

## **POLICY PROHIBITING HARASSMENT, INCLUDING SEXUAL HARASSMENT**

### **G-32**

#### **I. Harassment Defined and Prohibited**

It is the policy of Mountain Brook City Schools that harassment (including bullying, intimidation, violence or threats of violence) based on race, sex (including pregnancy, sexual orientation, and gender identity), national origin, religion, disability, or any other status protected by law ("Protected Status") will not be tolerated under any circumstances. We firmly believe that all persons are to be treated with respect and dignity. Harassment in violation of this policy will be responded to in a manner consistent with the Mountain Brook Schools' policies and procedures.

"Harassment" means any written, verbal or physical act that takes place on school property, at any school-sponsored function, or on a school bus that is based on a person's Protected Status that: (a) a reasonable person should know, under the circumstances, that the act(s) will have the effect of harming an individual or damaging the individual's property, or placing an individual in reasonable fear of harm to his or her person or damage to his or her property or (b) has the effect of insulting or demeaning any individual in such a way as to cause substantial disruption of, or substantial interference with, the orderly operation of the school or which has the effect of creating an uncomfortable or unwelcoming environment.

Harassment (including intimidation, bullying, or cyberbullying) refers to any unwelcome behavior based on a Protected Status that makes the recipient feel afraid, embarrassed, helpless, angry or unsafe or upsets the recipient to the point that he/she cannot teach or be effective at his/her job.

Creating a hostile work environment based on a Protected Status is prohibited on school property or at school-sponsored events and is prohibited regardless of the identity of the alleged harasser or victim of harassment. Our employees cannot harass other employees, students, or any visitors and do not have to endure harassment by other employees, students or visitors. Some examples of harassment and violence may include, but are not limited to: unwelcome patting, pinching, or other physical contact; obscene gesturing or name calling; ethnic or racial slurs; or threats, insults, or assaults against someone due to their Protected Status.

#### **II. Sexual Harassment**

The Board strictly prohibits unlawful discrimination in all of its programs, offices, departments and facilities. Harassment, as defined by law, is a form of unlawful discrimination and will not be tolerated from employees or other persons associated with the Board.

Although the Board prohibits harassment based on any Protected Status, sexual harassment deserves special mention. Sexual harassment that is directed toward

employees or a third party is prohibited. Persons who violate the policy will be subject to the full range of disciplinary consequences, up to and including termination as dictated by the nature and severity of the violation and other relevant considerations. If appropriate, the circumstances constituting the violation may be reported to law enforcement agencies for further investigation and action.

A. Definition of Sexual Harassment – Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when:

1. Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, of employment or other employment benefits provided by the Board;

2. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual's employment, or other benefits provided by the Board; or

3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

4. Harassment based upon sex includes gender-based harassment based on sex-stereotyping, including harassment based on sexual orientation or gender identity.

5. Acts of reprisal and retaliation against any employee who has reported a violation of this policy are prohibited and are themselves a violation of this policy. Confirmed acts of reprisal or retaliation may be subject to disciplinary measures. An employee who deliberately and falsely accuses another employee of a violation of this policy may be subject to disciplinary sanctions.

B. Examples of Prohibited Conduct – The following are examples of conduct that may constitute sexual harassment, depending on individual circumstances:

1. Verbal harassment or abuse of a sexual nature, including graphic or derogatory comments, the display of sexually suggestive objects or pictures, and sexual propositions;

2. Repeated unwelcome solicitation of sexual activity or sexual contact;

3. Unwelcome, inappropriate sexual touching;

4. Demands for sexual favors accompanied by implied or overt promises of preferential treatment or threats with regard to an individual's employment status.

5. Sexual assault which is sexual contact that occurs without the consent of the recipient, including forced sexual intercourse, fondling, and attempted rape.

### **III. Definitions:**

Terms shall be defined as:

- A. Bullying means a continuous pattern of intentional, unwelcome behavior on or off school property, at any school-sponsored function, or on a school bus, including, but not limited to, cyberbullying or written, electronic, verbal, or physical actions that are reasonably perceived as being motivated by an individual's Protected Status. To constitute bullying, a pattern of behavior may:
  - (a) Place an individual in reasonable fear of harm of themselves or their property
  - (b) Substantially interfere with the work performance or opportunities of an employee
  - (c) Substantially disrupt or interfere with the orderly operation of the school
  - (d) Create a hostile environment in the school, on school property, on a bus, or at a school sponsored function
  - (e) Have the effect of being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive work environment
- B. "Hostile environment" means the perception by an affected individual that the conduct constitutes a threat of violence or bullying and that the conduct is objectively severe or pervasive enough that a reasonable person, under the circumstances, would agree that the conduct constitutes bullying, assault, or threat of assault.
- C. "Violence" means the unjustified infliction of physical force with the intent to cause injury to another or damage to the other person's property.
- D. "Threat" means a statement of intention to inflict pain, injury, damage, or other hostile action to cause fear of harm. The intention may be communicated through electronic, written, verbal or physical act to cause fear, mental distress, or interference in the school environment. The intention may be expressly stated or implied.
- E. "Threat of violence" means an unjustified threat or other action that is intended to cause fear or apprehension in an individual.
- F. "Intimidation" means an unjustified threat or other action that is intended to cause fear or apprehension.

#### IV. Complaint Resolution Procedure

1. Reporting – Any employee or third party with reason to believe that he or she has been or is being subjected to any form of harassment should report the matter immediately. Under no circumstances will a complaining party be required to present the complaint to the person who is the subject of the complaint.

2. Informal Complaint – Complete **Report of Violence, Threat of Violence, Harassment and/or Intimidation Form, C-2-19**, located on MBS website under the Personnel tab. An individual may choose to submit a harassment complaint to a supervisor for investigation and resolution at the departmental or local level without resorting to formal complaint procedures. If the supervisor is the subject of the complaint, the complaint may be submitted to the Superintendent for resolution. If the complaint is not resolved informally to the satisfaction of the complaining employee, the employee must contact the Superintendent to initiate formal complaint procedures.

3. Formal Complaint Procedure – Complete **Report of Violence, Threat of Violence, Harassment and/or Intimidation Form, C-1-19**, located on MBS website under the Personnel tab.

-

*a. Persons Responsible For Receiving and Investigating Formal Complaints*

The Superintendent is responsible for receiving and investigating formal complaints regarding sexual harassment.

If the Superintendent is unavailable or is the subject of the complaint, the Personnel Director is authorized to receive a formal complaint.

The Superintendent or the Personnel Director may be reached at the following address:

Mountain Brook Board of Education  
32 Vine Street  
Mountain Brook, Alabama 35213  
Telephone (205) 871-4608

Current email addresses are available by calling the Board of Education at the above number.

*b. Complaint form, contents* – Formal complaints should be made using the **Report of Violence, Threat of Violence, Harassment, or Intimidation Form, C-1-19**, signed by the complainant, and fully describing the circumstances surrounding the alleged harassment. Harassment

complaints that cannot be made in writing should be memorialized by the Superintendent or Personnel Director.

c. *Investigation* – The Superintendent or his designee will promptly, adequately, and impartially investigate the complaint. The complainant and subject of the complaint will be allowed to present the names of witnesses and other evidence. The witnesses identified will be interviewed and provided assurances regarding confidentiality and non-retaliation. The Superintendent may review the results of any investigation with legal counsel or other appropriate officials, make any findings that are supported by the investigation, and recommend appropriate action based on these findings. The investigation should be initiated promptly and normally be completed within sixty (60) days.

d. *Notification* – The complainant and subject of the complaint will receive written notification of the outcome of the investigation, including the right to object and appeal for reconsideration.

e. *Action* – If there is a finding of harassment, the Board will take remedial action as necessary to address and resolve any found incident of harassment and take steps to prevent the recurrence of any discrimination.

f. *Review by the Superintendent and the Board* – A complaining party who is not satisfied with the investigation or resolution of the complaint may request that the Superintendent take additional or different action or present the complaint to the Board for its review and action. In such case, the Board will render a final decision as soon as practicable.

4. *Confidentiality* – To the maximum extent possible, the Board will keep the complaint and investigation confidential. Complete confidentiality cannot be guaranteed.

## **V. Consequences for Violations**

Employees who violate the policy will be subject to a full range of disciplinary consequences, up to and including termination.

To the extent students or visitors to the school community or events are found to have violated this policy, the Board will take all appropriate action to stop the conduct and prevent any future harassment.

Acts of reprisal and retaliation against anyone who has reported a violation of this policy are prohibited and are themselves a violation of this policy. Confirmed acts of reprisal or retaliation may be subject to disciplinary measures. An employee who deliberately and falsely accuses another employee of a violation of this policy may also be subject to disciplinary sanctions.

Revised: April 8, 2019