

## **MERIT COLLEGE PREPARATORY ACADEMY POLICY BULLYING, CYBERBULLYING, HARASSMENT, AND HAZING**

### I. Purpose

Bullying, cyberbullying, harassment, and hazing of students and employees are against federal, state and local policy, and are not tolerated by MERIT ACADEMY. MERIT ACADEMY is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. To that end, MERIT ACADEMY has in place policies, procedures, and practices that are designed to reduce and eliminate bullying, cyberbullying, harassment and hazing—including but not limited to civil rights violations—as well as processes and procedures to deal with such incidents. Bullying, cyberbullying, harassment, and hazing of students and/or employees by students and/or employees will not be tolerated in MERIT ACADEMY.

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. 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, suspension and expulsion, pursuant to Utah Code Ann. 53A-11-904 and or in accordance with the U.S. Department of Education Office for Civil Rights. 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, termination.

### II. Definitions

A. "Bullying" is commonly understood as aggressive behavior that (a) is intended to cause distress and harm, (b) exists in a relationship in which there is an imbalance of power and strength, and (c) is repeated over time. Bullying may involve physical actions, words, gestures and social isolation. Although bullying may involve direct, relatively open attacks against a victim, bullying is frequently indirect, or subtle in nature (spreading rumors, enlisting a friend to assault a child). It means intentionally or knowingly committing an act that:

1. endangers the physical health or safety of a school employee or student;
  - a. involves any brutality of a physical nature such as punching, shoving, kicking, physical aggression, acts of sexual aggression, whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements
  - b. involves consumption of any food, liquor, drug, or other substance;
  - c. involves other physical activity that endangers the physical health and safety of a school employee or student; or
  - d. involves physically obstructing a school employee's or student's freedom to move; and
2. is done for the purpose of placing a school employee or student in fear of:
  - a. physical harm to the school employee or student; or
  - b. harm to property of the school employee or student
3. The conduct described above constitutes bullying, regardless of whether the

person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

B. "Civil Rights Violations" means

1. bullying (including cyberbullying), harassing, or hazing that is targeted at a federally protected class

C. "Cyberbullying" means:

1. using the Internet, a cell phone, or another device to send
2. 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,
3. regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

D. "Federally protected class" means any group protected from discrimination under federal law

1. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of *race, color, or national origin*.
2. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of *sex*.
3. 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*.
4. Other areas included under these acts include *religion, gender identity, and sexual orientation*.

E. "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, verbal threatening, name calling, sexual overtones, acts of a sexual nature, statements that contribute to a hostile learning, social, or work environment for the individual

F. "Hazing" means intentionally or knowingly committing an act that:

1. endangers the physical health or safety of a school employee or student;
  - a. involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
  - b. involves consumption of any food, liquor, drug, or other substance;
  - c. involves other physical activity that endangers the physical health and safety of a school employee or student; or
  - d. involves physically obstructing a school employee's or student's freedom to move; and
2. is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or
3. if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with  
a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in
4. The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the person against whom the conduct is committed directed,

consented to, or acquiesced in, the conduct.

G. "Retaliation" means an act of communication intended:

1. as retribution against a person for reporting bullying, cyberbullying, harassing, or hazing; or
2. to improperly influence the investigation of, or the response to, a report of bullying or hazing.

H. "School" means any public elementary or secondary school or charter school

I. "School board" means

1. a local school board; or
2. a local charter board.

J. "School employee" means:

1. school teachers;
2. school staff;
3. school administrators; and
4. all others employed, directly or indirectly, by the school, school board, or school district.

### III. Prohibitions

A. No school employee or student may engage in ***bullying*** or ***harassing*** 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 A(1) – (4)

B. No school employee or student may engage in ***hazing*** or ***cyberbullying*** a school employee or student **at any time or in any location.**

C. 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 bullying, harassing, cyberbullying, hazing, or retaliation

D. No school employee or student may make a false allegation of bullying, harassing, cyberbullying, hazing, or retaliation against a school employee or student.

E. Any bullying, harassing, or hazing that is found to be targeted at a federally protected class is further prohibited under federal anti-discrimination laws and is subject to compliance regulations from the Office for Civil Rights.

### IV. Actions Required if Prohibited Acts are Reported

#### Complaints will be reported to counselors and/or administration.

A. Each reported complaint shall include:

1. name of complaining party;

2. name of offender (if known);
  3. date and location of incident(s);
  4. a statement describing the incident(s), including names of witnesses (if known).
- B. Each reported violation of the prohibitions noted previously shall be promptly investigated by a school administrator or an individual designated by a school administrator. Formal disciplinary action is prohibited based solely on an anonymous report of bullying, hazing, or retaliation.
- C. Verified violations of the prohibitions noted previously shall result in consequences or penalties. Consequences or penalties may include but are not limited to:
1. student suspension or removal from a school-sponsored team or activity including school sponsored transportation;
  2. student suspension or expulsion from school or lesser disciplinary action;
  3. clearly written and enforced discipline plan
  4. employee suspension or termination for cause or lesser disciplinary action;
  5. employee reassignment; or
  6. other action against student or employee as appropriate.
- D. Compliance with the Office for Civil Rights when Civil Rights Violations are Reported:
1. Once MERIT ACADEMY knows or reasonably should know of possible student-on-student bullying, cyber-bullying, harassment or hazing, the school must take immediate an appropriate action to investigate or otherwise determine what occurred.
  2. 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:
    - a. end the bullying, cyber-bullying, harassment, or hazing
    - b. eliminate any hostile environment, and
    - c. prevent its recurrence.
  3. 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.
- E. Actions must also include, as appropriate:
1. procedures for protecting the victim and other involved individuals from being subjected to:
    - a. further bullying or having, and
    - b. retaliation for reporting the bullying or hazing.
  2. prompt reporting to law enforcement of all acts of bullying, hazing, or retaliation that constitute suspected criminal activity.
  3. prompt reporting to the Office for Civil Rights (OCR) of all acts of bullying, hazing, retaliation that may be violations of 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 53A-8-102 (licensed staff), local employee discipline policies or Section 53A-11-903 and local policies (students) prior to long term (more than 10 day) student discipline or employee discipline.
6. Records may be expunged by request after the students graduates from school.

## V. Investigations

MERIT ACADEMY School will promptly and reasonably investigate allegations of bullying, cyberbullying, harassment and/or hazing. The MERIT ACADEMY Investigators, the Director or Assistant Director or an employee designated by the Director or Assistant Director, will be responsible for handling all complaints by students and employees alleging bullying, cyberbullying, harassment, or hazing as outlined in the procedures below:

- Prompt investigation
- Incident, details, consequence, and plan recorded in the Behavior section in the student's Aspire account.
- Notification to parent of the event by email, phone, and/or voicemail that the parent has on file with the school.
- Notification to parent when the student threatens to commit suicide, if there is an incident of bullying, cyber-bullying, hazing, harassment or retaliation.
- Notification will be given by administration or counselor.

It is MERIT ACADEMY School'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. Also, individual targeted searches will be conducted if there is reasonable suspicion that a user has violated policy or law. Searches will be conducted by two employees under the direction of the Director or Assistant Director. 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.

## VI. Training

- A. The training of school employees shall include training regarding 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 bullying, hazing, 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.

VII. Additional Notes

- A. 53A-11a-301 requires that this policy be developed with input from (1) students, (2) parents, (3) teachers, (4) school administrators, (5) school staff, or (6) law enforcement agencies.
- B. All information received in a complaint, names of complainants shall be treated with the utmost confidence to the extent possible. Administrators shall notify complainant before revealing his name.