Millbrook Central School District

Board of Education Policy #0115
Dignity For All Students: Prohibiting Discrimination & Harassment of Students

The Board of Education ("Board") is committed to providing a safe and productive learning environment within its schools that promotes respect, dignity and equality. The Board recognizes that discrimination, such as harassment, hazing and bullying, are detrimental to student learning and achievement and interfere with the mission of the District to educate its students. These behaviors also disrupt the operation of the schools and affect not only the students who are its targets but also those individuals who participate in and/or witness such acts. In accordance with New York State’s “Dignity for All Students Act” (“DASA”) the Board is committed to promptly addressing incidents of harassment and/or discrimination of students that impede students’ ability to learn. This includes bullying, taunting or intimidation in all their myriad forms.

To this end, the Board condemns and strictly prohibits all forms of discrimination, such as harassment, hazing and bullying on school grounds, school buses and at all school-sponsored activities, programs and events. No student shall be subjected to harassment by employees or students on school property or at a school function. Nor shall any student be subjected to discrimination based on the student’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex, by school employees or students on school property or at a school function.

The Board also prohibits discrimination, harassment, hazing or bullying that takes place at locations outside of school grounds, including cyberbullying, which creates or would foreseeably create a risk of substantial disruption within the school environment where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. In addition, the District reserves the right to discipline students who engage in harassment of students off school property under circumstances where such off-campus conduct would be violative of the student code of conduct.

Policy Definitions:
- **School Property** means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus (Education Law §11[1]).
- **School Bus** means every motor vehicle owned by a public or governmental agency or private school and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities, or, privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities (Education Law §11[1] and Vehicle and Traffic Law §142).
- **School Function** means a school sponsored extracurricular event or activity (Education §11[2]).
- **Disability** means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term must be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the
complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held (Education Law §11[4] and Executive Law §292[21]).

- **Employee** means any person receiving compensation from a school district or employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine(B) of article five of the Social Services Law, and consistent with the provisions of such title for the provision of services to such district, its students or employees, directly or through contract, whereby such services performed by such person involve direct student contact (Education Law §§11[4] and 1125[3]).

- **Sexual Orientation** means actual or perceived heterosexuality, homosexuality, or bisexuality (Education Law §11[5]).

- **Gender** means actual or perceived sex and includes a person’s gender identity or expression (Education Law §11[6]).

- **Hazing** is an induction, initiation or membership process involving harassment which produces public humiliation, physical or emotional discomfort, bodily injury or public ridicule or creates a situation where public humiliation, physical or emotional discomfort, bodily injury or public ridicule is likely to occur.

- **Discrimination** means the act of denying rights, benefits, justice, equitable treatment or access to facilities available to all others, to an individual or group of people because of the group, class or category to which that person belongs.

- **Harassment** means the creation of a hostile environment by conduct or by threats, intimidation or abuse, whether verbal or nonverbal, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional or physical well-being; (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that such conduct, threats, intimidation or abuse might reach school property. (Education Law §11[7])
  - Bullying is a form of harassment.
  - Cyberbullying is harassment or bullying through any form of electronic communication. In order to be actionable under this policy, cyberbullying that occurs off campus must create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

Discrimination or harassment within the meaning of this policy shall include a single severe incident or multiple incidents that are pervasive in nature that create a hostile environment or reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety.

The discriminating or harassing behavior may be based on any characteristic, including but not limited to a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation or gender (including gender identity and gender expression).

For purposes of this policy and regulation, the term bullying will be used throughout to encompass harassment, intimidation, cyberbullying and hazing behaviors.

**Prevention:**
In order to implement this program the Board will designate at its annual organizational meeting a Dignity Act Coordinator (DAC) for each school in the district. In addition, the Board shall appoint a District-wide Dignity Act Coordinator. The role of each DAC is to oversee and enforce this policy.
The school setting provides an opportunity to teach children, and emphasize among staff, that cooperation with and respect for others is a key district value. A program geared to prevention is designed to not only decrease incidents of bullying, but to help students build more supportive relationships with one another by integrating the bullying prevention program into classroom instruction. Staff members and students will be sensitized, through district-wide professional development and instruction, to the warning signs of bullying, as well as to their responsibility to become actively involved in the prevention of bullying before overt acts occur. The components of such an effort involve the following:

- Learning about and identifying the early warning signs and precursor behaviors that may lead to bullying.
- Gathering information about bullying at school directly from students.
- Establishing clear school wide and classroom rules about bullying.
- Training adults in the school to respond sensitively and consistently to bullying.
- Providing adequate adult supervision, particularly in less structured areas such as in the hallways, cafeteria and playground.
- Raising parental awareness and involvement in addressing problems.
- Providing instruction in civility, citizenship and character education that emphasizes tolerance and respect for others.

**Intervention:**
Intervention by adults and bystanders is an important step in preventing escalation and resolving issues at the earliest stages. Intervention will emphasize education and skill-building. In addition, intervention will focus upon the safety of the target. Staff is expected, when made aware of bullying, to either refer the student to designated resources for assistance, or to intervene in accordance with this policy.

**Training:**
The Board recognizes that in order to implement an effective bullying prevention and intervention program, professional development is needed. The Superintendent, the District-wide DAC and the District Professional Development Committee will incorporate training to support this program in new teacher orientation and the annual professional development plan, as needed. Training opportunities will be provided for all staff, including but not limited to bus drivers, cafeteria monitors and all staff who have contact with students. Vendor employees (e.g.: cafeteria, bus, etc.) shall be trained by the District or by the vendor in accordance with this policy. The DACs will be thoroughly trained in human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, sex and gender (including gender identity and gender expression)

**Incident Reporting and Investigation:**
Students who have been bullied, parents whose children have been bullied by other students or who observe bullying behavior are encouraged and expected to make a verbal and/or written complaint to any school personnel in accordance with the training and guidelines provided. Staff who observe or learn of an incident(s) of bullying are required, in accordance with State law, to make an oral report to the Building Principal within one school day and to fill out the District reporting form within two school days. The Building Principal to whom the report is made must immediately notify the Superintendent of Schools in writing of such report and unless otherwise stated in the policy shall promptly investigate the complaint and take appropriate action to include, as necessary, referral to the
next level of supervisory authority and/or other official designated by the District to investigate allegations of harassment. If a staff person is unsure of the reporting procedure, he/she is expected to inquire about how to proceed by speaking with his/her supervisor. A District employee may be deemed to have permitted unlawful discrimination or harassment if he/she fails to report an observed incident, whether or not the target complains.

At all times, complaints will be documented, tracked and handled in accordance with the regulations and procedures accompanying this policy. Where the nature of the bullying or harassment also warrants investigation under another District Policy that addresses wrongful discriminatory practices (e.g., Title VI Civil Rights Act, Title IX ESEA, Section 504 Rehabilitation Act/Title II ADA, Disability Discrimination), there shall be a coordinated investigation.

The Building Principal shall maintain a log of bullying incidents as a record for the purpose of tracking repeat offenders, as well as identifying trends. The Building Principal shall report his/her findings periodically, but no less than quarterly, to the Superintendent of Schools or designee, who shall report to the Board annually regarding bullying incidents on a building-wide and District-wide basis. In addition, all reported incidents of bullying must be documented in the file of a student being accused of the conduct. Written records should also capture what action, if any, was taken, or why no action was taken. These reports shall remain in the student’s file and will travel with the student from elementary school to high school.

An equitable and thorough investigation will be carried out by the Building Principal or the Building DAC. The results of the investigation shall be reported back to both the target and the accused in accordance with the accompanying regulation. If either of the parties disagrees with the results of the investigation, they can appeal the findings to the Superintendent of Schools. In the event that the complaint involves the Superintendent of Schools, the appeal of the complaint shall be filed with the Board of Education for its review and decision. Verified bullying incidents that meet the criteria established by the state will be included in the statewide reporting system when applicable, in accordance with law and regulation.

If the Building Principal or the Building DAC who conducted the investigation believes that any harassment, bullying or discrimination constitutes a crime, he or she will immediately report the incident to the appropriate law enforcement agency and immediately notify the Superintendent of Schools and submit a written report to him or her within one day.

The Board will receive the annual VADIR report, as well as any other state-required report relevant to bullying and/or school climate, for each building and for the District as whole. Based on the review of the data, the Board may consider further action, including but not limited to modification of this policy and additional training.

**Confidentiality:**

It is District policy to respect the privacy of all parties and witnesses to complaints of bullying. To the extent possible, the District will not release the details of a complaint or the identity of the complainant or the individual(s) against whom the complaint is filed to any third parties who do not need to know such information. However, because an individual's need for confidentiality must be balanced with the District's legal obligation to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve the complaint, the district retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. The staff member responsible for investigating complaints will discuss confidentiality standards and
concerns with all complainants.

If a complainant requests that his/her name not be revealed to the individual(s) against whom a complaint is filed, the staff member responsible for conducting the investigation shall inform the complainant that:

1. The request may limit the District's ability to respond to his/her complaint;
2. District policy and federal law prohibit retaliation against complainants and witnesses;
3. The District will attempt to prevent any retaliation; and
4. The District will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the investigator will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not preclude the district from responding effectively to the bullying and preventing the bullying of other students.

**Disciplinary Consequences/Remediation:**

While the focus of this policy is on prevention, acts of bullying may still occur. In these cases, offenders will be given the clear message that their actions are wrong and the behavior must improve. Student offenders will receive in-school guidance in making positive choices in their relationships with others. If appropriate, disciplinary action that is measured, balanced and age-appropriate will be taken by the administration in accordance with the District’s Code of Conduct, as applicable. If the behavior rises to the level of criminal activity, law enforcement will be contacted.

Consequences for a student who commits an act of bullying shall be unique to the individual incident and will vary in method and severity according to the nature of the behavior, the developmental age of the student, and the student’s history of problem behaviors, and must be consistent with the District’s Code of Conduct. The District shall ensure the safety of the student or students against whom such harassment, bullying (including cyberbullying) was directed and take reasonable measures to prevent recurrence of the offending behavior.

In furtherance of this Policy, the Superintendent is authorized and directed to prepare guidelines that shall be approved by the Board:

1. To be used in school training programs to discourage the development of discrimination or harassment, and that are designed to:
   a. raise the awareness and sensitivity of school employees to potential discrimination or harassment, and
   b. enable employees to prevent and respond to discrimination or harassment.

2. Relating to the development of nondiscriminatory instructional and counseling methods.

**Non-Retaliation:**

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of allegations of harassment. Follow-up inquiries and/or appropriate monitoring of the alleged harasser and victim shall be made to ensure that harassment has not resumed and that those involved in the investigation of allegations of harassment have not suffered retaliation.
Furthermore, any person having reasonable cause to suspect that a student has been subjected to discrimination or harassment by an employee or another student, on school grounds or at a school function who reasonably and in good faith reports such information to school officials, to the Commissioner of Education, to law enforcement officials, shall be free from retaliation of any kind.

**Dissemination, Monitoring, Review, and Reporting**

This policy, or a plain language summary, shall be published in the District Code of Conduct, and other information sent to students, parents and employees, as well as posted on the district’s website. A bullying complaint form will be available on the district’s website. The district will ensure that the process of reporting bullying is clearly explained to students, staff and parents on an annual basis.

Annually, along with the review of the Code of Conduct, this policy will be reviewed to assess its effectiveness and compliance with state and federal law and changes will be made, as needed.

The district will ensure that public reporting of information will be in a manner that complies with student privacy rights under the Family Educational Rights and Privacy Act (FERPA).

**References:**

Dignity for All Students Act, Education Law, §§10 – 18  
Americans with Disabilities Act, 42 U.S.C. §12101 et seq.  
Individuals with Disabilities Education Act, 20 U.S.C §§1400 et seq.  
Executive Law §290 et seq. (New York State Human Rights Law)  
Education Law §§313(3), 3201, 3201-a  
8 NYCRR 100.2(c), (l), (jj), (kk); 119.6  
*Doninger v. Niehoff*, 527 F.3d 41 (2d. Cir. 2008)  
*Pollnow v. Glennon*, 594 F.Supp. 220, 224, aff’d 757 F.2d. 496  
*Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999)  
*Appeal of Ravick*, 40 Ed. Dept. Rep. 262  
*Appeal or Orman*, 39 Ed. Dept. Rep. 811

**Adoption Date:** August 27, 2012  
**Revised and Adopted:** August 26, 2013