Billings School District 2

STUDENTS

Student Rights, Responsibilities, and Code of Conduct

Non-Discrimination, Anti-Harassment, and Title IX Sexual Harassment/Discrimination

The District will not tolerate harassment, intimidation, bullying, hazing, or retaliation as defined in the law and in Policy 3210. The District is required by Title IX of the Education Amendments of 1972 and the regulations promulgated through the U.S. Department of Education to not discriminate in such a manner. The District will not tolerate adverse conduct that is reasonably perceived as being motivated by any actual or perceived attribute such as race, color, ancestry, national origin, language barrier, religious beliefs, political ideas, age, sex, marital status, or disability. Such conduct by students, employees, trustees, volunteers, and third-parties (who are on school grounds or involved in school-related activities) is discriminatory and prohibited.

No student shall, on the basis of sex, be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, or advantage, or denied equal access to educational and extracurricular programs and activities.

One example of prohibited discrimination is "sexual harassment". Sexual harassment is defined for purposes of the District's policies to mean any unwelcome conduct on the basis of sex, that:

1. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies or limits the provision of educational, benefits, services, or treatment; or
2. Has the purpose or effect of:
    a. Substantially interfering with a student's educational environment;
    b. Creating an intimidating, hostile, or offensive educational environment;
    c. Depriving a student of educational aid, benefits, services, or treatment; or
    d. Making submission to or rejection of such conduct the basis for academic decisions affecting the student or making such conduct a condition of a student's ability to participate in the student's education.

Sexual harassment can include, but is not limited to unwelcome advances, requests for sexual favors, sexual assault, dating violence, stalking, and any other verbal, non-verbal, or physical conduct of a sexual or sex-based nature that is unwelcome and meets the definition of sexual harassment included above. Examples of sexual harassment include, but are not limited to, touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities. Sexual harassment also includes sexual violence, including but not limited to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the use of drugs or alcohol or due to mental handicap or disability.

Harassment motivated by any protected-class status is considered discrimination if it:

1. Is so severe or pervasive that it denies or limits the provision of educational benefits, services, or treatment; and/or
2. Has the purpose or effect of:
    a. Substantially interfering with a student's educational environment;
    b. Creating an intimidating, hostile, or offensive educational environment;
    c. Depriving a student of educational aid, benefits, services, or treatment; or
    d. Making submission to or rejection of such conduct the basis for academic decisions affecting the student or making such conduct a condition of a student's ability to participate in the student's education.

Designation of "Title IX Coordinator"

The Superintendent shall designate a Title IX Coordinator for the District as required by law who is trained to understand and apply the procedures and policies for addressing sexual harassment, sexual violence, and discrimination. Inquiries regarding sexual harassment, sexual discrimination, or Title IX may be referred to the District's Title IX Coordinator who is listed on the District's webpage.

Procedure for Reporting Harassment, Discrimination, or Retaliation:

Students who believe they are being or have been subjected to protected class-based harassment, discrimination, retaliation or who have witnessed such conduct may report the conduct either:

1. Verbally to an administrator, teacher, counselor or Title IX Coordinator;
2. Verbally to any employee;
3. On Form 3210-F1 (HIB) or Form 3230-F1 (Title IX);
4. In accordance with the Uniform Complaint Procedure, Policy 1700; or
5. In accordance with Title IX, IDEA, Section 504, or ADA grievance procedures.

Any adult school employee, adult volunteer, district contractor, or agent who witnesses, overhears, or receives a report, formal or informal, written or oral, of harassment, intimidation, or bullying, hazing, discrimination, or retaliation shall report it in accordance with this policy and/or any procedures developed under this policy. Any person may report sex discrimination, including sexual harassment, at any time, including during non-business hours. Such a report may be made in person, by mail, by phone or by email, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Title IX Formal Complaint

An individual believing that they have been the victim of sexual harassment ("Complainant") may file a formal Title IX sexual harassment complaint with the Title IX Coordinator. The complaint must be in writing, signed (either physically or digitally), and needs to specify the allegations which the individual believes constitute sexual harassment. The procedure related to a formal Title IX complaint is found in District Procedure 3230-P1 and any such complaint may be submitted on Form 3230-F1.

Employee Responsibilities

Each administrator is responsible for maintaining an educational environment free from discrimination. The administrators shall take appropriate actions to ensure the School District's equal opportunity and non-discrimination policies and procedures are enforced. These actions include, at a minimum:

1. Providing notification of the District's grievance or reporting procedures in the student and staff handbooks (See also Policy 3210);

2. Providing notification of the rights and responsibilities of students and staff regarding harassment, intimidation, bullying, hazing, discrimination, sexual harassment and retaliation;
3. Providing new employees of the District a copy of these policies;
4. Taking prompt action to report and investigate complaints of harassment, intimidation, bullying, discrimination, and retaliation or supply the necessary information to the responsible administrator so that they may take prompt action; and
5. Instructing employees and students regarding the procedures for reporting harassment, intimidation, bullying, sexual harassment, discrimination, and retaliation

All school employees shall intervene when witnessing behavior which could be considered bullying, harassment, intimidation, hazing, sexual harassment, discrimination, or retaliation. If the employee witnesses such behavior or receives a report of such behavior, the employee shall report the behavior to an administrator or Title IX coordinator and/or on Form 3210-F1, or Form 3230-F1. If it is determined that an employee was aware of bullying, intimidation, harassment, sexual harassment, discrimination, or retaliation and did nothing to intervene or report, the employee will be subject to discipline.

Investigation Process for Matters not involving Title IX

A. All investigations should be initiated promptly, after notification has been made to the school administration or the Incident Report has been completed and filed with the school administration.

B. The designated investigator will determine whether bullying, harassment, intimidation or hazing, discrimination, or retaliation has occurred by interviewing the aggressor(s), the target(s), the reporter, and known bystanders and other witnesses. Previous incident reports involving the same individuals should also be taken into consideration.

C. Any interviewees should be informed that information given will be kept as confidential as possible in accordance with student due process rights, but that disclosure may be necessary and required in proceedings flowing from the incident.

D. The investigation should be performed and concluded within five (5) school days of initiation of the investigation. Upon conclusion, if it is found that bullying, harassment, intimidation, hazing, or retaliation has occurred, the responsible adult of the target(s) and the aggressor(s) shall be notified immediately by a school administrator.

E. The school administration will determine whether another entity has jurisdiction over the incident. If instances of bullying, harassment, intimidation, hazing, discrimination, or retaliation rise to the level of a possible criminal offense, a school administrator shall promptly notify the police.

F. The school principal, in conjunction with the counselor or other appropriate staff, shall determine and implement appropriate consequences, which may include discipline and/or remedial action for the aggressor and the target. The aggressor will be informed that retaliation is strictly prohibited and will be met with additional consequences.

G. The school administration shall take all necessary steps to protect the target from further bullying, harassment, intimidation, hazing, discrimination, and retaliation incidents. This can include but is not limited to changing the aggressor's seat, transportation route, or classes and identifying a staff member to act as a supervisor for the aggressor. If an escort is appropriate, the aggressor – not the target – shall be escorted. However, the School District may provide an escort for the targeted student, if requested by that student.

H. The principal or other designated school administrator will follow up with the target of any bullying, harassment, intimidation, hazing, discrimination, or retaliation to ensure that the negative behavior has stopped.

I. A written record will be kept of each reported incident, including the written report, investigatory steps and information, conclusions and findings, referral to other entities (e.g. law enforcement), and disciplinary and/or remedial action taken.

Consequences for Discrimination

A. If a student or staff member is found to have committed one of the above-prohibited behaviors, including sexual harassment, consequences may follow, up to and including expulsion or termination from employment. Such action is meant not only to discipline the offending student or staff member, but also to protect the target from future aggression or retaliation. Consequences may be implemented after reporting, investigation, and determination that a prohibited act has been committed. If related to a Title IX investigation occurring under the procedure listed in District Procedure 3230-P1, disciplinary consequences may only be implemented at the conclusion of the procedure upon a finding that it was more likely than not that sexual harassment occurred.

B. Depending on the age of the students involved and severity of the infraction, disciplinary and remedial actions for student perpetrators may include:

1. Notification given to the responsible adult;
2. Loss of privilege(s), including participation in school activities;
3. Conference with the responsible adult;
4. Reassignment of seats;
5. Reassignment of classes;
6. Reassignment to another mode of transportation;
7. Escort of the perpetrator;
8. Completion of apology letter and acknowledgement of behavior;
9. Referral or appointments with school counselor or other professionals;
10. Payment for damaged property;
11. Detention;
12. Suspension (in-school or out-of-school);
13. Referral to law enforcement; and
14. Expulsion.

Any student disciplined will be afforded due process in accordance with District policies.

C. Depending on the age of the students involved and severity of the infraction, disciplinary and remedial actions for student perpetrators may include:

15. Notification given to the responsible adult;
16. Loss of privilege(s), including participation in school activities;
17. Conference with the responsible adult;
18. Reassignment of seats;
19. Reassignment of classes;
20. Reassignment to another mode of transportation;
21. Escort of the perpetrator;
22. Completion of apology letter and acknowledgement of behavior;
23. Referral or appointments with school counselor or other professionals;
24. Payment for damaged property;
25. Detention;
26. Suspension (in-school or out-of-school);
27. Referral to law enforcement; and
28. Expulsion.

Any student disciplined will be afforded due process in accordance with District policies.

D. Depending on the severity of the offense, disciplinary and remedial actions for school staff is subject to and commensurate with the district's personnel policies and may include:

29. Verbal warning;
30. Written warning;
31. Training, at the employee's expense;
32. Suspension with or without pay;
33. Referral to law enforcement; and
34. Termination of employment.

E. The District may also provide additional training to students and staff following a report and investigation. The District may also provide information and resources to the victim of available academic, counseling, medical, and other services.

Retaliation, Reprisal, and Fabrication

The District prohibits retaliation and reprisal against any person who reports an act of harassment, intimidation, bullying, hazing or discrimination or who participates as a witness in an investigation or disciplinary hearing arising out of such reports. Students or employees who retaliate will be disciplined, with the possible consequences including expulsion or termination. Individuals who

intentionally fabricate allegations of harassment, intimidation, bullying, hazing, or discrimination shall be subject to disciplinary action, up to and including expulsion or termination.

Notification and Training

A. The District policy, procedures and rules will be included in student handbooks for all grade levels and prominently posted on the District's webpage.
B. Reporting form(s) will be readily available to staff members, students, and the responsible adult, including on-line on the District's website.
C. Staff and students will be educated on the policy, procedures, and rules, including: recognizing inappropriate behaviors; using appropriate intervention and remediation; and possible consequences and discipline.

Cross References:

1700 Uniform Complaint Procedure
3210-F1 Form: Harassment/Intimidation/Bullying Incident Reporting Form3200 Student Rights, Responsibilities, and Code of Conduct
3201 Student Freedom of Expression
3202 Student Publications
3203 Student Dress
3203-P1 Student Dress – Gang Activity or Association and Extracurricular Activities
3204 Searches and Seizures
3204-P1 Searches of Students and Their Property
3204-P2 Video Surveillance
3204-P3 Video Surveillance -- School Buses, Vehicles, School Buildings and Grounds
3205 District-Provided Access to Electronic Information, Services, and Networks for Students
3205-P1 District-Provided Access to Electronic Information, Services, and Networks for Students
3210 Harassment, Intimidation, and Bullying
3210-F1 Form: Billings Public Schools – Harassment/Intimidation/Bullying Incident Reporting Form
3220 Equal Educational Opportunity (use reporting Form 3210-F1)
3230-P Title IX Sexual Harassment Grievance Procedures
3230-F1 Title IX Complaint Form
3235 Student Drug and Chemical Use and Abuse

3240 Tobacco Free Schools

3250 Gun-Free Schools

3255 Bomb Threats and Threats of Hazardous Substances

6430 Development of Administrative Procedures

1700 Uniform Complaint Procedure

Legal References:

§ 20-5-101, MCA Admittance of child to school

§ 20-5-102, MCA Compulsory enrollment and excuses

§ 20-5-103, MCA Compulsory attendance and excuses

§ 20-5-201, MCA Duties and sanctions

§ 20-5-202, MCA Suspension and expulsion

§ 20-4-302, MCA Discipline and punishment of pupils – definition of corporal punishment

§49-2-307, MCA Discrimination in education

§§ 49-3-101, et. seq., MCA Montana Human Rights Act

Title IX of the Educational Amendments, 20 U.S.C. §1681, et seq. 34 CFR Part 106

Art. X, Sec. 1, Montana Constitution

Art. X, Sec. 7, Montana Constitution

42 USC §12111 et seq. Americans with Disabilities Act

20 USC §791 et seq. Rehabilitation Act of 1973

20 USC 1092(f)(6)(A)(v) Definition of sexual assault

34 USC 12291(a)(10) Definition of dating violence

34 USC 12291(a)(8) Definition of domestic violence

34 USC 12291(a)(30) Definition of stalking

Office for Civil Rights, U.S. Department of Education Montana Human Rights Bureau

Tinker v. Des Moines Ind. Sch. Dist., 89 S. Ct. 733 (1969)

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