

415.00 DISCRIMINATION, HARASSMENT, VIOLENCE, AND RETALIATION POLICY

I. PURPOSE

Saint Paul Public Schools (“the District”) believes in the dignity of its students, staff, and all other District personnel. To that end, the District strives to maintain a learning and working environment that is free from discrimination, harassment or violence on the basis of race, color, national origin, creed, religion, marital status, familial status, sex, sexual or affectional orientation, gender identity and expression, status with respect to public assistance, age, disability, membership or activity in a local commission as defined by Minn. Stat. § 363A.03. The District also strives to maintain a learning and working environment that is free from retaliation. The District will act to investigate all complaints of violations of this policy. In responding to violations of this policy, the District will take appropriate and proportional action to protect all victims, deter similar future behavior, and accomplish the District’s core mission to educate and promote growth.

II. GENERAL STATEMENT OF POLICY

- A. This policy applies to students, teachers, administrators, and all other District personnel.
- B. The policy of the District is to maintain a learning and working environment that is free from discrimination, harassment, or violence on the basis of race, color, national origin, creed, religion, marital status, familial status, sex, sexual or affectional orientation, gender identity and expression, status with respect to public assistance, age, disability, membership or activity in a local commission as defined by Minn. Stat. § 363A.03. The District prohibits any form of discrimination, harassment, or violence on the basis of race, color, national origin, creed, religion, marital status, familial status, sex, sexual or affectional orientation, gender identity and expression, status with respect to public assistance, age, disability, membership or activity in a local commission as defined by Minn. Stat. § 363A.03.
- C. The policy of the District is to maintain a learning and working environment that is free from retaliation. The District prohibits any form of retaliation.
- D. The District prohibits any form of malicious and sadistic conduct involving race, color, creed, national origin, sex, age, marital status, status with regard to public assistance, disability, religion, sexual harassment, and sexual orientation and gender identity as defined in Minnesota Statutes, chapter 363A. This prohibition applies to students, independent contractors, teachers, administrators, and other school personnel.

- E. A violation of this policy occurs when any student, teacher, administrator, or other District personnel discriminates against or harasses a student, teacher, administrator, or other District personnel or group of students, teachers, administrators, or other District personnel based on a person's race, color, national origin, creed, religion, marital status, familial status, sex, sexual or affectional orientation, gender identity and expression, status with respect to public assistance, age, disability, membership or activity in a local commission as defined by Minn. Stat. § 363A.03.
- F. A violation of this policy occurs when any student, teacher, administrator, or other District personnel inflicts, threatens to inflict, or attempts to inflict violence upon any student, teacher, administrator, or other District personnel or group of students, teachers, administrators, or other District personnel based on a person's race, color, national origin, creed, religion, marital status, familial status, sex, sexual or affectional orientation, gender identity and expression, status with respect to public assistance, age, disability, membership or activity in a local commission as defined by Minn. Stat. § 363A.03.
- G. A violation of this policy occurs when any student, teacher, administrator, or other District personnel engages in retaliation or threatens retaliation against any person who has or is believed to have (1) reported, asserted, or alleged a violation of this policy or any other policy, law, or regulation; (2) made a good faith report of an alleged violation of this policy or any other policy, law, or regulation; (3) acted as a witness in any investigation of a complaint alleging a violation of this policy or any other policy, law, or regulation; (4) testified, assisted, or participated in any fact-finding investigation, hearing, or proceeding regarding an alleged violation of this policy or any other policy, law, or regulation; and/or (5) assisted in formulating or implementing corrective action in response to a violation of this policy or any other policy, law, or regulation.
- H. A violation of this policy occurs when any student, teacher, administrator, or other District personnel intentionally makes a false report of discrimination, harassment, violence, or retaliation.
- I. The District will act to investigate all complaints, either formal or informal, verbal or written, of discrimination, harassment, or violence based on a person's race, color, national origin, creed, religion, marital status, familial status, sex, sexual or affectional orientation, gender identity and expression, status with respect to public assistance, age, disability, membership or activity in a local commission as defined by Minn. Stat. § 363A.03. The District will act to investigate all complaints, either formal or informal, verbal or written, of retaliation. The District will act to discipline or take appropriate action against any student, teacher, administrator, or other District personnel who is found to have violated this policy.

III. DEFINITIONS

- A. District personnel, solely for the purposes of this policy, includes Board of Education

members, District employees, agents, volunteers, contractors, or persons subject to the supervision and control of the District.

- 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, national origin, creed, religion, marital status, familial status, sex, sexual or affectional orientation, gender identity and expression, status with respect to public assistance, age, disability, membership or activity in a local commission as defined by Minn. Stat. § 363A.03 when the conduct:
- a. has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
 - b. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
 - c. otherwise adversely affects an individual's employment or academic opportunities.
- C. Immediately means as soon as possible but in no event longer than 1 business day. A business day is defined by the federal government calendar, and not by the District school calendar.
- D. Protected Classifications; Definitions
- a. "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who:
 - i. has a physical, sensory, or mental impairment which materially limits one or more major life activities;
 - ii. has a record of such an impairment; or
 - iii. is regarded as having such an impairment.
 - b. "Familial status" means the condition of one or more minors being domiciled with:
 - i. their parent or parents or the minor's legal guardian; or
 - ii. 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.
 - c. "Gender" means the socially constructed roles, behaviors, activities, and attributes that a given society attaches to femininity or masculinity.
 - d. "Gender Expression" means the manner in which persons represent or express gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
 - e. "Gender Identity" means a person's deeply held sense or knowledge of their own gender.
 - f. "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.
 - g. "National origin" means the place of birth of an individual or of any of the

- individual's lineal ancestors.
- h. "Race" is inclusive of traits associated with race, including but not limited to hair texture and hair styles such as braids, locs, and twists.
 - i. "Sex" refers to a person's biology and is generally categorized as male, female, or intersex. "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
 - j. "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.
 - k. "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.
- E. Remedial response means a measure to stop and correct acts of discrimination, harassment, violence, or retaliation, prevent acts of discrimination, harassment, violence, or retaliation from recurring, and protect, support, and intervene on behalf of a student or employee who is the target or victim of acts of discrimination, harassment, violence, or retaliation.
- F. Sexual Harassment: Definition
- a. 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:
 - i. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or an education; or
 - ii. 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
 - iii. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment.
 - b. Sexual harassment may include, but is not limited to:
 - i. unwelcome verbal harassment or abuse;
 - ii. unwelcome pressure for sexual activity;
 - iii. unwelcome, sexually motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of student(s) by teachers, administrators, or other District personnel to avoid physical harm to persons or property;
 - iv. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;

- v. 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
- vi. unwelcome behavior or words directed at an individual because of sexual orientation, including gender identity or expression.

G. Sexual Violence: Definition

- a. 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 Minn. Stat. § 609.341, includes the primary genital area, groin, inner thigh, buttocks, or breast, as well as the clothing covering these areas.
- b. Sexual violence may include, but is not limited to:
 - i. touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
 - ii. coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
 - iii. coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another; or
 - iv. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

H. Malicious and Sadistic Conduct: Definition

Malicious and sadistic conduct means creating a hostile learning environment by acting with the intent to cause harm by intentionally injuring another without just cause or reason or engaging in extreme or excessive cruelty or delighting in cruelty.

I. Responsible Administrator

- a. In a school building, the Responsible Administrator is the principal or the principal's designee.
- b. In a District building or department in which there is no principal, the Responsible Administrator is the supervisor of that building or department or that supervisor's designee.

J. Materially Adverse Action

Any action that causes or threatens to cause significant injury or harm to a reporter, complainant or other covered person such that it would likely dissuade a reasonable student or District personnel from making or supporting a good-faith report of an alleged violation of this policy. Adverse action does not include an action, including employment or academic action, that would have been taken regardless of the good faith report of misconduct.

K. District Human Rights Officer

- a. The District Human Rights Officer is the Director of Equal Employment Opportunity.

- b. The Board of Education hereby designates the Director of Equal Opportunity as the District Human Rights Officer to receive reports or complaints of discrimination, harassment, violence, or retaliation prohibited by this policy.
- c. In the event the position of the Director of Equal Employment Opportunity is vacant, the interim District Human Rights Officer is the individual designated by the superintendent.

IV. REPORTING PROCEDURES

- A. Any person who believes that such person has been the target or victim of discrimination, harassment, violence, or retaliation in violation of this policy by a student, teacher, administrator, or other District personnel, or any person with knowledge or belief of conduct which may constitute discrimination, harassment, violence, or retaliation prohibited by this policy toward a student, teacher, administrator, or other District personnel or group of students, teachers, administrators, or other District personnel must report the alleged acts immediately to an appropriate District official designated by this policy. A person may report conduct which may constitute discrimination, harassment, violence, or retaliation anonymously. The District, however, may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. The District encourages the reporting party or complainant to use the 415.00.1 Form, but oral reports shall be considered complaints as well. All oral reports, however, must be promptly reduced to writing on the 415.00.1 Form by the Responsible Administrator.
- C. Nothing in this policy shall prevent any person from reporting discrimination, harassment, violence, or retaliation directly to the District Human Rights Officer or to the superintendent. If the complaint involves the Responsible Administrator, the complaint shall be made or filed directly with the superintendent or the District Human Rights Officer by the reporting party or complainant.
- D. At the building or department level, the Responsible Administrator is the person responsible for receiving oral or written reports of discrimination, harassment, violence, or retaliation prohibited by this policy. Any adult District personnel who receives a report of discrimination, harassment, violence, or retaliation prohibited by this policy shall inform the Responsible Administrator immediately, unless the complaint involves allegations against the Responsible Administrator. If the complaint involves allegations against the Responsible Administrator, the complaint shall be made or filed directly with the superintendent or the District Human Rights Officer immediately. The Responsible Administrator and the District Human Rights Officer shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented.
- E. A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include

acts of discrimination, harassment, violence, or retaliation. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute discrimination, harassment, violence, or retaliation shall make reasonable efforts to address and resolve the discrimination, harassment, violence, or retaliation and shall inform the Responsible Administrator immediately, unless such person knows or has reason to believe that the Responsible Administrator has engaged in the conduct prohibited by this policy. In such cases, the report should be made directly to the superintendent or District Human Rights Officer immediately. District personnel who fail to inform the Responsible Administrator of conduct that may constitute discrimination, harassment, violence, or retaliation or who fail to make reasonable efforts to address and resolve the discrimination, harassment, violence, or retaliation in a timely manner may be subject to disciplinary action.

- F. Upon receipt of a report, the Responsible Administrator must notify the District Human Rights Officer immediately, before screening or investigating the report. The Responsible Administrator may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded immediately by the Responsible Administrator to the District Human Rights Officer. If the report was given verbally, the Responsible Administrator shall personally reduce it to written form within one (1) business day. Failure to forward any report or complaint of discrimination, harassment, violence, or retaliation as provided herein may result in disciplinary action against the Responsible Administrator.
- G. If a complaint of conduct prohibited by this policy involves allegations against the District Human Rights Officer, the complaint shall be immediately filed directly with the superintendent. If a complaint of conduct prohibited by this policy involves allegations against the superintendent, the report may be filed directly with the Board of Education.
- H. The District shall conspicuously post the name of the District Human Rights Officer, including mailing addresses and telephone number.
- I. Submission of a good faith complaint or report of discrimination, harassment, violence, or retaliation prohibited by this policy will not affect the complainant or reporter's future employment, grades, work assignments, or educational or work environment.
- J. Use of formal reporting forms is not mandatory.
- K. Reports of discrimination, harassment, violence, or retaliation 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.
- L. The District will respect the privacy of the complainant(s), the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to

comply with any discovery or disclosure obligations.

- M. Retaliation against a victim, good faith reporter, a witness of discrimination, violence, harassment, or retaliation, or an individual involved in formulating or implementing corrective action is prohibited.
- N. False accusations or reports of discrimination, harassment, violence, or retaliation against another person are prohibited.
- O. A person who engages in an act of discrimination, harassment, violence, retaliation, or false reporting of discrimination, harassment, violence, or retaliation, or permits, condones, or tolerates discrimination, harassment, violence, or retaliation shall be subject to discipline or other remedial responses for that act in accordance with the District's policies and procedures.

V. INVESTIGATION

- A. By authority of the District, the Responsible Administrator, within three (3) business days of the receipt of a report or complaint alleging discrimination, harassment, violence, or retaliation prohibited by this policy, shall undertake or authorize an investigation. The investigation may be conducted by District officials or by a third party designated by the 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 or electronic files and/or videos deemed pertinent by the investigator.
- C. In determining whether alleged conduct constitutes a violation of this policy, the 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 the facts and surrounding circumstances using a preponderance of the evidence standard.
- D. In addition, the District may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, teachers, administrators, or other District personnel pending completion of an investigation of alleged discrimination, harassment, violence, or retaliation prohibited by this policy.
- E. The investigation will be completed within 30 business days from receipt of the complaint, unless it is impracticable to complete the investigation within this timeframe. The person completing the investigation shall document the investigation and its conclusion on the Form 415.00.1. The report shall include a determination of

whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. Upon completion of the investigation, the Responsible Administrator shall ensure that the Form 415.00.1 and any other report of the investigation are submitted to both the District Human Rights Officer and to the following individual: ‘

- a. For an investigation involving allegations against a student, to the area assistant superintendent; or
- b. For an investigation involving allegations against District personnel, to the Executive Director of Human Resources Division or the Executive Director’s designee.

VI. DISTRICT CORRECTIVE ACTION

- A. The District will take corrective action for any violation of this policy. Such corrective action will be consistent with the law and regulations, District policies, and any relevant collective bargaining agreements.
- B. Corrective action will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior.
 - a. Corrective action for students who commit, or are a party to, prohibited acts of discrimination, violence, harassment, or retaliation, or who engage in intentional false reporting of discrimination, harassment, violence, or retaliation may include, but are not limited to, remedial responses, positive behavioral interventions, interventions and restorative practices or responses, warnings, transfer, suspension, and/or expulsion.
 - b. Corrective action for employees who permit, condone, or tolerate discrimination, harassment, violence, or retaliation, or who engage in intentional false reporting of discrimination, harassment, violence, or retaliation may include, but is not limited to, remedial responses and/or disciplinary action up to and including termination or discharge.
 - c. Corrective action for other individuals engaging in prohibited acts of discrimination, harassment, violence, or retaliation, or who engage in intentional false reporting of discrimination, harassment, violence, or retaliation may include, but not be limited to, exclusion from District property and events and/or termination of services and/or contracts.
- C. The District may also discipline any student, employee, or other personnel of the District for derogatory statements or conduct based on the characteristics identified in Section I of this policy, which do not constitute illegal discrimination, harassment, violence, or retaliation but nonetheless are inappropriate.
- D. The District is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student or employee of the District, except as permitted by law.
- E. In order to prevent or respond to acts of discrimination, harassment, violence, or

retaliation committed by or directed against a child with a disability, the District shall, where determined appropriate by the child's individualized education program ("IEP") or Section 504 team, allow the child's IEP or Section 504 plan to be drafted to address the skills and proficiencies the child needs as a result of the child's disability to allow the child to respond to or not to engage in acts of discrimination, harassment, violence, or retaliation.

VII. RETALIATION

- A. The District unequivocally prohibits retaliation, and will discipline or take other appropriate corrective action, against any person to whom this policy applies that engages in retaliation or threatens retaliation against any person who has or is believed to have:
- a. Reported, asserted, or alleged a violation of this policy or any other policy, law, or regulation;
 - b. Made a good faith report of an alleged violation of this policy or any other policy, law, or regulation;
 - c. Acted as a witness in any investigation of a complaint alleging a violation of this policy or any other policy, law, or regulation;
 - d. Testified, assisted, or participated in any fact-finding or investigation, hearing, or proceeding regarding an alleged violation of this policy or any other policy, law, or regulation; and/or
 - e. Assisted in formulating or implementing corrective action in response to a violation of this policy or any other policy, law, or regulation.
- B. Retaliation includes, **but is not limited to**, any form of intimidation, reprisal, harassment, or intentional disparate treatment. Retaliation also means any materially adverse action or credible threat of a materially adverse action by the District, or any employee thereof, taken against any employee or student for having made a good-faith report of District misconduct. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the retaliation.

VIII. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall be conspicuously posted throughout each District building in areas accessible to students and District personnel.
- B. This policy shall be given to each District employee and independent contractor that regularly interacts with students at the time of initial employment with the District.
- C. The policy shall appear in the Rights and Responsibilities Handbook.
- D. The District shall develop a method of discussing this policy with students and employees.

Legal References: Minn. Stat. § 120B.232 (Character Development Education)
Minn. Stat. § 120B.234 (Child Sexual Abuse Prevention Education)
Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious, and Racial Harassment and Violence Policy)
Minn. Stat. § 121A.031 (School Student Bullying 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)

Cross References: Policy 101.00: Racial Equity
Policy 102.00: Equal Opportunity/Non-Discrimination
Policy 401.00: Equal Employment Opportunity
Policy 500.00: Gender Inclusion
Policy 501.00: Hazing Prohibition
Policy 505.00: Bullying Prohibition
Policy 506.00: Student Discipline
Policy 506.02: Student Discipline: Expulsion & Exclusion
Policy 506.03: Student Discipline: Suspension
Policy 520.00: Technology Usage & Safety
Policy 609.00: Religion