

## Personnel

### Harassment and Violence

#### I. Purpose

The purpose of this policy is to maintain a learning and working environment that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.

#### II. General Statement of Policy

- A. The policy of the school district is to maintain a learning and working environment that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability. The school district prohibits any form of harassment or violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.
- B. A violation of this policy occurs when a student, teacher, administrator or other district employee harasses a student, teacher, administrator or other district employee through conduct or communication based on a person's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability, as defined by this policy. (For purposes of this policy, district employees include school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the district.)
- C. A violation of this policy occurs when a student, teacher, administrator or other district employee inflicts, threatens to inflict, or attempts to inflict violence upon a student, teacher, administrator or other district employee based on a person's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.
- D. The school district will act to investigate all complaints, formal or informal, verbal or written, of harassment or violence based on a person's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability and to discipline or take appropriate action against a student, teacher, administrator or other district employee who is found to have violated this policy.

#### III. Definitions

- A. "Assault" is an act done with intent to cause fear in another of immediate bodily

harm or death; the intentional infliction of or attempt to inflict bodily harm upon another; or the threat to do bodily harm to another with present ability to carry out the threat.

- B. "Harassment," prohibited by this policy, consists of physical or verbal conduct, including, but not limited to, written and/or electronic communications, relating to a person's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability when the conduct:
1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
  2. has the purpose or effect of substantially or unreasonably interfering with a person's work or academic performance; or
  3. otherwise adversely affects a person's employment or academic opportunities.
- C. "Age," "color," "creed," "disability," "familial status," "marital status," "national origin," "race," "religion," "sex," "sexual orientation," and "status with regard to public assistance" mean a person in a protected class as defined by state or federal law.
- D. "Sexual harassment" consists of unwelcome sexual advances, requests for sexual favors, sexually-motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or an education; or
  2. submission to or rejection of that conduct or communication by a person is used as a factor in decisions affecting that person's employment or education; or
  3. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with a person's employment or education, or creating an intimidating, hostile or offensive employment or educational environment.

Sexual harassment may include but is not limited to:

1. unwelcome verbal harassment or abuse of a sexual nature;
2. unwelcome pressure for sexual activity;
3. unwelcome, sexually motivated or inappropriate patting, pinching or physical contact, other than necessary restraint of a student(s) by teachers,

administrators or other district employees to avoid physical harm to persons or property;

4. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning a person's employment or educational status;
  5. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to a person's employment or educational status; or
  6. unwelcome behavior or words directed at a person because of gender.
- E. "Sexual violence" is a physical act of aggression or force or the threat thereof involving the touching of another's intimate parts, or forcing a person to touch a person's intimate parts. Intimate parts, as defined in Minn. Stat. § 609.341, includes the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.

Sexual violence may include, but is not limited to:

1. touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
  2. coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
  3. coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or
  4. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.
- F. "Violence," prohibited by this policy, is a physical act of aggression or assault upon another person because of, or in a manner reasonably related to, race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.

#### IV. Reporting Procedures

A person who believes he or she has been the victim of harassment or violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability by a student, teacher, administrator or other district employee, or a person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student, teacher, administrator or other district employee should report the alleged acts immediately to an appropriate school district official designated by this policy. The school district encourages the

reporting party or complainant to use the report form available from the principal of each building or available from the school district office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the director of human resources or to the superintendent.

- A. In each school building. The building principal, the principal's designee, or the building supervisor (hereinafter building report taker) is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy at the building level. A district employee who receives a report of harassment or violence prohibited by this policy shall inform the building report taker immediately. If the complaint involves the building report taker, the complaint shall be made or filed directly with the district's human rights officer by the reporting party or complainant. School district employees who fail to inform the building report taker of a report of harassment or violence in a timely manner may be subject to disciplinary action.

Upon receipt of a report, the building report taker must notify the director of human resources immediately, without screening or investigating the report. The building report taker may request, but may not insist upon a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the building report taker to the director of human resources. If the report was given verbally, the building report taker shall personally reduce it to written form within 24 hours and forward it to the director of human resources. Failure to forward a complaint under this policy as provided herein may result in disciplinary action against the building report taker.

- B. In the district. The school board hereby designates the director of human resources to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves the director of human resources, the complaint shall be filed directly with the superintendent.
- C. The school district shall conspicuously post the name of the director of human resources, including email and telephone number.
- D. Submission of a good faith complaint or report of harassment or violence prohibited by this policy will not affect the complainant or reporter's future employment, grades or work assignment.
- E. Use of formal reporting forms is not mandatory.
- F. Reports of harassment and violence prohibited by this policy are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law. The school district will respect the privacy of the complainant(s), the person(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the school district's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

## V. Investigation

- A. By authority of the school district, the director of human resources or designee, upon receipt of a report or complaint alleging harassment or violence prohibited by this policy, shall immediately undertake or authorize an investigation. The investigation may be conducted by school district employees or by a third party designated by the school district.
- B. The investigation may consist of personal interviews with the complainant, the person(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- C. In determining whether alleged conduct constitutes a violation of this policy, the school district should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.
- D. In addition, the school district may take immediate steps, at its discretion, to protect the complainant, students, teachers, administrators or other district employees pending completion of an investigation of alleged harassment or violence prohibited by this policy.

## VI. School District Action

- A. Upon completion of the investigation, the school district will take appropriate action. This action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, state and federal law and school district policies.
- B. The result of the school district's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the school district in accordance with state and federal law regarding data or records privacy.

## VII. Reprisal

The school district will discipline or take appropriate action against a student, teacher, administrator or other district employee who retaliates against a person who makes a good faith report of alleged harassment or violence prohibited by this policy or a person who testifies, assists or participates in an investigation, or who

testifies, assists or participates in a proceeding or hearing relating to this harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment, or intentional disparate treatment.

#### VIII. Right to Alternative Complaint Procedures

These procedures do not deny the right of a person to pursue other avenues of recourse which may include filing charges initiating an action or seeking redress under state or federal law.

#### IX. Harassment or Violence as Abuse

- A. Under certain circumstances, alleged harassment or violence may also be possible abuse under state law. If so, the duties of the mandatory reporting provision under state law may be applicable.
- B. Nothing in this policy will prohibit the school district from taking immediate action to protect victims of alleged harassment, violence or abuse.

#### X. Dissemination of Policy and Training

- A. This policy shall be conspicuously posted throughout each school building in areas accessible to students and district employees.
- B. This policy shall be provided to each school district employee and independent contractor at the time of entering into the person's employment contract.
- C. This policy shall appear in the student handbook.
- D. The school district will develop a method of discussing this policy with students and employees.
- E. The school district may implement violence prevention and character development education programs to prevent and reduce policy violations. These programs may offer instruction on character education including, but not limited to, character qualities such as attentiveness, truthfulness, respect for authority, diligence, gratefulness, self-discipline, patience, forgiveness, respect for others, peacemaking, and resourcefulness.
- F. This policy shall be reviewed annually for compliance with state and federal law.

#### Legal References:

Minn. Stat. § 120B.232 (Character Development Education)

Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)

Minn. Stat. Ch. 363A (Minnesota Human Rights Act)

Minn. Stat. § 609.341 (Definitions)  
Minn. Stat. § 626.556 *et seq.* (Reporting of Maltreatment of Minors)  
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)  
29 U.S.C. § 621 *et seq.* (Age Discrimination in Employment Act)  
29 U.S.C. § 794 (Rehabilitation Act of 1973, § 504)  
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)  
42 U.S.C. § 2000d *et seq.* (Title VI of the Civil Rights Act of 1964)  
42 U.S.C. § 2000e *et seq.* (Title VII of the Civil Rights Act)  
42 U.S.C. § 12101 *et seq.* (Americans with Disabilities Act)  
*Puller v. Indep. Sch. Dist. No. 701*, 528 N.W.2d 273 (Minn. Ct. App. 1998)

Cross References:

Policy 102 (Equal Educational Opportunity)  
Policy 401 (Equal Employment Opportunity)  
Policy 402 (Disability Nondiscrimination)  
Policy 403 (Discipline, Suspension and Dismissal of School District Employees)  
Policy 406 (Public and Private Personnel Data)  
Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)  
Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)  
Policy 506 (Student Discipline)  
Policy 515 (Protection and Privacy of Student Records)  
Policy 521 (Student Disability Nondiscrimination)  
Policy 522 (Student Sex Nondiscrimination)  
Policy 528 (Student Parental, Family and Marital Status Nondiscrimination)  
Policy 634 (Electronic Technologies Acceptable Use)

Policy  
adopted: 4/14/08  
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amended: 9/26/11

INDEPENDENT SCHOOL DISTRICT 273  
Edina, Minnesota

Appendix I

DISCRIMINATION, HARASSMENT, BULLYING, HAZING AND VIOLENCE REPORT FORM

Edina Public Schools maintains policies prohibiting discrimination, harassment, bullying, hazing and violence. These policies can be found on the district's website or obtained from a district administrator. Please use this form to report incidents of discrimination, harassment, bullying, hazing or violence. All persons are to be treated with respect and dignity.

Person completing report: \_\_\_\_\_

Home address: \_\_\_\_\_

Work address: \_\_\_\_\_

Home phone: \_\_\_\_\_ Work phone: \_\_\_\_\_

Date of alleged incident(s): \_\_\_\_\_

Circle if appropriate: sexual \ racial \ religious \ disability \ bullying \ violence \ harassment \ hazing

Name of person(s) you believe harassed, bullied or was violent toward you or another person.

\_\_\_\_\_

If the alleged harassment or violence was toward another person(s), identify that person(s).

\_\_\_\_\_

Where and when did the incident(s) occur? \_\_\_\_\_

\_\_\_\_\_

Describe the incident(s) in as much detail as possible, including the following information as relevant: what force was used; verbal statements made, physical contact made, or written interaction. Attach additional pages if needed.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

List any witnesses that were present. \_\_\_\_\_

\_\_\_\_\_

This complaint is filed based on my honest belief that the above incident(s) has occurred. I certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

Signature: \_\_\_\_\_ Date \_\_\_\_\_

Received by: \_\_\_\_\_ Date \_\_\_\_\_

Please submit to the building principal or director of human resources, as indicated by the policy(ies).