

Mounds View Public Schools Ends and Goals Regulation

EG-3104 Harassment, Violence, and Hazing

I. GENERAL STATEMENTS

- A. **Generally.** Mounds View Public Schools will 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, and that is free from hazing. 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, and prohibits hazing.
- B. **Harassment Prohibited.** It will be a violation of this policy for any student or school personnel to harass student or school personnel (or group of students or school personnel) through conduct or communication based on the student's or school personnel's (or group of students' or school personnel'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.
- C. **Violence Prohibited.** It will be a violation of this policy for any student or school personnel of Mounds View Public Schools to inflict, threaten to inflict, or attempt to inflict violence upon any student or school personnel (or group of students or school personnel) based on the student's or school personnel's (or group of students' or school personnel's) race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.
- D. **Hazing Prohibited.** It will be a violation of this policy for students or school personnel to plan, direct, encourage, aid, or engage in hazing. School personnel will not permit, condone, or tolerate hazing. Apparent permission or consent by a person being hazed does not lessen the prohibitions contained in this policy which applies to behavior occurring during and after school hours, on or off school premises or property, at school functions or activities, or on school transportation. A person who engages in an act that violates school policy, regulation, or law in order to be initiated into or affiliated with a student organization shall be subject to discipline for that act.
- E. **School District Action Generally.** Mounds View Public Schools will act to investigate all complaints, either formal or informal, verbal or written, of harassment, violence, or hazing prohibited by this policy and to discipline or take appropriate action against any student or school personnel found to have violated this policy.

II. DEFINITIONS:

- A. "Assault" is:
1. an act done with intent to cause fear in another of immediate bodily harm or death;
 2. the intentional infliction of or attempt to inflict bodily harm upon another; or
 3. 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, electronic communications, relating to an individual's or group of individuals' 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:

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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 an individual's work or academic performance; or
 3. otherwise adversely affects an individual's employment or academic opportunities.
- C. "Hazing" means committing an act against a student, or coercing a student into committing an act, that creates a substantial risk of harm to a person, in order for the student to be initiated into or affiliated with a student organization, or for any other school-related purpose. The term "hazing" includes, but is not limited to:
1. Any type of physical brutality such as whipping, beating, striking, branding, electronic shocking or placing a harmful substance on the body.
 2. Any type of physical activity such as sleep deprivation, exposure to weather, confinement to a restricted area, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
 3. Any activity involving the consumption of any alcoholic beverage, drug, tobacco product, vaping product, or any other food, liquid, or substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
 4. Any activity that intimidates or threatens the student with ostracism, that subjects a student to extreme mental stress, embarrassment, shame, or humiliation that adversely affects the mental health or dignity of the student or discourages the student from remaining in school.
 5. Any activity that causes or requires the student to perform a task that involves violation of state or federal law or of School District policies or regulations.
- D. "Immediately" means as soon as possible but in no event longer than 24 hours.
- E. "On school premises or property, or at school functions or activities, or on school transportation" means all School District buildings, school grounds, and school property or property immediately adjacent to school grounds, school bus stops, school buses, school vehicles, school contracted vehicles, or any other vehicles approved for School District purposes, the area of entrance or departure from school grounds, premises, or events, and all school-related functions, school-sponsored activities, events, or trips. School District property also may mean a student's walking route to or from school for purposes of attending school or school-related functions, activities, or events. While prohibiting hazing at these locations and events, the School District does not represent that it will provide supervision or assume liability at these locations and events.
- F. Protected Classifications
1. "Age" harassment prohibited by this policy prohibits using a person's age as a basis for a decision if the person is over the age of majority except for Minnesota Statutes Section 363A.13, which shall be deemed to protect any individual over the age of 25 years.
 2. "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who:

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- a. has a physical, sensory, or mental impairment that materially limits one or more major life activities;
 - b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.
3. "Familial status" means the condition of one or more minors being domiciled with:
- a. their parent or parents or the minor's legal guardian; or
 - b. the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian.

The protections afforded against harassment on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

4. "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
 5. "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.
 6. "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
 7. "Sexual orientation" means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult.
 8. "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.
- G. "Remedial response" means a measure to stop and correct acts of harassment, violence, or hazing; prevent acts of acts of harassment, violence, or hazing from recurring; and protect, support, and intervene on behalf of a student who is the target or victim of acts of harassment, violence, or hazing.
- H. "School personnel" includes School Board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of Mounds View Public Schools.
- I. "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 or retaining employment or of obtaining an education; or

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2. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
3. that conduct or communication has the purpose or effect of substantially interfering with an individual'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;
2. unwelcome pressure for sexual activity;
3. unwelcome, sexually motivated or inappropriate patting, pinching, or physical contact, other than necessary restraint of students by School Personnel 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 an individual'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 an individual's employment or educational status; or
6. unwelcome behavior or words directed at an individual because of gender.

Per the language of Title IX, to be sexual harassment, the conduct must be "on the basis of sex," which requires a showing that sex is the underlying basis for the conduct.

- J. "Sexual violence" is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minnesota Statutes Section 609.341, includes the primary genital areas, 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.

- K. "Student Organization" means a group, club, or organization having students as its primary members or participants. It includes grade levels, classes, teams, activities, or particular school events. A student organization does not have to be an official school organization to come within the terms of this definition.

- L. "Violence" prohibited by this policy is a physical act of aggression or assault upon another

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or group of individuals 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.

- M. The foregoing prohibitions and definitions of harassment, violence, and hazing apply to any format. This includes but is not limited to, use of words or written materials, use of the internet or other electronic communication formats such as social web pages, physical contact, art work, etc.

III. DESIGNATED EMPLOYEE

- A. **Human Rights Officer.** The School Board hereby designates the Executive Director of School Management (Mounds View Public Schools, District Center, 4570 Victoria St. N, Shoreview, MN 55126, 651-621-6005) as its Human Rights Officer.
- B. **Receives Reports.** The Human Rights Officer receives reports or complaints of harassment, violence, and hazing.
 - 1. Persons who wish to make a report or complaint of conduct prohibited by this policy may use Form EG-3104, Report Form for Harassment, Violence, and Hazing. The form should be given to the Human Rights Officer.
 - 2. Any individual having questions regarding conduct prohibited by this policy or the enforcement or application of this policy should contact the Human Rights Officer.
- C. **Post.** The School District will conspicuously post the name, office mailing address and phone numbers of the Human Rights Officer.

IV. REPORTING INCIDENTS OF HARASSMENT, VIOLENCE, AND HAZING

- A. Any student or school personnel who believes they have been the target or victim of harassment, violence, or hazing prohibited by this policy by a student or school personnel, or any person with knowledge or belief of conduct which may constitute harassment, violence, or hazing toward a student or school personnel (or group of students or school personnel) may file a report (also referred to as a complaint) with the Human Rights Officer. Any school principal, other administrator, or other employee who receives a report of conduct prohibited by this policy shall inform the Human Rights Officer immediately. If the complaint involves the Human Rights Officer, the complaint may be filed directly with the Superintendent.
- B. The School District encourages the complainant to file a report within thirty (30) days of the alleged violation whenever possible. Upon filing a report with the School District, the complainant will be asked to provide a brief description of the alleged conduct prohibited by this policy, the date of the alleged conduct, and the name of the person(s) responsible for the alleged conduct.
- C. The School District encourages the complainant to use Report Form EG-3104 available from all principals, or from the School District office, and on the School District website, but oral reports will be considered complaints as well. Use of the report form is not mandatory.
- D. Submission of a good faith complaint or report of harassment, violence, or hazing prohibited by this policy will not affect the complainant's future employment, grades, or work assignments, or work or educational environment.
- E. False accusations or reports of harassment, violence, or hazing prohibited by this policy against another person are prohibited.

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- F. The School District will respect the privacy of the complainant, the individual(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 Human Rights Officer, upon receipt of a report or complaint alleging harassment, violence, or hazing prohibited by this policy shall promptly undertake or authorize an investigation unless the matter can be resolved informally. The investigation may be conducted by School District officials or by a third party designated by the School District.
- B. The investigation may consist of personal interviews with the complainant, the individual(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 the 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. The School District may take immediate steps, at its discretion, to protect the complainant, students, or school personnel pending completion of an investigation.
- E. The investigation will be completed within thirty (30) days of receipt of the complaint, unless good cause exists for a longer period of time. Upon completion of the investigation, the investigator shall make a written report of the result of the School District's investigation to the Human Rights Officer, who shall forward the report to the Superintendent. If the Human Rights Officer (as opposed to some other individual designated by the School District) conducted the investigation, the report shall be filed directly with the Superintendent. The report shall include a determination of whether the allegations have been substantiated and whether they appear to be violations of this policy.
- F. 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. The complainant will also be informed of the right to appeal per section VI below.

VI. APPEAL AND REVIEW OF APPEAL

- A. **Appeal.** In the event the complainant does not believe that the complaint has been resolved to their satisfaction, they may appeal to the Human Rights Officer. If the Human Rights Officer (as opposed to some other individual designated by the School District) conducted the investigation, this appeal may be filed directly with the Superintendent. Any appeal must be made in writing within ten (10) school days of receipt of the written result of the School District's investigation.
- B. **Review of Appeal.** The Human Rights Officer shall conduct a review of a timely appeal and within ten (10) school days of receipt of the appeal, shall investigate further if necessary and respond in writing to the complainant to the extent allowed by law. If the Human Rights Officer conducted the investigation, this review shall be conducted by the Superintendent. The decision of the Human Rights Officer (or of the Superintendent if that individual conducted the review) is final but does not prohibit the complainant from pursuing

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alternative complaint procedures as discussed below in section IX.

VII. SCHOOL DISTRICT ACTION

- A. Upon completion of the investigation (or appeal) that determines a violation of this policy occurred, the School District will take appropriate action. Such action may include, but not be 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, Minnesota and federal law, and School District policies and regulations. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline prohibited behavior.
1. Consequences for students who commit, or are a party to, conduct prohibited by this policy or who engage in retaliation or intentional false reporting may range from remedial responses or positive behavioral interventions up to and including suspension and/or expulsion or exclusion.
 2. Consequences for employees who permit, condone, or tolerate conduct prohibited by this policy or who engage in retaliation or intentional false reporting may result in disciplinary action up to and including termination or discharge.
 3. Consequences for other individuals engaging in conduct prohibited by this policy may include, but not be limited to, exclusion from school/ School District premises and property and events and/or termination of services and/or contracts.

VIII. REPRISAL OR RETALIATION

The School District will discipline or take appropriate action against any student or school personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith reports of alleged harassment, violence, or hazing, or any person who testifies, assists, or participates in an investigation, proceeding, or hearing relating to such harassment, violence, hazing or retaliation. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the retaliation or reprisal.

IX. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse at any time which may include filing charges with the Minnesota Department of Human Rights, initiating civil action, or seeking redress under state criminal statutes and/or federal law, or contacting the Office for Civil Rights for the United States Department of Education or the Equal Employment Opportunity Commission.

U.S. Department of Education
Office for Civil Rights, Chicago Office
John C. Kluczynski Federal Building
230 South Dearborn St., 37th Floor
Chicago, IL 60604
Tel: 312-730-1560
Fax: 312-730-1576
Email: OCR.Chicago@ed.gov

MN Department of Human Rights
Griggs Midway Building
540 Fairview Ave North, Suite 201
St. Paul, MN 55104
Tel: 651-539-1100
Toll-free: 1-800-657-3704
Fax: 651-296-9042
Email: Info.mdhr@state.mn.us

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Equal Employment Opportunity Commission
Towle Building
330 South Second Avenue, Suite 720
Minneapolis, MN 55401
Tel: 612-552-7306
TTY: 1-800-669-6820
Fax: 612-335-4044

X. HARASSMENT OR VIOLENCE AS ABUSE

- A. Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of mandatory reporting under Minnesota Statutes Section 626.556 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.

XI. COMPLAINTS INVOLVING CRIMINAL ACTIONS

Any student or school personnel who believes they are the victim of a criminal act should immediately contact local law enforcement officials. If the District Human Rights Officer or the Executive Director of Human Resources believes a criminal act has been committed, they should immediately contact local law enforcement officials.

XII. ASSISTANCE IN RESOLVING COMPLAINTS

The District Human Rights Officer and the Executive Director of Human Resources will be available to provide information and assistance to administrators and supervisors regarding these procedures.

XIII. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall be conspicuously posted throughout each school building in areas accessible to students and staff members.
- B. This policy shall be given to each School District employee and independent contractor at the time of initial employment with the School District.
- 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. Such 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 on a periodic basis for compliance with state and federal law.

Ref:

M.S. 121A Student Rights, Responsibilities and Behavior

September 9, 2002
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