



## **413 Harassment and Violence - MSBA Mandated**

### **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, including gender identity or expression, or disability.

### **II. General Statement of Policy**

A. The policy of the school district 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, including gender identity or expression, or disability. 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, including gender identity or expression, or disability.

B. A violation of this policy occurs when any student, teacher, administrator, or other school district personnel harasses a student, teacher, administrator, or other school district personnel or group of students, teachers, administrators, or other school district 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, including gender identity or expression, or disability, as defined by this policy. (For purposes of this policy, school district personnel include school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the district.)

C. A violation of this policy occurs when any student, teacher, administrator, or other school district personnel inflicts, threatens to inflict, or attempts to inflict violence upon any student, teacher, administrator, or other school district personnel or group of students, teachers, administrators, or other school district 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, including gender identity or expression, or disability.

D. The school district will act to investigate all complaints, either formal or informal, verbal or written, of 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, including gender identity or expression, or disability, and to discipline or take appropriate action against any student, teacher, administrator, or other school district personnel who is found to have violated this policy.

### **III. Definitions**

#### **Assault:**

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.

**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.

**Immediately:** means as soon as possible but in no event longer than 24 hours.

#### **Protected Classifications; Definitions**

**Disability:** means any condition or characteristic that renders a person a disabled person. A disabled person is any person who:

1. has a physical, sensory, or mental impairment which materially limits one or more major life activities;
2. has a record of such an impairment; or
3. is regarded as having such an impairment.

**Familial status:** means the condition of one or more minors being domiciled with:

1. their parent or parents or the minor's legal guardian; or
2. 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.

**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.

National origin: means the place of birth of an individual or of any of the individual's lineal ancestors.

Sex: includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

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.

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.

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.

Sexual Harassment: 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 employment or an education; or
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 or unreasonably 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 student(s) by teachers, administrators, or other school district 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 sexual orientation, including gender identity or expression.

#### Sexual Violence:

1. Sexual violence is a physical act of aggression or force or the threat there of 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 sex or the opposite sex;

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.

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, 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.

#### **IV. Reporting Procedures**

A. Any person who believes he or she has been the target or victim of harassment, sexual 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 by a student, teacher, administrator, or other school district personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student, teacher, administrator, or other school district personnel or group of students, teachers, administrators, or other school district personnel should report the alleged acts immediately to an appropriate school district official designated by this policy. A person may report conduct which may constitute harassment or violence anonymously. However, the school district may not rely solely on an anonymous report to determine discipline or other remedial responses.

B. The school district encourages the reporting party or complainant to use the report form available from the NSCS office, but oral reports shall be considered complaints as well. The NSCS Director is

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responsible for receiving oral or written reports of harassment, sexual harassment or violence. Any NSCS personnel who receives a report shall inform the Director immediately.

C. The NSCS Board hereby designates the school's Director as the NSCS human rights officer to receive reports or complaints of harassment or violence.

D. 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 harassment or violence. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence shall make reasonable efforts to address and resolve the harassment or violence and shall inform the NSCS Director immediately. School district personnel who fail to inform the NSCS Director 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.

E. Upon receipt of a report, the NSCS Director may request, but may not insist upon, a written complaint. If the report was given verbally, the NSCS Director shall personally reduce it to written form within 24 hours.

F. If the complaint involves a human rights officer, the complaint shall be filed directly with the NSCS Board.

G. The school district shall conspicuously post the name of the human rights officer(s), including mailing addresses and telephone numbers.

H. Submission of a good faith complaint or report of harassment, sexual 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.

I. Use of formal reporting forms is not mandatory.

J. Reports of harassment, sexual 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.

K. The school 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 school district's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

L. Retaliation against a victim, good faith reporter, or a witness of violence, sexual harassment, or harassment is prohibited.

M. False accusations or reports of violence, sexual harassment, or harassment against another person are prohibited.

N. A person who engages in an act of violence, sexual harassment, or harassment, reprisal, retaliation, or false reporting of violence or harassment, or permits, condones, or tolerates violence or harassment shall

be subject to discipline or other remedial responses for that act in accordance with the school district's policies and procedures.

Consequences for students who commit, or are a party to, prohibited acts of violence, sexual harassment, or harassment or who engage in reprisal or intentional false reporting 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, sexual harassment, 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, sexual harassment, or harassment may include, but not be limited to, exclusion from school district property and events and/or termination of services and/or contracts.

## **VI. Investigation**

A. By authority of the NSCS Board, the human rights officer, within three (3) days of the receipt of a report or complaint alleging harassment, sexual harassment, or violence prohibited by this policy, shall undertake or authorize an investigation. 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 alleged conduct constitutes a violation of this policy, NSCS 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. NSCS may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, teachers, administrators, or other school personnel 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 shall be allowed the opportunity to present a defense 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 NSCS Director shall make a written report to the NSCS Board upon completion of the investigation. If the complaint involves the Director, the report may be filed directly with the school board. 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.

## **VI. NSCS Action**

A. Upon completion of an investigation that determines a violation of this policy has occurred, NSCS will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior. NSCS action taken for violation of this policy will be consistent with the requirements of applicable collective bargaining agreements, Minnesota and federal law, and applicable NSCS policies and regulations.

B. NSCS 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 school district. School officials will notify the parent(s) or guardian(s) of targets or victims of harassment, sexual harassment, or violence and the parent(s) or guardian(s) of alleged perpetrators of harassment, sexual harassment, or violence who have been involved in a reported and confirmed harassment, sexual harassment, or violence incident of the remedial or disciplinary action taken, to the extent permitted by law.

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

## **VII. Reprisal**

NSCS will discipline or take appropriate action against any student, teacher, administrator, or other school personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment, sexual harassment, or violence prohibited by this policy, who testifies, assists, or participates in an investigation of retaliation or alleged harassment, sexual harassment, or violence, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment, sexual 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, sexual harassment, or violence. Remedial responses to the harassment, sexual harassment, or violence shall be tailored to the particular incident and nature of the conduct.

## **VIII. Right to Alternative Complaint Procedure**

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 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 shall be conspicuously posted throughout each school building in areas accessible to students and staff members.
- B. This policy shall be given to each NSCS employee and independent contractor who regularly interacts with students at the time of initial employment with the school district.
- C. This policy shall be available in its entirety online at the NSCS website. A summary will be available in the parent/ student handbook.
- D. NSCS will develop a method of discussing this policy with students and employees.
- E. NSCS 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, resourcefulness, and/or sexual abuse prevention.
- F. This policy shall be reviewed at least annually for compliance with state and federal law.