

[State law requires that school districts adopt a sexual, religious, and racial harassment and violence policy that conforms with the Minnesota Human Rights Act, Minn. Stat. Ch. 363A. This policy complies with this statutory requirement but, in addition, addresses other classifications protected by state and/or federal law. While the recommendation is that school districts incorporate the other protected classifications, in addition to sex, religion, and race, into this policy, they are not required to do so. The Minnesota Department of Education (MDE) will maintain and make available Model Policy 413 – Harassment and Violence in accordance with Minn. Stat. § 121A.03. Each school board must submit a copy of the policy the board has adopted to the Commissioner of MDE.]

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 NWSISD 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. NWSISD prohibits any form 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 any student participating in NWSISD programs or activities, or NWSISD staff harasses a student, teacher, administrator or other school personnel or group of pupils, teachers, administrators, or other school personnel 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, school personnel includes school board members, NWSISD staff, agents, volunteers, contractors or persons subject to the supervision and control of NWSISD.)
- C. A violation of this policy occurs when any student, teacher, administrator or other school personnel of NWSISD inflicts, threatens to inflict, or attempts to inflict violence upon any student, teacher, administrator or other school personnel or group of pupils, teachers, administrators, or other school personnel 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. NWSISD will act to investigate, or ensure the investigation of all complaints, either formal or informal, verbal or written, 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 any student or NWSISD staff 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, 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 Classifications; Definitions
1. "Age" means the person is 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:
 - a. has a physical, sensory, or mental impairment which 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.

E. Sexual Harassment; Definition.

1. 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:
 - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, or an education or participating in NWSISD programs or activities; or
 - 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, education, or participation in programs or activities; or

- c. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, education, participation in programs or activities, 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 pressure for sexual activity;
 - c. unwelcome, sexually motivated or inappropriate patting, pinching or physical contact, other than necessary restraint of student(s) by staff to avoid physical harm to persons or property;
 - d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment, educational status, or participation in NWSISD programs or activities;
 - e. 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, educational status, or participation in NWSISD programs or activities; or
 - f. unwelcome behavior or words directed at an individual because of gender.

F. Sexual Violence; Definition.

1. 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.
2. Sexual violence may include, but is not limited to:
- a. touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same gender or the opposite gender;
 - 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.

- G. Violence; Definition. 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, 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. Any 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 or NWSISD employee, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student or NWSISD employee or group of pupils, teachers, administrators or other school personnel, should report the alleged acts immediately to the appropriate NWSISD official designated by this policy.

Any student who believes he or she has been the victim of religious, racial or sexual harassment or violence by a student or NWSISD employee, may report the alleged acts to an appropriate NWSISD official from his or her home school district instead of the NWSISD designated staff.

NWSISD encourages the reporting party or complainant to use the report form available from the NWSISD's administrative 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 NWSISD's designated human rights officer or to the Executive Director.

- B. The Executive Director shall designate a NWSISD staff person responsible for receiving oral or written reports harassment or violence prohibited by this policy at each program or activity site. Any NWSISD staff person who receives a report of harassment or violence shall inform Executive Director immediately.
- C. Upon receipt of a report, the designated site employee must notify the NWSISD designated human rights officer immediately, without screening or investigating the report. The designated site employee or Executive Director 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 designated site employee to the human rights officer. If the report was given verbally, the designated site employee or Executive Director shall personally reduce it to written form within 24 hours and forward it to the designated human rights officer. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action against the designated site employee or Executive Director.

- D. In NWSISD. The school board hereby designates the Executive Director as the NWSISD human rights officer to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves the human rights officer, the complaint shall be filed directly with the Joint Powers Board Chair.
- E. NWSISD shall conspicuously post the name of the designated human rights officer, including mailing addresses and telephone numbers.
- F. 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, or work assignments.
- G. Use of formal reporting forms is not mandatory.
- H. Reports of harassment or 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. NWSISD 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 its legal obligations to investigate, to take appropriate action, and to conform comply with any discovery or disclosure obligations.

V. INVESTIGATION

- A. NWSISD recognizes that despite its unique structure, it is ultimately responsible for the investigation of allegations of harassment or violence prohibited by this policy that occur at NWSISD sponsored programs or activities.

By authority of NWSISD, its designated human rights officer, upon receipt of a report or complaint alleging religious, racial or sexual harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by NWSISD staff, appropriate staff from NWSISD member school districts or by a third party designated by NWSISD.

The NWSISD human rights officer shall be responsible for the investigation of allegations of harassment or violence occurring at NWSISD sponsored programs or activities that involve students from different member school districts or that occur between students and NWSISD personnel, including contractors.

The NWSISD human rights officer may ask a member school district to investigate or assist in the investigation of allegations of harassment or violence occurring at NWSISD programs or activities that involve students from the same member school district.

A NWSISD member school district shall investigate allegations of harassment or violence occurring at NWSISD sponsored activities or programs when those programs or activities involve only students and staff from that member school district.¹

¹ An example of such an activity is a multi-cultural assembly at a member school district's elementary school that is sponsored and paid for by NWSISD.

When a NWSISD member school district assists in the investigation of an allegation of harassment or violence, the member school district shall assist the NWSISD human rights officer in completing the investigation report. When the investigation results in a finding of harassment or violence, the home school district of the perpetrator shall be responsible for disciplining the perpetrator. NWSISD may also impose consequences as outlined in the NWSISD Student Conduct Guide².

When a NWSISD member school district investigates an allegation of harassment or violence that involves only students from its district, it shall provide the NWSISD human rights officer a report of the investigation. The report should include a summary of the investigation, findings and any disciplinary action taken. If the investigation finds that harassment or violence occurred, the home school district shall be responsible for disciplining the perpetrator.

- 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 alleged conduct constitutes a violation of this policy, NWSISD 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, NWSISD and its member school districts may take immediate steps, at their discretion, to protect the complainant, students, teachers, administrators or other NWSISD personnel pending completion of an investigation of alleged harassment or violence prohibited by this policy.
- E. The investigation will be completed as soon as practicable. NWSISD's designated human rights officer shall make a written report upon completion of the investigation. If the complaint involves the Executive Director, the report may be filed directly with the Joint Powers Board Chair. 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.

² See NWSISD Policy 506, Student Discipline

VI. SCHOOL DISTRICT ACTION

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

VII. REPRISAL

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

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, 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 Minnesota law. If so, the duties of mandatory reporting under Minn. Stat. § 626.556 (Reporting of Maltreatment to Minors Act) may be applicable.
- B. Nothing in this policy will prohibit NWSISD 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 at NWSISD in areas accessible to students and employees.
- B. This policy shall be given to each NWSISD employee and independent contractor at the time of entering into the person's employment contract.
- C. This policy shall appear in the student conduct guide.
- D. NWSISD will develop a method of discussing this policy with students and staff.
- E. NWSISD 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 at least 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: MSBA/MASA Model Policy 102 (Equal Educational Opportunity)
MSBA/MASA Model Policy 401 (Equal Employment Opportunity)
MSBA/MASA Model Policy 402 (Disability Nondiscrimination Policy)
MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 406 (Public and Private Personnel Data)
MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)

MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)
MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)
MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)
MSBA/MASA Model Policy 525 (Violence Prevention)
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital

Adopted: April 16, 2003

Revised: December 15, 2010