

## **401 EQUAL EMPLOYMENT OPPORTUNITY**

### **I. PURPOSE**

The purpose of this policy is to provide equal employment opportunity for all applicants for school district employment and school district employees.

### **II. GENERAL STATEMENT OF POLICY**

- A. It is the school district's policy to provide equal employment opportunity for all applicants and employees. The school district does not unlawfully discriminate on the basis of race, color, creed, religion, national origin, sex, gender, marital status, status with regard to public assistance, disability, sexual orientation, age, and family care leave status or veteran status. The school district also makes reasonable accommodations for employees with a disability.
- B. The school district prohibits the harassment of any individual for any of the categories listed above. For information about the types of conduct that constitute impermissible harassment and the school district's internal procedures for addressing complaints of harassment, please refer to the school district's policy on harassment and violence. See policy 413.
- C. This policy applies to all areas of employment including hiring, discharge, promotion, compensation, facilities or privileges of employment.
- D. It is the responsibility of every school district employee to follow this policy.
- E. Any person having any questions regarding this policy should discuss it with the Superintendent.

### **III. GRIEVANCE PROCEDURES FOR COMPLAINTS OF HARASSMENT AND DISCRIMINATION**

The following grievance procedures apply to any claims of harassment or discrimination:

- A. Any employee who believes he or she has been the victim of unlawful discrimination or harassment or any person with knowledge or belief of conduct that may constitute unlawful discrimination or harassment toward an employee shall report the alleged acts immediately to an appropriate school district official designated by this policy. The complaint must be filed within 30 calendar days of the alleged violation.
- B. The Human Rights Officer is responsible for receiving oral or written complaints of unlawful discrimination or harassment toward an employee. However, nothing in this policy shall prevent any person from reporting unlawful discrimination or harassment toward an employee directly to the Human Rights Officer, the school board or other school district official.

- C. While the school board has designated the Human Rights Officer to receive complaints of unlawful discrimination or harassment, if the complaint involves the Human Rights Officer, the complaint shall be made to the neutral third party designee.
- D. Upon receipt of a complaint, the Human Rights Officer, or neutral third party designee shall immediately notify the superintendent. If the superintendent is the subject of the complaint, the neutral third party designee shall immediately notify the school board.
- E. The Human Rights Officer may request but not insist upon a written complaint. Alternative means of filing a complaint, such as through a personal interview or by tape recording, shall be made available upon request for qualified persons with a disability. If the complaint is oral, it shall be reduced to writing within 24 hours and forwarded to the superintendent. Failure to do so may result in disciplinary action. The school district encourages the reporting party to complete the complaint form for written complaints. It is available from the principal of each building or the school district office.
- F. The school district shall respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses, consistent with the school district's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations.

#### **IV. INVESTIGATION**

- A. The Human Rights Officer, upon receipt of a complaint alleging unlawful discrimination or harassment toward a student, shall promptly undertake an investigation if deemed appropriate. The investigation may be conducted by the Title IX coordinator for complaints of sex discrimination or sexual harassment or the Section 504 Coordinator for complaints of disability discrimination or disability harassment, or a school district official or neutral third party designated by the Title IX coordinator or Section 504 coordinator or Human Rights Officer and shall be completed within 30 days of the complaint, unless impracticable.
- 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 other methods deemed pertinent by the investigator.
- C. In determining whether the alleged conduct constitutes a violation of this policy, the school district shall consider the facts and the surrounding circumstances such as the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incident occurred.
- D. The school district may take immediate steps to protect the parties involved in the complaint process, pending completion of an investigation of alleged unlawful discrimination or harassment of a student.
- E. Upon completion of the investigation, the school district investigator shall make a written report to the Human Rights Officer. If the complaint involves the Human Rights Officer, the report may be filed directly with the neutral third party designee or the school board. The report shall include the facts, a determination of whether the allegations have been substantiated, whether a violation of this policy has occurred as well as a description of any proposed resolution which may include alternative dispute resolution.

- F. The district shall comply with federal and state law pertaining to retention of records.

## **V. APPEAL**

If the grievance has not been resolved to the satisfaction of the complainant, s/he may appeal to the Human Rights Officer within ten (10) school days of receipt of the findings of the school district investigation. The school district investigator shall conduct a review of the appeal and within ten (10) school days of receipt of the appeal, shall affirm, reverse, or modify the findings of the report. The decision of the school district investigator is final.

## **VI. SCHOOL DISTRICT ACTION**

- A. Upon conclusion of the investigation and receipt of the findings, the school district shall take appropriate action. If it is determined that a violation has occurred, such action may include, but is not limited to, warning, suspension, expulsion, transfer, remediation or termination.

School district action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, Minnesota and federal law and school district policies.

- B. The result of the school district's investigation of each complaint filed under these procedures shall be reported in writing to the complainant by the school district in accordance with state and federal law regarding data or records privacy.

## **VII. RETALIATION**

The school district shall take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports alleged unlawful discrimination or harassment toward an employee or student or any person who testifies, assists or participates in an investigation or hearing relating to such unlawful sex discrimination. Retaliation includes, but is not limited to, any form of intimidation or harassment.

## **VIII. CONFLICT OF INTEREST**

If there is a conflict of interest with respect to any party affected by this policy, appropriate accommodations shall be made such as, but not limited to, appointing or contracting with a neutral third party investigator to conduct the investigation or recusal from the process by the person for whom a conflict or potential conflict of interest exists.

## **IX. DISSEMINATION OF POLICY**

The school district shall make this policy available to all employees.

## **X. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES**

These procedures do not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with the agencies below or initiating action in state or federal court.

**For claims of discrimination/harassment:**

U.S. Department of Education  
Office for Civil Rights, Region V  
500 W. Madison Street – Suite 1475  
Chicago, IL 60661  
Tel: 312-730-1560  
TDD: 312-730-1609

MN Department of Human Rights  
190 East 5<sup>th</sup> Street  
St. Paul, MN 55101  
800-657-3704  
651-296-5663  
TDD: 651-296-1283

**For complaints of employment discrimination/harassment:**

Equal Employment Opportunity Commission  
330 South 2<sup>nd</sup> Avenue  
Suite 430  
Minneapolis, MN 55401  
800-669-4000  
612-335-4040  
TDD: 612-335-4045

This document provides general information and is not to be a substitute for legal advice. Changes in the law, including timelines for filing a complaint, may affect your rights.

- Legal References:*** Minn. Stat. Ch. 363 (Minnesota Human Rights Act)  
29 U.S.C. § 621 et. seq. (Age Discrimination in Employment Act)  
29 U.S.C. § 2615 (Family and Medical Leave Act)  
38 U.S.C. § 4301 et seq. (Vietnam Era Veterans’ Readjustment Assistance Act)  
38 U.S.C. § 4211 et. seq. (Veterans’ Reemployment Rights Act)  
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 Reference:*** MSBA Model Policy 402 (Disability Nondiscrimination)  
MSBA Model Policy 405 (Veteran’s Preference)  
MSBA Model Policy 413 (Harassment and Violence)