



Abusive Behavior, Bullying, Hazing, Cyber-bullying, & Harassment Policy

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

PURPOSE

Abusive behavior, bullying, cyber-bullying, 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: the verbal, nonverbal, or physical conduct of one person or group of people directed toward another person or group of people, 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 necessarily constitute abusive conduct, but it may.
- II. Action plan: a process to address an incident.
- III. Bullying: any action in which an individual repeatedly, intentionally commits a written, verbal, or physical act against another individual, that a reasonable person, under similar circumstances, should know or reasonably foresee, will have the effect of:
 - A. Causing actual physical or emotional harm; or placing the individual in reasonable fear of physical or emotional harm;
 - B. Causing actual damage to personal property; or inducing reasonable fear of damage to personal property;
 - C. Creating a hostile, threatening, humiliating, or abusive environment due to:
 1. the pervasiveness, persistence, or severity of the actions; or
 2. a power differential between the bully and the target; or
 3. 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 that individual's 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 persons protected based on:
- A. Race, color, or national origin;
 - B. Sex;
 - C. Disability;
 - D. Religion;
 - E. Gender identity; and
 - F. Sexual orientation.
- VIII. Hazing: a situation in which a school employee, student or group of students, intentionally, knowingly, or recklessly commits an act, or causes another individual to commit an act, 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 but not limited to 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 presented as a requirement or expectation for acceptance to or membership in a school sponsored team, organization, program, club, or event, regardless of whether the individual in question consented to or acquiesced in the action.
- 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, cyber-bullying, harassment, or hazing; or
 - B. To improperly influence the investigation of, or the response to, a report of abusive conduct, bullying, cyber-bullying, harassment or hazing.

- XI. School employee: an individual working in the official capacity as:
- A. A school teacher;
 - B. A school staff member;
 - C. A school administrator; or
 - D. An individual who:
 - 1. is employed, directly or indirectly, by Merit Academy or its governing board; and
 - 2. works on a school campus.

POLICY

I. Conduct

- A. No school employee, student, or parent may engage in ***bullying, harassing, or abusive behavior***:
 - 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.
- B. No school employee, student or parent may engage in ***hazing or cyber-bullying*** at any time or in any location.
- C. No school employee, student, or parent may engage in retaliation against:
 - 1. A school employee;
 - 2. A student;
 - 3. A witness of;
 - 4. or an investigator for:
an alleged incident of abusive behavior, bullying, harassing, cyber-bullying or hazing; nor improperly influence an investigation, or the response to an investigation.
- D. No student, school employee, or parent may share a recording of an incident listed above that would impact a current situation or encourage future incidents.

II. Reporting

- A. No school employee, student, or parent may make a false allegation of abusive behavior, bullying, harassing, cyber-bullying, hazing, or retaliation against a school employee or student.
- B. School community members are strongly encouraged to promptly report any incidents of abusive behavior, bullying, harassment, cyberbullying, hazing, or retaliation. Reports may be made to trusted adults, school personnel, or through [safeut.org](https://www.safeut.org). Regardless of the source, all reports must be forwarded to the school director for immediate action.

- C. In the event that the director is the one who is accused of abusive behavior, bullying, harassment, cyberbullying, hazing, or retaliation; the report must be forwarded to the Board of Trustees.
- D. The Director shall ensure that each incident is documented using the designated form available in the front office and includes the following information:
 - 1. Name of the complaining party,
 - 2. Name of the offender (if known),
 - 3. Date and location of the incident,
 - 5. 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 recorded in the behavior section of the student's official record or the employee's file.
 - 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 laws, 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.
 - 1. Individual targeted searches will be conducted if there is reasonable suspicion that a user has violated policy or law.
 - a. Searches will be conducted by two employees under the direction of the Director or Assistant Director.
 - b. 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.
- D. Investigation actions will include, as appropriate:
 - 1. Procedures for protecting the victim and other involved individuals from being subjected to:
 - a. Further abusive behavior, bullying, cyber-bullying, harassment, and hazing; and
 - b. Retaliation for reporting such conduct.
 - 2. Prompt reporting to law enforcement of all confirmed acts of abusive behavior, bullying, cyber-bullying, harassment, hazing, or retaliation that constitute suspected criminal activity.

3. Prompt reporting to the Office for Civil Rights (OCR) of all confirmed acts of abusive behavior, bullying, cyber-bullying, 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 respond to the accusations and defend his or her actions prior to student or employee discipline.
5. Procedures for providing due process rights for licensed staff, including the right to a hearing and to provide evidence.
6. Procedures for informing the parent or guardian of student discipline prior to a student receiving a suspension or expulsion from the Academy.
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 and discretion, to the extent possible.
 - a. 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, cyber-bullying, hazing, or retaliation.
- B. Persons found guilty of acts of retaliation will be given the most stringent discipline acceptable under this policy considering the circumstance of the offense.
- C. If, after an investigation, a student is found to be in violation of any portion of this policy, the student shall be disciplined by appropriate measures up to, and including:
 1. Abiding by a clearly written and enforced discipline plan.
 - a. A written record will be maintained in the student's official school record.
 2. Possible suspension or removal from a school-sponsored team or activity including school sponsored transportation; or
 3. Possible suspension or 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.
- 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 abuse, bullying, cyber-bullying, harassment, hazing or retaliation 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 abuse, 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 is also 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, cyber-bullying, harassment or hazing as a form of discrimination.
- D. All students have protection under this policy, regardless of their legal status.

VI. Parental Contact:

- A. Merit Academy Administrators will notify a student's parent or guardian in the event that:
 - 1. The student is involved in an incident involving bullying, cyber-bullying, harassment, hazing or retaliation:
 - a. Administrators will regularly update the parent or guardian regarding implementation of an action plan, including:
 - i. The outcome of Merit's investigation;
 - ii. A discussion of safety considerations for the student who is the subject of the incident; and
 - iii. An explanation of Merit's process for addressing the incident.
 - 2. The student threatens suicide:
 - a. Administrators will produce and maintain a record that:
 - i. Verifies that the school contacted the parent or guardian;
 - ii. Tracks implementation of an action plan; and
 - iii. Maintains the student's right to privacy and student data protection.
 - b. The school shall provide the parent with:
 - i. Suicide prevention materials and information; and
 - ii. Information on ways to limit the student's access to fatal means, including a firearm and medication.
 - iii. At the request of the parent, a school may provide information and make recommendations related to an incident or threat.

VII. Training:

- A. The **annual** training of school employees and students shall include instruction regarding abusive behavior, bullying, cyber-bullying, harassment, hazing, and retaliation.
- B. The training should include instruction on civil rights violations and compliance when civil rights violations are reported.
- C. To the extent possible, programs or initiatives designed to provide awareness, training and education regarding the prevention of abusive behavior, bullying, cyber-bullying, 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;
 - 3. Be informed annually of the prohibited activities list provided previously in this policy and the potential consequences for violation of this policy.

VIII. Grievance Process:

- A. The Administration will support a grievance process for a school employee who has experienced abusive conduct.

- IX. Stakeholders, including employees, students, and parents, shall sign a statement annually, indicating that they have received a copy of this policy.
- X. This policy shall be included in Merit's student handbooks, employee handbooks, and registration packets.
- XI. Nothing in this policy is intended to infringe upon the rights of an employee, parent, or student to exercise the right of free speech.

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