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Statement of.....

Policy and Responsibility

SUBJECT: BULLYING, CYBERBULLYING, HARASSMENT, HAZING, ABUSIVE CONDUCT AND RETALIATION

I. PURPOSE

Bullying, cyberbullying, harassment, hazing, abusive conduct, and retaliation of students and employees are against federal, state, and local policy and are not tolerated by Murray City School District and its schools. The district 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, the district has in place policies, procedures, and practices designed to reduce and eliminate bullying, cyberbullying, harassment, hazing, abusive conduct and retaliation—including, but not limited to civil rights violations or actions based on a student’s or employee’s actual or perceived race, color, national origin, sex, disability, religion, religious clothing, gender identity, sexual orientation, or other physical or mental attributes—as well as processes and procedures to deal with such incidents. Bullying, cyberbullying, harassment, hazing, abusive conduct and retaliation of students and/or employees, by students or employees will not be tolerated.

School officials have the authority to discipline students for off-campus speech and behavior that causes or threatens a substantial disruption on campus or during school activities, including 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. §53G-8-205 and in accordance with the U.S. Department of Education Office for Civil Rights, loss of participation in extracurricular activities, and/or probation. If, after an investigation, a school employee is found to have violated this policy, the employee shall be disciplined by appropriate measures up to, and including, termination.

II. DEFINITIONS

A. “Abusive conduct” means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine:

1. is intended to cause intimidation, humiliation, or unwarranted distress;
2. results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or

3. exploits an employee's known physical or psychological disability.

A single act does not constitute abusive conduct unless it is an especially severe and egregious act that meets the standard under Subsection A.1, A.2 or A.3

- B. Bullying” means a school employee or student intentionally or knowingly committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:
1. causing physical or emotional harm to the school employee or student;
 2. causing damage to the school employee's or student's property;
 3. placing the school employee or student in reasonable fear of:
 - a. harm to the school employee's or student's physical or emotional well-being; or
 - b. damage to the school employee's or student's property;
 4. creating a hostile, threatening, humiliating, or abusive educational environment due to:
 - a. the pervasiveness, persistence, or severity of the actions; or
 - b. a power differential between the bully and the victim; or
 5. substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
 6. 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.
 7. “Bullying” includes relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.
- C. “Civil rights violation” means bullying (including cyberbullying), harassing, or hazing that is targeted at a student or employee upon the students’ or employees’ identification as part of any group protected from discrimination under the following federal laws:
1. Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race, color, or national origin;
 2. Title IX of the Education Amendments of 1972, including discrimination on the basis of sex; or
 3. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including discrimination on the basis of disability.
 4. Other areas included under these acts include: religion, gender identity, and sexual orientation.

- D. "Cyberbullying" means 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.
- E. "Disruptive student behavior" means the same as that term as defined in Utah Code Subsection 53G-8-210(1)(a). Disruptive student behavior includes:
- a. the grounds for suspension or expulsion described in Utah Code §53G-8-205; and
 - b. the following conduct describe in Utah Code Subsection 53G-8-209 (2)(b):
 - use of foul, abusive, or profane language while engaged in school related activities;
 - illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Utah Code §76-10-101, tobacco, or alcoholic beverages contrary to law; and
 - hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.
- F. "Harassment" means a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

G. "Harassment and discrimination free learning" means a learning environment in which a student is treated fairly regardless of the student's characteristics including race, color, religion or sex, and in which a student's ability to participate in or benefit from the services, activities, or opportunities offered is not limited or interfered with by conduct that is physically threatening, harmful or humiliating.

- H. "Hazing" means a school employee or student intentionally, knowingly or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:
1. endangers the mental or physical health or safety of a school employee or student;
 - a. involves any brutality of a physical nature, including 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, alcoholic product, drug, or other substance;

- c. involves 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.
 - 2. is committed 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, club or event; or
 - 3. is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school-sponsored team, organization, program, club or event in which the individual who commits the also participates.
 - 4. The conduct described in Subsection "G" constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- I. "Parent" means a student's parent or guardian.
- J. Restorative justice practice" means a set of practices designed to enhance school safety, reduce school suspensions, and limit referrals to court. It is designed to help minors take responsibility for and repair the harm that has occurred as a result of their actions.
- K. "Retaliation" means an act of communication intended:
- 1. as retribution against a person for reporting bullying, cyberbullying, harassment, or hazing; or
 - 2. to improperly influence the investigation of, or the response to, a report of bullying or hazing.
- L. "School" means any public elementary, secondary or charter school.
- M. "School board" means:
- 1. a local school board; or
 - 2. a charter school governing board.
- N. "School employee" means an individual working in an official capacity as a(n):
- 1. school teachers;
 - 2. school staff member;
 - 3. school administrators;
 - 4. individual who is employed, directly or indirectly, by a school, school board, or school district.
- O. "Trauma-Informed Care" means a strengths-based service delivery approach grounded in an understanding of an responsiveness to the impact of trauma, emphasizing physical, psychological, and emotional safety for both offenders and victims, and creating opportunities for victims to rebuild a sense of control and empowerment.
- P. "Volunteer" means a person working under direct supervision of a licensed educator.

III. PROHIBITIONS

- A. No school employee or student shall 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 shall engage in hazing and/or cyberbullying a school employee or student at any time or in any location.
- C. No school employee or student shall engage in retaliation against:
 - 1. a school employee;
 - 2. a student; or
 - 3. an investigator for, or witness of, an alleged incident of bullying, cyberbullying, harassing, hazing, or retaliation.
- D. No school employee or student shall make a false allegation of bullying, cyberbullying, harassing, hazing, or retaliation against a school employee or student. False allegations will be handled under the employee code of conduct or the student code of conduct.
- E. No employee shall engage in abusive conduct towards another employee. Employees who experience abusive conduct should report a grievance to the Director of Human Resources for investigation. An investigation will then be conducted in a timely manner.
- F. Any bullying, cyberbullying, 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. INVESTIGATIONS

Schools in the Murray City School District will promptly and reasonably investigate allegations of bullying, cyberbullying, harassment and/or hazing. The school administrator will be primarily responsible for the handling and investigation of all complaints by students and employees alleging bullying, cyberbullying, harassment, or hazing, including disruptive behavior, as outlined in the Administrative Guidelines. All incidents will be reported in the student information system, and if necessary turned over to the Director of Student Services and/or Human Resources. Employee grievances will immediately be turned over to the Director of Human Resources for investigation.

- A. The school administrator is required to investigate allegations of bullying, cyberbullying, harassment, and/or hazing by interviewing at least the alleged victim and the individual who is alleged to have engaged in prohibited conduct.
 - 1. The school administrator may also interview the following as part of an investigation:
 - a. parents of the alleged victim and the individual who is alleged to have engaged in prohibited conduct;
 - b. any witnesses;
 - c. school staff; and
 - d. other individuals who may provide additional information.

2. An individual who investigates an allegation of an incident shall inform an individual being interviewed that:

- a. to the extent allowed by law, the individual is required to keep all details of the interview confidential;
- b. shall notify complainant before revealing his name; and
- c. further reports of bullying may become part of the investigation.

B. The confidentiality requirement in Subsection (A)(2) does not apply to:

1. conversations with law enforcement professionals;
2. requests for information pursuant to a warrant or subpoena;
3. a state or federal reporting requirement; or
4. other reporting required by this rule.

C. In conducting an investigation under this section, the school administrator may:

1. review disciplinary reports of involved students; and
2. review physical evidence, consistent with search and seizure law in schools, which may include:
 - a. video or audio;
 - b. notes;
 - c. email;
 - d. text messages;
 - e. social media; or
 - f. graffiti.

D. The Murray City School District and its employees will report incidents of bullying, cyberbullying, harassment, and retaliation to law enforcement if they are repetitious, egregious, against a protected class, or rise to a level of criminality.

V. ACTIONS REQUIRED IF PROHIBITED ACTS ARE REPORTED:

A. Each reported complaint will 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 will be promptly investigated by a school administrator or an individual designated by a school administrator. A report of bullying, cyberbullying, hazing, harassment, and retaliation may be made anonymously, but Murray City School District will not take formal disciplinary action based solely on an anonymous reports.

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 disciplinary measures as outlined in board policies PS 417 Student Discipline and PS 416 Safe and Orderly Schools, including but not limited to student suspension or removal from a school-sponsored team or activity, including school-sponsored transportation, and student suspension or expulsion from school or lesser disciplinary action;
2. use of restorative justice practices consistent with State Board of Education Administrative Rule R277-613;

3. employee suspension or termination for cause or lesser disciplinary action consistent with Utah Code §53G-11-512;
 4. employee reassignment;
 5. other action against student or employee as appropriate;
- D. The school administrator, counselor, or school social worker will notify a parent in a timely manner if the parent's student threatens suicide, or if the student is involved in an incident of bullying, cyberbullying, harassment, hazing, or retaliation. Parent notification will be by phone.
1. Each school in the district will produce and maintain a record that verifies that the parent was notified of the incident or threat. Records will be maintained in a secure location, either electronically or in a secure file.
 2. Each school in the district will not disclose the record described in D1 to anyone unauthorized to receive it and will not use the record for purposes not allowed under the law.
 3. Records are retained until a student graduates from high school, at which time they will be destroyed.
- E. School administration will inform parents of students subjected to bullying, cyberbullying, harassment or hazing regarding the importance of promptly reporting any acts of retaliation or new incidents, and how to report.
- F. Compliance with the Office for Civil Rights when Civil Rights Violations Occur:
1. Each school is responsible for identifying bullying, cyber-bullying, harassment or hazing incidents about which it knows or reasonably should have known when it involves a protected class. The school must take immediate and appropriate action to investigate or otherwise determine what occurred.
 2. The school has a responsibility to investigate regardless of whether the person makes a complaint, a person asks the school to take action, or a person identifies the bullying, cyberbullying, harassment or hazing as a form of discrimination.
 3. If it is determined that the bullying, cyber-bullying, harassment or hazing occurred as a result of the student-victim's membership in a protected class, the school 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, and assess prevalence in school culture, physical facilities, and systemic practices.
- G. Actions must also include, as appropriate:
1. procedures for protecting the victim and other involved individuals from being subjected to:
 - a. further bullying, cyberbullying, harassment, or hazing, and
 - b. retaliation for reporting the bullying, cyberbullying, harassment, or hazing.
 2. prompt reporting to law enforcement of all acts of bullying, cyberbullying, harassment, hazing, or retaliation that constitute suspected criminal activity.
 3. procedures for a fair and timely opportunity for the accused to explain the accusations and defend his actions prior to student or employee discipline.
 4. procedures for providing due process rights under Section §53G-11-501 (licensed staff) and local employee discipline policies prior to employee discipline or Section §53G-8-204 and local policies (students) prior to long term (more than 10-day) student discipline.

VI. TRAINING

- A. All students, staff, and volunteers in the Murray City School District will receive annual training from a qualified professional regarding bullying, cyberbullying, harassment, hazing and retaliation. This training will address:
1. overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior
 2. relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;
 3. bullying, cyberbullying, harassment and/or hazing of a sexual nature or with sexual overtones;
 4. cyberbullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;
 5. hazing and retaliation based upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:
 - a. Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race, color, or national origin;
 - b. Title IX of the Education Amendments of 1972, including discrimination on the basis of sex; or
 - c. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including discrimination on the basis of disability; and
 6. the reporting of civil rights violations;
 7. bullying, cyber-bullying, harassment, hazing and retaliation education specific to bullying based upon students' or employees' actual or perceived characteristics, including race, color, national origin, sex, disability, religion, religious clothing, gender identity, sexual orientation, or other physical or mental attributes, or conformance or failure to conform to stereotypes;
 8. awareness and intervention skills, such as social skills training.
- B. Student athletes and extracurricular club members will be informed of prohibited activities under this policy by the coach or advisor and notified of the potential consequences for violations of both policy and law.
- C. Volunteers are under direct supervision of a licensed educator who is responsible for ensuring the volunteer is trained in the above areas. Volunteers are required to report to their supervising licensed educator if they witness or are notified of a bullying, cyberbullying, hazing, harassment, or retaliation incident among students or if they have reason to suspect such an incident. Volunteers are prohibited from engaging in bullying activities themselves and will be asked to leave Murray City School District if in violation of this policy.
- D. Pursuant to §53G-9-702, Murray School District will implement a youth suicide prevention program for students.
- E. Pursuant to §53G-9-704, all licensed educators must complete 2 hours of professional development of youth suicide prevention training once every license renewal cycle. To the extent possible, other programs or initiatives designed to provide training and education regarding the prevention of bullying, cyber-bullying, harassment, hazing, and retaliation will be implemented.
- F. Pursuant to §53G-9-704, Murray School District will provide training for teachers and administrators regarding required intervention for students who are at-risk of attempting

suicide, physical self-harm, or harm to others. At a minimum, all school employees are required to immediately report to building administration any knowledge of students who are at-risk of attempting suicide, physical self-harm, or harm to others. School employees, agents, or school resources officers may ask the “student at-risk” questions regarding the student’s suicidal thoughts, physical or self-harming behavior prior to referring the student to the appropriate prevention service and prior to informing the student’s parent or legal guardian. LEA staff responsible for suicide prevention programs may also ask a student questions related to youth suicide prevention, intervention and post-intervention issues.

G. In addition to training for all school employees, students, employees, and volunteer coaches involved in any extra-curricular activity shall:

1. participate in initial bullying and hazing prevention training prior to participation in the extra-curricular activity;
2. participate in initial bullying, cyberbullying, harassment, and hazing prevention training when hired ~~to be completed by January 20, 2019~~ and repeated at least every three years thereafter;
3. be informed annually of the prohibited activities list provided previously in this Policy and the potential consequences for violation of this Policy.

H. Administration, faculty, staff, students, parents, community council and other community members will be included in making recommendations for training and prevention measures.

VII. ANNUAL REPORTING OF ALLEGATIONS OF BULLYING, CYBER-BULLYING, HAZING, AND RETALIATION

A. Murray City School District is required by Utah Code Subsection 53E-3-401 (3) and State Board of Education Administrative Rule R277-613 to report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

1. a copy of the district’s policy required in Section R277-613-4;
2. the collection of signed statements from employees, students, and parents/guardians indicating receipt of the District policy regarding bullying, cyberbullying, hazing, and retaliation;
3. verification of the district’s training of school employees relating to bullying, cyber-bullying, hazing, and retaliation [, and abusive conduct] described in Utah Code Section 53G-9-607;
4. incidents of bullying, cyber-bullying, hazing, and retaliation;
5. the number of incidents described in Subsection (8)(d) required to be reported separately under federal law, including the reporting requirements in:
 - a. Title VI of the Civil Rights Act of 1964;
 - b. Title IX of the Education Amendments of 1972; or
 - c. Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990; and
6. the number of incidents described in Subsection (8)(d) that include a student who was bullied, cyber-bullied, hazed, or retaliated against based on the student's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation. Incidents will be entered in the student information system upon meeting the outlined definition(s).

VIII. ACTIONS REQUIRED TO CREATE OR UPDATE BULLYING POLICIES

- A. In addition to the requirements of Utah Code Subsection 53G-9-605 (3), the Murray City School District is required to and will:
1. develop, update, and implement policies as required by Utah Code Section 53G-9-605 and this rule;
 2. develop policy with the input from (1) students, (2) parents, (3) teachers, (4) school administrators, (5) school staff, or (6) law enforcement agencies;
 3. post a copy of this policy on the district's website;
 4. develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation, [or abusive conduct];
 5. provide a requirement for a signed statement that meets the requirements of Utah Code Subsection 53G-9-605 (3)([g]h) annually; and
 6. assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in each of its schools:
 - a. specifically, locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, bathrooms, locker rooms and lunch areas, will be provided on a bi-annual basis.

IX. ADDITIONAL NOTES

A. This policy does not prohibit expressive activity protected by the First Amendment of the United States Constitution. However, if off-campus speech that may constitute a bullying, cyber-bullying, hazing, or harassment incident creates a substantial disruption to the school environment, under *Tinker v. Des Moines Sch. Dist.*, 393 U.S. 503 (1969), Murray City School District or its schools may take disciplinary action against the student who initiated the speech. Factors that Murray City School District or its schools may consider in determining whether a substantial disruption has occurred are:

1. whether there is a verbal or physical confrontation over the incident at school;
2. whether there is likely to be a verbal or physical confrontation based on evidence of a prior relationship between the victim and the student who initiated the speech;
3. whether any part of the speech that gave rise to the incident was repeated at school;
4. whether students are discussing the incident during class or if it otherwise is disrupting school work;
5. whether there is a widespread whispering campaign sparked by the off-campus incident that disrupts the school environment and students' abilities to focus on school;
6. whether administrators who dealt with the incident were pulled from their ordinary tasks to address the incident and how much time it took out of an administrators' day to do so;
7. whether speech similar to the off-campus speech in this incident has occurred in the past and has resulted in violence or near violence at school;
8. whether there is a negative effect on classroom activities as a result of the off-campus incident; or
9. whether the speech was violent or whether there is a history of violence from the student(s) who initiated the speech; (Note: true threats are not protected by the First Amendment if it advocates "imminent" violence or unlawful conduct. Thus, a message that threatens physical harm, even if it isn't meant to be serious, may not be protected by the First Amendment and the person who utters such a message may be disciplined by Murray City School District or its schools.)

B. It is the district'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 district policy or law. Also, individual targeted searches will be conducted if there is reasonable suspicion that a user has violated policy or law. 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.