of 1965, as amended by the Equal Employment Opportunity Act of 1972 &  
42 USC Section 2000e, *et seq.*  
Title IX of the Education Amendments of 1972  
20 USC Sections 1381, 1681  
Rehabilitation Act of 1973  
Education for All Handicapped Children Act of 1975  
Executive Order 11246, as amended by E.O. 11375  
Age Discrimination in Employment Act (ADEA) of 1967  
29 U.S.C. § 621, *et seq.*  
Age Discrimination Act of 1975,  
29 U.S.C. § 6101  
Equal Pay Act, as amended by the Education Amendments of 1972  
29 USC Sections 206d & 2000(e)  
Immigration Reform and Control Act  
08 U.S.C., Section 1324(a)  
Pregnancy Discrimination Act  
29 C.F.R., Part 1601, 1604.10  
34 C.F.R., Part 106  
Idaho Commission on Human Rights  
Idaho Code Sections  
33-513  
33-518  
33-1210  
67-5901 & 5909, *et seq.*  
Adolescent Relationship Abuse & Sexual Assault Policy (554)  
Bullying, Harassment, & Abuse of Students Policy, Procedures, & Forms (506.50)  
Child Abuse Policy – Investigating & Reporting (406)  
Computer & Network Services Policy, Procedures, & Forms (698)  
Nondiscrimination Policy & Form (410)  
Sexual Harassment Policy & Form (414)  
Video & Electronic Surveillance Policy (940)

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