

BRAINTREE PUBLIC SCHOOLS

BRAINTREE PUBLIC SCHOOLS BULLYING, HARASSMENT, SEXUAL HARASSMENT, DISCRIMINATION, HATE CRIMES AND HAZING POLICY

I. POLICY

- A. The Braintree Public School District is committed to providing our students equal educational opportunities where all school community members (students, employees, and visitors) treat each other with respect in a safe learning environment free from any form of bullying, harassment, sexual harassment, discrimination and hate crimes. This policy is an integral part of the District's comprehensive efforts to promote learning, eliminate all forms of violent, harmful, and disruptive behavior and enable students to achieve their personal and academic potential and become successful citizens in our increasingly diverse society.

The district prohibits bullying, harassment, sexual harassment, discrimination, hate crimes, or any other victimization of students in our schools or school-related activities based on any of the following *actual or perceived traits or characteristics*, including but not limited to: race, color, religion, ancestry, national origin, sex, socioeconomic status, homelessness, academic status, gender identity or expression, physical appearance, sexual orientation, or mental, physical, developmental or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

- B. It is a violation of this policy for any administrator, teacher or other employee, or any student to engage in or condone bullying, harassment, sexual harassment, discrimination or hate crimes or to fail to report or otherwise take reasonable corrective measures when they become aware of an incident of harassment.
- C. It is the responsibility of every employee to recognize acts of bullying, harassment, sexual harassment, discrimination and hate crimes and take every action necessary to ensure that the applicable policies and procedures of this school district are implemented.
- D. Any employee or student who believes that he or she has been subjected to bullying, harassment, sexual harassment, discrimination or a hate crime has the right to file a complaint and to receive prompt and appropriate handling of the complaint. Further, all reasonable efforts shall be made to maintain the confidentiality and protect the privacy of all parties but proper enforcement of this policy may require disclosure of any or all information received.
- E. The Building Principal/Designee shall be responsible for assisting employees and students seeking guidance or support in addressing matters relating to bullying, harassment, sexual harassment, discrimination, and hate crimes. This policy is not designed or intended to limit the school's authority to take disciplinary action or take remedial action when such harassment occurs out of school but carries over into school, or, is disruptive or substantially interferes with an employee's work, personal life, a student's school work,



or participation in school related opportunities or activities.

Reports of cyberbullying by electronic or other means, occurring in or out of school will be reviewed and, when affecting work or school, will result in discipline. Parents of students alleged to have engaged in cyber harassment will be required to attend a meeting at which the activity, words or images subject to the complaint will be reviewed.

- F. When a reported incident involves the principal or the assistant principal the Superintendent or designee shall be responsible and if the Superintendent is involved, the School Committee, or its designee shall be responsible for assisting employees and students seeking guidance or support in addressing matters relating to bullying, harassment, sexual harassment, discrimination, and hate crimes
- G. Whenever the evaluation of the Individualized Education Program team indicates that the child has a disability that affects social skills development or that the child is vulnerable to bullying, harassment or teasing because of the child's disability, the Individualized Education Program shall address the skills and proficiencies needed to avoid and respond to bullying, harassment or teasing.
- H. Braintree Public Schools will provide an annual report to the Massachusetts Department of Elementary and Secondary Education. The following data will be collected and reported to the Department: 1) the number of reported allegations of bullying or retaliation; 2) the number and nature of substantiated incidents of bullying and retaliation; 3) the number of students disciplined for engaging in bullying or retaliation, and 4) other information required by the Department.¹ (The Department is required to analyze the data and to issue a report annually to the legislature which contains statewide aggregated data on the nature and frequency of bullying in schools.) Additionally, Chapter 86 requires school districts, charter schools, approved private day or residential schools, and collaborative schools, to administer a Department-developed student survey at least once every four years to assess "school climate and the prevalence, nature and severity of bullying in schools.

II. DEFINITIONS

- A. **Bullying/Harassment** includes but is not limited to: physical contact or injury; threats of harm; demands for money; blackmail; extortion; non-verbal threats; intimidation; crude gestures; stalking; stealing or hiding possessions; excluding; isolating; spreading rumors or sending messages of an embarrassing, slanderous, or intimidating nature; repeated or pervasive teasing, taunting, tormenting, name-calling, belittling, mocking, put-downs, sarcasm, or demeaning humor; unwelcome touching.

Bullying, which is different than conflict, is the repeated, unwelcome use by one or more students or a member of a school staff of a written, verbal or electronic expression or a

¹ G.L. c. 71 §370(k). *The Department is required to analyze the data and to issue a report annually to the legislature which contains statewide aggregated data on the nature and frequency of bullying in schools.*



physical act or gesture or any combination thereof, directed at a target that: (i) causes physical or emotional harm to the target or damage to the target's property; (ii) places the target in reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile environment at school for the target; (iv) infringes on the rights of the target at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purposes of this section, bullying shall include cyber-bullying.

The behavior must interfere with an employee's ability to perform his or her duties or with a student's academic performance or ability to learn, or interfere with a student's ability to participate in or benefit from services, activities, or privileges:

- a. That are being offered through the school or district; or
- b. During any education program or activity; or
- c. While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, or at school-sponsored activities, at school-sanctioned events.

B. **Cyber-bullying** is bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.

- a. Cyber-bullying may occur through the use of data, telephone or computer software that is accessed through a computer, computer system, or computer network or any public education institute.
- b. As used in this Section, "electronic communication" also means any communication through an electronic device including, but not limited to a telephone, cellular phone, computer or pager.

C. **Sexual Harassment** means unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written or physical conduct of a sexual nature that takes place under any of the following circumstances:



1. When submission to such conduct is made, explicitly or implicitly, a term or condition of employment, instruction, or participation in school activities or programs;
 2. When submission to or rejection of such conduct by an individual is used by the offender as the basis for making personal or academic decisions affecting the individual subjected to sexual advances;
 3. When such conduct has the effect of unreasonably interfering with the individual's work, attendance at school or participation in academic or curricular activities, or
 4. When such conduct has the effect of creating an intimidating, hostile, or offensive work or learning environment through severe or pervasive behavior which substantially and materially interferes with work or school opportunities.
- D. **Discrimination** is treating people differently, or interfering with or preventing a person from enjoying the advantages, privileges or courses of study in a public school because of his/her race, color, national origin, ethnicity, religion, sex, gender identity, sexual orientation, age, or disability. A person may not be subjected to discipline or more severe punishment for wrongdoing, nor denied the same rights as others, because of his/her membership in a protected class.
- E. **Gender Identity:** The term “gender identity” shall mean a person’s gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth.
- F. **Hate Crime** is a crime motivated by hatred or bias, or where the target is targeted or selected for the crime at least in part because the person is a different race, color, national origin, ethnicity, religion, gender, gender identity, or sexual orientation from the perpetrator or because the targeted person has a disability. A hate crime may involve a physical attack, threat of bodily harm, physical intimidation or damage to another’s property.
- G. **Hostile Environment** means, a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student’s education.
- H. **Hazing:** The term “hazing” shall mean any conduct or method of initiation, even if consented to, into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person.
1. Such conduct shall include, but is not limited to, whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance or any other brutal treatment or forced



physical activity which is likely to adversely affect the physical health or safety of any such student or person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

2. Whoever knows that another person is the target of hazing and is at the scene of such activity, shall, to the extent that such person can do so without danger or peril to himself or others, report such activity to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such behavior shall be subject to discipline.

I. **Retaliation:** is any form of intimidation, reprisal, or harassment directed against a student who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying.

J. **School Staff** includes, but is not limited to, educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, support staff, substitute employees or paraeducators

K. **Target:** is an individual whom bullying, cyberbullying, or retaliation has been perpetrated.

III. **GUIDELINES/PROCEDURES FOR DEALING WITH BULLYING, HARASSMENT, SEXUAL HARASSMENT, DISCRIMINATION AND HATE CRIMES**

In school systems, bullying, harassment, sexual harassment, discrimination or hate crimes may cross many lines. The situation may be an instance of staff member to staff member, staff member to student, student to staff member, or student to student. Guidelines for dealing with any of these charges are as follows:

1. By law, harassment is defined by the target's perception in combination with objective standards or expectations. What one person may consider acceptable behavior may be viewed as harassment by another person. Therefore, in order to protect the rights of both parties, it is important that the target or an administrator to whom a complaint was made or reported make it clear to the harasser that the behavior is objectionable.

2. Staff members must always take every report of bullying, harassment, sexual harassment, discrimination or hate crimes seriously and take action immediately.

3. If an instance of student to student bullying, harassment, sexual harassment, discrimination or a hate crime is reported to a staff member other than an administrator, the staff member should inform the Assistant Principal/Housemaster or the Building Principal and complete the designated forms.



4. If a situation involving a charge of staff member to student bullying, harassment, sexual harassment, discrimination or hate crime is brought to the attention of any staff member, that staff member should notify the Building Principal or Assistant Superintendent immediately.
5. In a situation involving a charge of student to staff member bullying, harassment, sexual harassment, discrimination or hate crime, the staff member should notify the Building Principal or Assistant Superintendent.
6. In a situation involving a charge of staff member to staff member bullying, harassment, sexual harassment, discrimination, or hate crime, the staff member should notify the Building Principal or the Assistant Superintendent.
7. In all charges of bullying, harassment, sexual harassment, discrimination or hate crimes, the target should describe in writing the specifics of the complaint to ensure that the subsequent investigation is focused on the relevant facts. Oral and anonymous complaints will be reviewed but are inherently difficult to investigate and may not be procedurally fair; as a result no disciplinary action shall be taken on anonymous complaints unless independently verified by clear and convincing evidence. All other complaints will be reviewed based on a preponderance of evidence standard.
8. Once a charge of bullying, harassment, sexual harassment, discrimination, or hate crimes has been reported, including charges of physical harassment as well as threats to a person's safety or position in the school or work environment, the following course of action should be taken:
 - a. The Building Principal or designee will investigate the charge through discussions with the individuals involved and will use the designated forms for documenting the alleged incident. In situations involving a staff member, he/she should be informed of his/her rights to have a third party present at the time of the discussion. In situations involving students, the Principal or designee should interview the reporting staff member, target, witness(es)/bystander(s) and student alleged aggressor. Parents/guardians will be informed of the situation and invited to participate in discussions. It is important that the situation be resolved as confidentially and as quickly as the circumstances permit.
 - b. When a reported bullying, harassment, sexual harassment, discrimination, and hate crimes incident involves the principal or the assistant principal as the alleged aggressor the Superintendent or designee will investigate the charge through discussions with the individuals involved and will use the designated forms for documenting the alleged incident. If the Superintendent is the alleged aggressor, the School Committee, or its designee shall be responsible for investigating the report, and other steps necessary to implement the Plan, including addressing the safety of the alleged target.



- c. If the situation warrants, and the harasser and the target are willing to discuss the matter at resolution meeting in the presence of the Principal/designee or superintendent/designee, a supportive faculty member and/or parent should be included in the discussion. During this discussion, the offending behavior should be described by the target and administration, a request for a change in behavior should be made, and a promise should be made that the described behavior will stop. If circumstances do not permit a face to face meeting the administration will present the target's position. Follow-up verification procedures will be explained. Failure to comply after a resolution meeting will result in appropriate discipline.
 - d. The matter shall be documented in a manner consistent with the severity of the behavior, the impact of the behavior on the target and the school, and the disciplinary consequences imposed by the administration.
9. If after formal discussion with the involved parties, the Building Principal or designee determines that further action must be taken, the following would occur:
 - a. In instances involving student to student or student to staff member bullying, harassment, sexual harassment, discrimination or a hate crime the student would be held to the discipline code of the school. Legal action may also be initiated at this point.
 - b. In instances involving staff member to student and staff member to staff member bullying, harassment, sexual harassment, discrimination, or hate crimes, findings would be reported to the Superintendent of Schools, or to the school committee or designee when the superintendent is the alleged aggressor for further action. Legal action may also be initiated at this point.
10. **Retaliation or false accusations** against a person who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying shall be prohibited. If it occurs, it could be considered grounds for dismissal of staff personnel and/or removal from the educational setting for a student. A referral to law enforcement may be made.
11. **Problem Resolution:** Any parent/guardian of the target wishing to file a claim/concern or seeking assistance outside of the district may do so with the Department of Elementary and Secondary Education Program Resolution System (PRS). That information can be found at: <http://www.doe.mass.edu/pqa>, emails can be sent to compliance@doe.mass.edu or individuals can call 781-338-3700. Hard copies of this information is also available at the Superintendent's office.



12. **Confidentiality:** Reports of bullying, harassment, sexual harassment, discrimination, or hate crime should be kept completely confidential, involving as few people as possible, with the goal of protecting the target and stopping the behavior.

The District will respect the privacy of the complainant, the subject(s) of the complaint, and the witnesses to the extent possible consistent with its obligations under federal and state law and regulations and its Policy to investigate, report, and take appropriate disciplinary and corrective action, and consistent with applicable state and federal confidentiality laws and student record regulations.

For further information about these guidelines or help with sexual harassment, bullying, or hazing problems, or any other form of harassment, consult: **the Assistant Superintendent of Schools** at 380-0130, ext. 8479.

LEGAL REFERENCES

1. Title VII of the 1964 Civil Rights Act, Section 703
2. Title IX of the 1972 U.S. Civil Rights Act.
3. Chapter 151C, Massachusetts General Laws
4. M.G.L. Chapter 76 § 5
5. M.G.L. Chapter 269 § 17, 18, 19
6. M.G.L. Chapter 71, § 370, 82,84,92
7. Family and Education Privacy Rights Act
8. Mass Student Records Laws and Regulations

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