

## **Anti-Harassment and Bullying Policy and Procedures**

Reference: Titles VI and VII of the Civil Rights Act of 1964, 42 USC 2000d et seq.  
20 USC 1400 ET SEQ., The Individuals with Disabilities Education improvement Act of 2004 (IDEIA)  
20 USC 1681 et seq.  
29 USC 794, Rehabilitation Act of 1973, as amended  
29 USC 6101, the Age Discrimination Act of 1975  
42 USC 2000d et seq.  
42 USC 2000e et seq.  
42 USC 12101 et seq., Americans with Disabilities Act of 1990, as amended  
42 USC 1983  
42 USC 2000ff et seq., The Genetic Information Nondiscrimination Act  
29 C.F.R. Part 1635  
Title IX of the Educational Amendments of 1972, 20 USC 1681 et seq.  
Section 504 of the Rehabilitation Act of 1973, 29 USC 794  
The Americans with Disabilities Act of 1990, 42 USC 12101 et seq.  
The Handicappers' Civil Rights Act, MCL 37.1101 et seq.  
The Elliott-Larsen Civil Rights Act, MCL 37.2101, et seq.  
Policies on Bullying, Michigan State Board of Education, 7-19-01  
Model Anti-Bullying Policy, Michigan State Board of Education, 09-2006  
National School Boards Association Inquiry and Analysis – May 2008

### **General Policy Statement**

It is the policy of the Board to maintain an education and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all Academy operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin, sex (including sexual orientation and transgender identity), disability, age (except as authorized by law), religion, height, weight, marital or family status, military status ancestry, or genetic information (collectively, "Protected Classes") that are protected by Federal civil rights laws (hereinafter referred to as unlawful harassment), and encourages those within the Academy community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its recurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "Academy community" means students, administrators, and professional and support staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on Academy property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the Academy community at school-related events/activities (whether on or off Academy property).

## **Other Violations of the Anti-Harassment Policy**

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

## **Definitions**

### **Harassment**

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal or physical conduct directed against a student or Academy employee that:

- A. Places a student or Academy employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. Has the effect of substantially interfering with a student's educational performance, opportunities, or benefits, or an employee's work performance; or
- C. Has the effect of substantially disrupting the orderly operation of the Academy.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals;
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. Inappropriate boundary invasions by an employee or other adult member of the Academy community into a student's personal space and personal life; or
- J. Verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
  - a. Verbal: The making of offensive written or oral sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, threats, or propositions toward or by a fellow staff member, student, or other person associated with the Academy, or third parties.

- b. Nonverbal: Causing the placement of offensive sexually suggestive objects, pictures, or graphic commentaries in the school environment or the making of offensive sexually suggestive or insulting gestures, sounds, leering, whistling, and the like to or by a fellow staff member, student, or other person associated with the Academy, or third parties.
  - c. Physical Contact: Threatening or causing unwanted touching, contact, or attempts at same, including patting, pinching, brushing the body, or coerced sexual activity with or by a fellow staff member, student, or other person associated with the Academy, or third parties. With respect to students, the question of whether or not physical contact is unwanted or consensual is irrelevant where such contact is engaged in by Academy employees or other adult members of the Academy community
- K. Examples of inappropriate boundary invasions include, but are not limited to the following:
- a. Hugging, kissing, or other physical contact with a student
  - b. Telling sexual jokes to students
  - c. Engaging in talk containing sexual innuendo or banter with students
  - d. Talking about sexual topics that are not related to curriculum
  - e. Showing pornography to a student
  - f. Taking an undue interest in a student (i.e. having a “special friend” or a “special relationship”
  - g. Using email, text-messaging, websites or other social media services to discuss personal topics or interests with students
  - h. Giving students rides in the staff member’s personal vehicle or taking students on personal outings without administrative approval
  - i. Invading a student’s privacy (e.g. walking in on the student in the bathroom, locker-room, asking about bra sizes or previous sexual experiences)
  - j. Going to a student’s home for non-educational purposes
  - k. Inviting students to the staff members’ home without proper chaperones (i.e. another staff member or parent of student)
  - l. Giving gifts or money to a student for no legitimate educational purpose
  - m. Accepting gifts or money from a student for no legitimate educational purpose
  - n. Being overly “touchy” with students
  - o. Favoring certain students by inviting them to come to the classroom at non-class times
  - p. Getting a student out of class to visit with the staff member
  - q. Providing advice to or counseling a student regarding a personal problem (i.e. problems related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc.), unless properly licensed and authorized to do so
  - r. Talking to a student about problems that would normally be discussed with adults (i.e. marital issues)
  - s. Being alone with a student behind closed doors without a legitimate educational purpose
  - t. Telling a student “secrets” and having “secrets” with a student

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment, or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.

NOTE: Sexual conduct/relationships with students by school employees or any other adult member of the Academy community is prohibited, and any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of the criminal charge of "sexual battery". The issue of consent is irrelevant in regard to such criminal charge and/or with respect to the application of this policy to school employees or other adult members of the Academy community.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

- A. Verbal: The making of offensive written or oral innuendoes, comments, jokes, insults, threats, or disparaging remarks concerning a person's race, color, national origin, disability, age, religious beliefs, ancestry, or genetic information.
- B. Nonverbal: Placing offensive objects, pictures, or graphic commentaries in the school environment or making insulting or threatening gestures based upon a person's race, color, national origin, disability, age, religious beliefs, ancestry, or genetic information.
- C. Physical: Any intimidating or disparaging action such as hitting, pushing, shoving, hissing, or spitting on or by a fellow staff member, student, or other person associated with the Academy, or third parties, based upon the person's race, color, national origin, disability, age, religious beliefs, ancestry, or genetic information.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin Harassment**

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

## **Reports and Complaints of Harassing Conduct**

Students and other members of the Academy community and third parties are encouraged to promptly report incidents of harassing conduct to a teacher, an administrator, supervisor or other Academy official so that the conduct may be addressed before it becomes severe, pervasive, or persistent. Any teacher, administrator, supervisor, or other Academy employee or official who receives such a complaint shall file it with the Academy's Anti-Harassment Compliance Officer within two (2) school days.

Members of the Academy community, which includes students, or third parties who believe they have been unlawfully harassed are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Other Forms of Aggressive Behavior, the School Leader believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on a Protected Class, the School Leader will report the act of bullying, aggressive behavior and/or harassment to one of the Anti-Harassment Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the School Leader shall suspend his/her 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the School Leader informed of the status of the 3362 investigation and provide him/her with a copy of the resulting written report.

## **Anti-Harassment Compliance Officers**

The Board designates the following individuals to serve as "Anti-Harassment Compliance Officers" for the Academy. They are hereinafter referred to as the "Compliance Officers".

NOTE: Academies are advised to appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. In addition, the Compliance Officers may also serve as the Academy's Section 504 and Title IX Coordinators.

School Leader

1740 E M36

Pinckney, Michigan 48169

The names, titles, and contact information of these individuals will be published annually in the family and staff handbooks

The Compliance Officers will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the Academy community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student, other member of the Academy community or third party in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept complaints of unlawful harassment directly from any member of the Academy community or a visitor to the Academy, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the person alleging the harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare recommendations for the ESP or will oversee the preparation of such recommendations by a designee. All members of the Academy community must report incidents of harassment that are reported to them to the

Compliance Officer within two (2) business days of learning of the incident.

Academy personnel who directly observe unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Additionally, any Academy employee who observes an act of unlawful harassment is expected to intervene to stop the harassment, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Academy employees and/or local law enforcement officials, as necessary, to stop the harassment. Thereafter, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) school days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Compliance Officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

### **Investigation and Complaint Procedure**

Any student who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment or retaliation and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education Office for Civil Rights.

In determining whether alleged conduct constitutes a violation of Policy 1662, the following factors will be considered:

- A. The nature of the behavior
- B. How often the conduct occurred
- C. Whether there were past incidents or past continuing patterns of behavior
- D. The relationship between the parties involved
- E. The race, national origin, sex (including sexual orientation and transgender identity), disability, age, religious beliefs and ancestry of the victim, and in the case of genetic information harassment, the genetic information of the employee victim
- F. The identity of the perpetrator, including whether the perpetrator was in a position of power over the person allegedly subjected to harassment
- G. The number of alleged harassers
- H. The age of the alleged harasser
- I. Where the harassment occurred
- J. Whether there have been other incidents in the school involving the same or other individuals
- K. Whether the conduct adversely affected the person's work or education performance or environment
- L. The context in which the alleged incidents occurred
- M. Whether or not speech or expression that is alleged to constitute harassment is protected by the First Amendment to the United States Constitution
- N. Whether a particular action or incident constitutes a violation of Policy 1662 requires a determination based on all of the facts and surrounding circumstances

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Students who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Students who believe that they have been unlawfully harassed or retaliated may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving an Academy employee or any other adult member of the Academy community against a student will be formally investigated. Similarly, any allegations of sexual violence will be formally investigated.

As an initial course of action, if a student feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A student who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends; (2) to the ESP; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to one of the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The Academy's informal complaint procedure is designed to provide students who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the student claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. advising the student about how to communicate the unwelcome nature of the behavior to the alleged harasser;
- B. distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends; or
- C. if both parties agree, the Compliance Officer may arrange and facilitate a meeting between the student claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officer or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers in accordance with the Board's records retention policy and/or Student records policy. (See Policy 8310 and Policy 8330)

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the student elects to file a formal complaint initially, the formal complaint process shall be implemented.

A student who believes s/he has been subjected to offensive conduct/harassment/retaliation hereinafter referred to as the "Complainant", may file a formal complaint, either orally or in writing, with a teacher, principal, or other Academy employee at the student's school, the Compliance Officer, ESP, or another Academy employee who works at another school. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, ESP, or other Academy employee, either orally or in writing, about any complaint of harassment or retaliation, that employee must report such information to the Compliance Officer or designee within two (2) business days. Throughout the course of the process, the Compliance Officer should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter, the Compliance Officer will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation, including, but not limited to, a change of work assignment or schedule for the Complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the Complainant to assess his/her agreement to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the ESP.

Within two (2) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the Complainant has been subjected to offensive conduct/harassment/retaliation. The ESP will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing or retaliatory conduct, hereinafter referred to as the "Respondent", that a complaint has been received. The Respondent will be informed about the nature of the allegations and provided with a copy of any relevant administrative guidelines, including the Board's Anti-Harassment policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days. Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:



- A. Interviews with the Complainant;
- B. Interviews with the Respondent;
- C. Interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
- D. Consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations.

The Compliance Officer's written report to the school should contain the following information/documentation:

- A. Name of the alleged victim, and any pertinent information concerning the individual as it relates to the protected class(es) involved in the alleged misconduct (e.g., the individual's race, color, national origin, sex (including sexual orientation and transgender identity), disability, age, religion, ancestry or genetic information), and the same information concerning the person who reported the alleged misconduct (if the reporter was not the alleged victim)
- B. The nature of the allegation, a description of the incident, and the date and time (if known) of the alleged incident
- C. The name of all persons alleged to have committed the alleged unlawful harassment or retaliation, if known, and relevant information concerning them as it related to the protected class(es) involved in the alleged misconduct
- D. The name of all known witnesses to the alleged incident, and relevant information concerning them as it relates to the protected class(es) involved in the alleged misconduct
- E. Any written statements prepared by or on behalf of the reporter, the alleged victim (if different), the accused individuals, and any known witnesses
- F. The outcome of the investigation
- G. The response of school personnel, and if applicable, Academy officials, including the date any incident was reported to local law enforcement or children services

At the conclusion of the investigation, the Compliance Officer or the designee shall prepare and deliver a written report to the ESP that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used.

Absent extenuating circumstances, within ten (10) school days of receiving the report of the Compliance Officer or the designee, the ESP must either issue a final decision regarding whether the complaint of harassment has been substantiated or request further investigation. A copy of the ESP final decision will be delivered to both the Complainant and the Respondent.

If the ESP requests additional investigation, the ESP must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) school days. At the conclusion of the additional investigation, the ESP shall issue a final written decision as described above.

The decision of the ESP shall be final.

### **Privacy/Confidentiality**

The Academy will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and its related Administrative Procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All Complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the Respondent. During the course of a formal investigation, the Compliance Officer or his/her

designee will instruct all members of the Academy community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the School Leader shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the Academy community, all subsequent sanctions imposed by the Board and/or ESP, shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### **Retaliation**

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

**Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any Academy teacher or Academy employee who knows or suspects that a student with a disability who is twenty-six (26) years or younger or a student under the age of eighteen (18) has suffered or faces a threat of suffering a physical or mental wound, disability or condition of a nature that reasonably indicates abuse or neglect of a child to immediately report that knowledge or suspicion to the county children's services agency. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the Complainant, a report of such knowledge must be made in accordance with State law and Board Policy.

Any reports made to a county children's services agency or to local law enforcement shall not terminate the Compliance Officer or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officer or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the ESP.

### **Education and Training**

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The ESP, or designee shall provide appropriate information to all members of the Academy community related to the implementation of this policy and shall provide training for Academy students and staff where appropriate. All training, as well as information provided regarding the Board's policy and harassment in general, will be age and content appropriate.

## **Bullying**

Reference: The Matt Epling Safe School Law, Public Act 241 of 2011, as amended by Public Act 478 of 2014 (MCL § 380.1310b).

“Bullying” means any written, verbal, or physical act, or any electronic communication, including, but not limited to, cyberbullying, that is intended or that a reasonable person would know is likely to harm one (1) or more pupils either directly or indirectly by doing any of the following:

- A. Substantially interfering with the educational opportunities, benefits, or programs of one (1) or more pupils.
- B. Adversely affecting the ability of a pupil to participate in or benefit from the school district’s or public school’s educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.
- C. Having an actual and substantial detrimental effect on a pupil’s physical or mental health.
- D. Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. Teasing
- B. Threats
- C. Intimidation
- D. Stalking
- E. cyber stalking
- F. Cyberbullying
- G. Physical violence
- H. Theft
- I. Sexual, religious, or racial harassment
- J. Public humiliation
- K. Destruction of property

The Board believes that a safe and nurturing educational environment in school is necessary for students to learn and achieve high academic standards. Therefore, it is the policy of the Academy to provide a safe and nurturing environment for all of its students. Appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment or bullying is expected of students, as well as administrators, faculty, staff, visitors, and volunteers.

### **Bullying and Cyberbullying are Prohibited**

Bullying and cyberbullying of a student, whether by other students, staff, visitors, Board members, parents, guests, contractors, vendors and volunteers, is prohibited. All pupils are protected under this policy, and bullying and cyberbullying are prohibited without regard to its subject matter or motivating animus.

“Cyberbullying” means any electronic communication that is intended or that a reasonable person would know is likely to harm one (1) or more pupils either directly or indirectly by doing any of the following:

- A. Substantially interfering with the educational opportunities, benefits, or programs of one (1) or more pupils.
- B. Adversely affecting the ability of a pupil to participate in or benefit from the school district’s or public school’s educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.

- C. Having an actual and substantial detrimental effect on a pupil's physical or mental health.
- D. Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

Since "bullying" also includes "cyberbullying," any reference in this policy to "bullying" shall also be deemed to refer to "cyberbullying."

Bullying and cyberbullying are prohibited at school. "At school" is defined as on school premises, at school-sponsored activities or events, in a school-related vehicle, or using telecommunications access device or a telecommunications service provider if the telecommunications access device or telecommunications service provider is owned by or under the control of the school district. "Telecommunications access device" and "telecommunications service provider" mean those terms as defined in Section 219a of the Michigan Penal Code (MCL § 750.219a).

Bullying and cyberbullying that does not occur "at school," as defined above, but that causes a substantial disruption to the educational environment may be subject to disciplinary action in accordance with this policy and applicable law.

### **Reporting and Investigating Reports of Bullying**

Every student is encouraged to report any situation that he or she believes to be bullying behavior directed toward a student to a teacher, a counselor, administrator, or other staff member. Staff members shall report any reports made by students or situations that they believe to be bullying behavior directed toward a student to the ESP. Complaints against the ESP shall be reported to the Board.

Under state law, a school employee, school volunteer, student, or parent or guardian who promptly reports in good faith an act of bullying to the appropriate school official designated in this policy and who makes this report in compliance with the procedures set forth in this policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. This immunity does not apply to a school official responsible for implementing this policy or for remedying the bullying, when acting in that capacity.

Retaliation or false accusation against a target of bullying, a witness, or another person with information about an act of bullying is prohibited. Suspected retaliation should be reported in the same manner as suspected bullying behavior. Making intentionally false accusations of bullying is likewise prohibited. Retaliation and making intentionally false accusations of bullying may result in disciplinary action up to and including expulsion.

All complaints about bullying that may violate this policy shall be promptly investigated and documented. The ESP or designee is responsible for the investigation. If the investigation results in a finding that bullying has occurred, it shall result in prompt and appropriate disciplinary action, up to and including expulsion for students, up to and including discharge for employees, and up to and including exclusion from school property for parents, guests, volunteers, and contractors. Individuals may also be referred to law enforcement officials. Where the investigation results in a finding that bullying has occurred, both the parent or legal guardian of a victim of bullying and the parent or legal guardian of a perpetrator of the bullying shall be notified promptly in writing. In addition, administrators investigating alleged bullying may notify parents of the victim or perpetrator of bullying sooner than the conclusion of the investigation if circumstances dictate such earlier notification. The Academy shall document any prohibited incident that is reported and shall document all verified incidents of bullying and the resulting consequences, including the required notification of parents or guardians and any discipline and referrals.

The Educational Service Provider is the school official responsible for ensuring that this policy is implemented.

### **Confidentiality**

The Academy will comply with all applicable laws regarding confidentiality of personally identifiable information within education records. In addition, the identity of an individual who reports an act of bullying or cyberbullying shall be and remain confidential. The School Leader, or the School Leader's designee, shall ensure that the name of an individual who reports an act of bullying or cyberbullying is withheld from the alleged perpetrator and the perpetrator's parent(s), legal guardian(s) and representative(s), and is redacted from any report of bullying or cyberbullying that is publically disclosed.

### **Notification**

This policy will be annually circulated to parents and students, and shall be posted on the Academy website.

### **Reporting**

As required by state statute, the Academy shall provide a report of all verified incidents of bullying and other required information to the Michigan Department of Education on an annual basis, according to the form and procedures established by the Department.

Any suspected, observed, or reported incidents of harassment or bullying must be followed up by school personnel. An initial conversation with the victim is to occur within 24 hours of notification. Pending that follow-up, documented accordingly and engagement of the school leader (when appropriate) within 48 hours of original notification using the **Formal Complaint Regarding Harassment or Bullying**.

**Students should report any harassment or bullying they observe or experience immediately to their teacher, building leader, or by completing the Bullying Form (found in the quick links section of the website to print, copies can also be found in the classrooms and front office).**