

Personnel

Harassment and Violence Prohibition, Students and Employees

I. Purpose

The school district strives to maintain a learning and working environment free from 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, including gender identity or expression, or disability. This policy provides a framework for reporting actions that violate this policy and the district's actions when it receives such a report.

II. General Statement of Policy

- A. The school district strives to maintain a learning and working environment 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, including gender identity or expression, or disability ("protected class"). The district prohibits harassment or violence on the basis of protected class.
- B. This policy is violated when a student or employee harasses a student or employee, or group of students or employees, through conduct or communication based on a person's protected class.
- C. This policy is violated when a student or employee inflicts, threatens to inflict, or attempts to inflict violence upon a student or employee based on a person's protected class.
- D. The district will act to investigate all complaints of harassment or violence based on a person's protected class. The district will discipline or take appropriate action against a student or employee who is found to have violated this policy.

III. 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, including gender identity or expression, 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 an individual’s work or academic performance; or
 3. otherwise adversely affects an individual’s employment or academic opportunities.
- C. “Immediately” means as soon as possible but in no event longer than 24 hours.
- D. Protected Classes
1. “Disability” means, with respect to an individual any person who:
 - a. has a physical, sensory, or mental impairment that materially limits one or more major life activities of such individual;
 - b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.
 - d. has an impairment that is episodic or in remission and would materially limit a major life activity when active.
 2. “Familial status” means the condition of one or more minors having legal status or custody with:
 - a. their parent or parents or the minor’s legal guardian or guardians; or
 - b. the designee of the parent or parents or guardian or guardians with the written permission of the parent or parents or guardian or guardians. Familial status also means residing with and caring for one or more individuals who lack the ability to meet essential requirements for physical health,

safety, or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions. The protections afforded against harassment or discrimination 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.

3. "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment or discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
 4. "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.
 5. "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
 6. "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.
 7. "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 harassment or violence, prevent acts of harassment or violence from recurring, and protect, support, and intervene on behalf of a student who is the target or victim of acts of harassment or violence.
- F. Sexual Harassment
1. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:
 - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining

employment or an education;

- b. 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
- c. 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.

2. Sexual harassment may include, but is not limited to:

- a. unwelcome verbal harassment or abuse;
- b. unwelcome sexually motivated or explicit emails, text messages, voicemails, or other electronic communication;
- c. unwelcome pressure for sexual activity;
- d. unwelcome, sexually motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of student(s) by teachers, administrators, or other school district personnel to avoid physical harm to persons or property;
- e. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
- f. 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
- g. unwelcome behavior or words directed at an individual because of sexual orientation, including gender identity or expression.

G. Sexual Violence

- 1. Sexual violence is a physical act of aggression or force or the threat thereof that 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.

2. Sexual violence may include, but is not limited to:
 - a. touching, patting, grabbing, or pinching another person's intimate parts;
 - b. coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
 - c. coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another; or
 - d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

H. Violence

Violence prohibited by this policy is a physical act of aggression or assault upon another or group of individuals because of, or in a manner reasonably related to, an individual's protected class.

- I. "Employee," for purposes of this policy, includes school board members, district employees, agents, volunteers, independent contractors, or other persons subject to the supervision and control of the district.

IV. Reporting Procedures

- A. Any person who believes they have been the target or victim of harassment or violence on the basis of protected class by a student or employee of the school district, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student or employee or group of students or other employee of the district should report the alleged acts immediately to an appropriate district official designated by this policy. A person may report conduct which may constitute harassment or violence anonymously. However, the district 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 report form attached to this policy as Appendix I and available from the principal or building supervisor of each building or available from the district office, but oral reports will be considered complaints as well.
- C. Nothing in this policy prevents any person from reporting harassment or violence directly to a district human rights officer or to the superintendent. If the complaint involves the building report taker, the complaint will be made or filed directly with the superintendent or the district human rights officer by the reporting party or complainant.

- D. At each site location, the building principal or designee or the building supervisor ("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. Any adult district employee who receives a report of harassment or violence prohibited by this policy will inform the building report taker immediately. If the complaint involves the building report taker, the complaint will be made or filed directly with the superintendent or the district human rights officer by the reporting party or complainant. The building report taker will ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and will serve as a primary contact on policy and procedural matters.
- E. Employees will be particularly alert to possible situations, circumstances, or events that might include acts of harassment or violence. An employee who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence will make reasonable efforts to address and resolve the harassment or violence and will inform the building report taker immediately. Employees who fail to inform the building report taker of conduct that may constitute harassment or violence or who fail to make reasonable efforts to address and resolve the harassment or violence in a timely manner may be subject to disciplinary action.
- F. Upon receipt of a report, the building report taker will notify the district human rights officer 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 human rights officer. If the report was given verbally, the building report taker will personally reduce it to written form within 24 hours and forward it to the human rights officer. Failure to forward any harassment or violence report or complaint as provided in this policy may result in disciplinary action against the building report taker.
- G. The district designates the director of human resources or designee as the human rights officer to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves the director of human resources, the complaint will be filed directly with the superintendent.
- H. The district will conspicuously post the name of the human rights officer(s), including email addresses, mailing addresses, and telephone numbers.
- I. 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, work assignments, or educational or work environment.

- J. Use of formal reporting forms is not mandatory.
- K. 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.
- 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, or a witness of violence or harassment is prohibited.
- N. False accusations or reports of violence or harassment against another person are prohibited.
- O. A person who engages in an act of violence or harassment, reprisal, retaliation, or false reporting of violence or harassment, or permits, condones, or tolerates violence or harassment will be subject to discipline or other remedial responses for that act in accordance with the district's policies and procedures.

Consequences for students who commit, or are a party to, prohibited acts of violence or harassment, or who engage in reprisal or intentional false reporting of violence or harassment, may range from remedial responses or positive behavioral interventions up to and including suspension and/or expulsion.

Consequences for employees who permit, condone, or tolerate violence or harassment, or engage in an act of reprisal or intentional false reporting of violence or harassment, may result in disciplinary action up to and including termination or discharge.

Consequences for other individuals engaging in prohibited acts of violence or harassment may include, but not be limited to, exclusion from district property and events and/or termination of services and/or contracts.

V. Investigation

- A. The director of human resources or designee, within three (3) days of the receipt of a report or complaint alleging harassment or violence prohibited by this policy, will undertake or authorize an investigation. The investigation may be conducted by school district officials or by a third party designated by the 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 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 district may take immediate steps, at its discretion, to protect the reporting party, students, or employees pending completion of an investigation of alleged harassment or violence prohibited by this policy.
- E. The alleged perpetrator of the act(s) of harassment or violence will be allowed the opportunity to present information during the investigation or prior to the imposition of discipline or other remedial responses.
- F. The investigation will be completed as soon as practicable. The district human rights officer or designee will make a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, the report may be filed directly with the school board. The report will include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of 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, removal, or termination. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior. District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, state and federal law, and applicable district policies.
- B. 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. District officials will notify the targets or victims and alleged perpetrators of harassment or violence, the parent(s) or guardian(s) of targets or victims of harassment or violence, and the parent(s) or guardian(s) of alleged perpetrators of harassment or violence who have been involved in a reported and confirmed harassment or violence incident, of the remedial or disciplinary action taken, to the extent

permitted by law. The district may be required to disclose private data in cases that involve allegations of sexual harassment under Title IX. Please see Policy 522 for additional information.

- C. In order to prevent or respond to acts of harassment or violence committed by or directed against a child with a disability, the district will, 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 harassment or violence.

VII. Retaliation or Reprisal

The school district will discipline or take appropriate action against any student or employee who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy, who testifies, assists, or participates in an investigation of retaliation or alleged harassment or violence, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment, or intentional disparate treatment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the harassment or violence. Remedial responses to the harassment or violence will be tailored to the particular incident and nature of the conduct.

VIII. 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 Minnesota Department of Human Rights or another state or federal agency, initiating civil action, or seeking redress under state criminal statutes and/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 mandatory reporting under Minn. Stat. Ch. 260E 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 is posted in each district building in areas accessible to students and district employees.

- B. This policy is provided to each district employee at the time of initial employment with the district.
- C. This policy will appear in the student handbook.
- D. The district will develop a method of discussing this policy with students and employees.
- E. The district may implement violence prevention and character development education programs to prevent and reduce policy violations.

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. § 609.02 (Definitions)
Minn. Stat. § 609.341 (Definitions)
Minn. Stat. Ch. 260E (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 103 (Equal Educational Opportunity)
Policy 401 (Equal Employment Opportunity)
Policy 402 (Disability Nondiscrimination)
Policy 403 (Discipline 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 Conduct and Discipline)
Policy 514 (Bullying Prohibition)
Policy 515 (Protection and Privacy of Student Records)
Policy 521 (Student Disability Nondiscrimination)
Policy 522 (Title IX Nondiscrimination Policy, Grievance Procedure and Process)
Policy 524 (Internet Acceptable Use and Safety)
Policy 526 (Student Hazing Prohibition)
Policy 528 (Student Parental, Family and Marital Status Nondiscrimination)
Policy 634 (Electronic Technologies Acceptable Use)

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INDEPENDENT SCHOOL DISTRICT NO. 273
Edina, Minnesota



Appendix I to Policies 401, 402, 413, 521, 522, and 528

DISCRIMINATION, HARASSMENT, AND VIOLENCE REPORT FORM

Edina Public Schools maintains a firm policy prohibiting all forms of discrimination, harassment, or violence against students or employees, or groups of students or employees, on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity and expression, or disability. All persons are to be treated with respect and dignity. Harassment or violence by any student, teacher, administrator, or other school personnel, which creates an intimidating, hostile, or offensive environment will not be tolerated under any circumstances.

Use of this reporting form is encouraged but not required. Reports may be made orally or in writing, including via electronic mail.

Person completing report: _____

Primary home address: _____

Secondary home address (if any): _____

Work location if an Edina Public Schools employee: _____

Primary phone: _____

Secondary phone: _____

Email address: _____

Date of alleged incident(s): _____

Basis of Alleged Harassment/Violence - circle as appropriate: race \ color \ creed \ religion \ sex \ national origin \ gender \ age \ marital status \ familial status \ status with regard to public assistance \ sexual orientation, including gender identity and expression \ disability

Name of person(s) you believe harassed 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) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (e.g., threats, requests, demands); what, if any, physical contact was involved; or other relevant information. Attach additional pages if necessary.

List any witnesses to the incident(s). _____

My signature below shows that the information I have provided in this document 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 designee or the executive director of human resources. For student disability discrimination matters, please submit to the director of student support services.

(09/26)