

## POLICY PROHIBITNG BULLYING

### **SECTION 1**

The Montrose School District 43-2 is committed to maintaining a constructive, safe, and bullying-free school climate that is conducive to all students' educational opportunities and which fosters an environment in which all students are treated with respect and dignity. Bullying can inhibit a student's educational opportunities and may also have long-term negative effects on a student. Bullying of students shall not be tolerated and is strictly prohibited. Bullying by Montrose School District students of other persons, including other students of the Montrose School District, students of other schools who are at a Montrose School District activity, school employees, and guests and visitors of the Montrose School District shall also not be tolerated and is strictly prohibited.

This policy shall not be interpreted or applied to prohibit civil exchange of opinions or debate protected under the state or federal constitutions. However, conduct which substantially interferes with the work of the school, causes material and substantial interference with school work and discipline, and might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities is not constitutionally protected speech and is therefore prohibited under this policy.

This policy shall apply to persons on school property and at school activities and events on non-school property, including when the person is in any school vehicle or when in a private vehicle located on school property. The prohibition against bullying shall also apply to Montrose School District students when not on school property or at a school event off school property when the bullying conduct results in substantial interference with the work of the school, causes material and substantial interference with school work and discipline, or reasonably causes school authorities to forecast substantial disruption of or material interference with school activities.

Montrose School District students who violate this policy shall be subject to appropriate disciplinary action, up to and including expulsion. Third persons who violate this policy may be prohibited from being on school property.

### **SECTION 2**

#### **Definitions:**

1. Bullying: "Bullying" is defined as any physical, verbal, written or electronic conduct directed toward a student that is sufficiently severe and offensive to a reasonable person that it:

\*\* has the purpose or effect of creating an intimidating, hostile or offensive school environment for one or more students, and/or

\*\* has the purpose or effect of substantially or unreasonably interfering with a student's educational opportunities (i.e., academic, co-curricular activities, extra-curricular activities, and social opportunities, etc. within the school environment).

The definition of bullying specifically includes stalking, harassment and threatening/harassing contacts by telephone or other communication devices as set forth in SDCL 22-19A-1, SDCL 22-19A-4 and SDCL 49-31-31:

SDCL 22-19A-1. Stalking: No person may:

- (1) willfully, maliciously, and repeatedly follow or harass another person;
- (2) make a credible threat to another person with the intent to place that person in reasonable fear of death or great bodily injury; or
- (3) willfully, maliciously, and repeatedly harass another person by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.

SDCL 22-19A-4. Harasses defined. Harasses means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose

SDCL 49-31-31. Threatening or harassing contacts by telephone or other electronic communication device. No person may use or knowingly permit a telephone or other electronic communication device under his or her control for any of the following purposes:

- (1) To contact another person with intent to terrorize, intimidate, threaten, harass or annoy such person by using obscene or lewd language or by suggesting a lewd or lascivious act;
- (2) To contact another person with intent to threaten to inflict physical harm or injury to any person or property;
- (3) To contact another person with intent to extort money or other things of value;
- (4) To contact another person with intent to disturb that person by repeated anonymous telephone calls or intentionally failing to replace the receiver or disengage the telephone connection.

Examples of bullying prohibited by this policy include, but are not limited to intentional or reckless verbal, nonverbal, physical, written or electronic conduct that

- is threatening in nature (implied or explicit)
- is demeaning in nature
- causes fear, suffering, discomfort or injury to a student;

2. Electronic: "Electronic" is defined as any communication involving the transmission of information by wire, wireless broadband, radio, optical cable or similar means, and includes but

is not limited to communication via electronic mail, internet-based communications, pager service, cell phones, land-line telephones, electronic text messaging or similar technologies. Bullying through electronic means is often called “cyberbullying.”

3. Third Parties: “Third parties” is defined as persons, including but not limited to, school volunteers, school guests and visitors, students from other schools when at a Montrose School District activity, and contractors (including contractor’s employees).

### **SECTION 3**

**A. REPORTING PROCEDURE:** Any individual who believes that he or she has been or is being subjected to bullying or has reason to suspect another person has been or being subject to bullying should immediately report it to a school administrator. The report initially may be made verbally or in writing. If the person making the complaint wishes the District to take disciplinary action against another person, the individual making the complaint will be required to either submit a signed written complaint or sign an information reporting statement written by the person to whom the report was given and verifying the contents of the reporting statement. The written complaint or reporting statement must include the name of the person making the complaint, the person(s) alleged to have bullied the complaining party or another person, the date(s) and the specific conduct giving rise to the bullying complaint. Any anonymous report will be permitted; however, discipline procedures may be hindered if the party remains anonymous. The District shall investigate all written reported instances involving bullying.

**B. PROCEDURE FOR ADDRESSING COMPLAINTS:** The District strictly prohibits retaliation against any person because he or she has made, reported, testified, assisted, or participated in the investigation of a report of alleged bullying. Retaliation includes, but is not limited to, any form of verbal or physical reprisal or adverse pressure. The person(s) alleged to have bullied another person shall not directly or indirectly (such as through a third person) harass, pressure, or retaliate against any other person because of the complaint being reported and a violation of this provision may lead to separate disciplinary action based on the retaliation. Any person who believes he or she is being subjected to retaliation because of his or her involvement with complaint should immediately contact a school administrator.

(1) Should there be a written complaint of bullying which alleges a Montrose School District student has been subjected to bullying or has bullied by a third person and the person alleged to have committed the bullying act(s) is subject to this policy, an investigation of the alleged incident(s)/behavior(s) will be initiated. The District’s investigation may include, but is not limited to, such things as interviewing individuals with actual or possible knowledge regarding the conduct in question, identifying facts related to the conduct in question, identifying when and over what period of time the conduct is to have occurred, determining whether the conduct negatively affects the educational opportunities of the victim (and if so, in what manner), identifying prior history of a similar nature by any of the individuals involved, and attempting to obtain possible verification and from other persons. If the alleged conduct may constitute a violation of SDCL 22-19A-1 (Stalking), SDCL 22-19A-4 (Harassment) or SDCL 49-31-31

(threatening or harassing contacts by telephone or other electronic communication device) the District shall notify local law enforcement or state's attorney.

(2) The person alleged to have bullied another person will be notified in writing that a complaint has been filed pursuant to this policy and that the complaint is being investigated. The name of the person making the complaint will not be disclosed to the person alleged to have violated this policy unless the investigation results in a determination that there is reasonable cause to suspect that bullying did occur.

(3) Pending the outcome of the investigation the Superintendent may take such action consistent with law as deemed appropriate in order to facilitate the investigation and protect the rights of all persons involved.

(4) Upon reasonable suspicion by the person responsible for the investigation that the allegation of bullying may be true, the student or third person accused of bullying conduct shall be notified in writing that reasonable suspicion exists that the complaint may be valid, a statement of the facts supporting the determination that reasonable suspicion exists, and the name of the alleged victim and complaining individual(s).

(5) The District will maintain confidentiality to the maximum extent possible under the circumstances. However, a person reporting bullying conduct must understand that should the administrator investigating the complaint determine there is reasonable cause to suspect that bullying did occur which could result in administrative discipline or a referral to the Board of Education, the person alleged to have abused the other person has the right to know the identity of the person(s) making the complaint in order that he/ she may have an opportunity to defend himself/herself against the complaint.

(6) The student alleged to have bullied another person in violation of this policy shall be afforded an opportunity to respond in writing but is not required to submit a written response.

(7) At the conclusion of the investigation, the administration may up to the extent of administrative authority impose disciplinary action or alternatively refer the matter to the Board of Education. Should the administration impose discipline upon the student and not refer the matter to the Board, the student disciplined may file an appeal (grievance) directly with the Board of Education pursuant to the applicable grievance policy.

(8) If the administration refers the matter to the Board of Education the student alleged to have bullied another person a hearing will be held before the Board of Education consistent with due process procedures.

(9) If there is reasonable suspicion to believe that a third person bullied a Montrose School District student, employee or guest while at school or at a school activity on non-school property in violation of this policy, the administration may prohibit that person from being on school property or at school activities.

### **C. BOARD HEARING:**

(1) Should the matter be referred by the Administration to the Board, a formal hearing shall be held before the Board in executive session.

(2) At the hearing, the Administration shall present evidence relative to the allegation of bullying and the student accused of violating this policy will have an opportunity to present evidence in his/her defense.

(3) The standards of Due Process shall be adhered to at the Board hearing, including the right of the person accused of violating this policy to have representation and to cross-examine the complaining party.

**D. BOARD DISCIPLINARY ACTION:** If following the Board hearing the Board determines there has been a violation of this policy prohibiting bullying, Board action may include but is not limited to the following:

(1) if the person found violating this policy is a student, the Board may suspend or expel the student from any or all school programs, including but not limited to classes, extracurricular activities, or attendance at school activities.

(2) If the person found violating this policy is a third person that person may be prohibited from being on school property or at school activities for such time as may be determined by the Board.

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