

NOVA CLASSICAL ACADEMY
MANUAL OF POLICIES APPROVED BY THE BOARD OF DIRECTORS

Policy 413:
HARASSMENT AND VIOLENCE

[Note: State law (Minnesota Statutes section 121A.03) requires that school districts adopt a sexual, religious, and racial harassment and violence policy that conforms with the Minnesota Human Rights Act, Minnesota Statutes section 363A (MHRA). This policy complies with that statutory requirement and addresses the other classifications protected by the MHRA 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 specifically required to do so by Minnesota Statutes section 121A.03. The Minnesota Department of Education (MDE) is required to maintain and make available a model sexual, religious, and racial harassment policy in accordance with Minnesota Statutes section 121A.03. MDE's policy differs from that of MSBA and imposes greater requirements upon school districts than required by law. For that reason, MSBA recommends the adoption of its model policy by school districts. 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 free from harassment and violence on the basis of, but not limited to, race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, gender identity or expression, or disability, hereafter referred to as (Protected Class).

II. GENERAL STATEMENT OF POLICY

- A. The policy of Nova Classical is to maintain a learning and working environment free from harassment and violence on the basis of Protected Class. Nova Classical prohibits any form of harassment or violence on the basis of Protected Class.
- B. A violation of this policy occurs when any student, teacher, administrator, or other Nova Classical personnel harasses a student, teacher, administrator, or other Nova Classical personnel or group of students, teachers, administrators, or other Nova Classical personnel through conduct or communication based on a person's Protected Class as defined by this policy. (For purposes of this policy, Nova Classical personnel includes members of the Board of Directors, 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 Nova Classical personnel inflicts, threatens to inflict, or attempts to inflict violence upon any student, teacher, administrator, or other Nova

Classical personnel or group of students, teachers, administrators, or other Nova Classical personnel based on a person's Protected Class.

- D. Nova Classical will act to investigate all complaints — either formal or informal, verbal or written— of harassment or violence based on a person's Protected Class, and will to discipline or take appropriate action against any student, teacher, administrator, or other Nova Classical personnel 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, age, marital status, familial status, status with regard to public assistance, sexual orientation, gender identity or expression, or disability Protected Class 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 no longer than 24 hours.

- D. **Protected Class** refers to all areas covered in MN Statute 363A, otherwise referred to as the Minnesota Human Rights Act (MHRA). It includes, but is not limited to, race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, gender identity or expression, and disability.

- E. Protected Classifications; Selected Definitions

1. **Disability** means, with respect to an individual 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;
 - c. is regarded as having such an impairment; or
 - 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. the minor's parent or parents or the minor's legal guardian or guardians; or
 - b. the designee of the ~~parent(s) or guardian(s)~~ ~~parent or parents or guardian or guardians~~ with the written permission of the ~~parent(s) or guardian(s)~~ ~~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. **Gender identity and expression** means an individual's deeply held sense of being male, female, both, or neither; it is an internal construct not necessarily visible to others. All people have a gender identity, but the age at which individuals come to understand and express their gender identity will vary based on social development. Although many people have a gender identity that matches their assigned sex and gender, one's gender identity can be different from the sex and gender assigned by others at birth.
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 or discrimination 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 to whom someone is, ~~is~~ or is perceived as being, ~~is~~ emotionally, physically, or sexually attracted ~~to~~ based on sex

or gender identity. A person may be attracted to men, women, both, neither, or to people who are genderqueer, androgynous, or have other gender identities.

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.

F. Nova Classical personnel includes members of the Board of Directors, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the district.

G. 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.

H. Sexual Harassment; Definition

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; 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 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 pressure for sexual activity;
 - c. unwelcome, sexually-motivated, or inappropriate patting, pinching, or physical contact, other than necessary for restraint of student(s) by teachers, administrators, or other Nova Classical personnel 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 or educational status;
- 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 or educational status; or
- f. unwelcome behavior or words directed at an individual because of sexual orientation or gender identity or expression.

I. Sexual Violence; Definition

- 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 Minnesota Statutes section 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.

J. Violence; Definition

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

IV. **REPORTING PROCEDURES**

- A. Any person who believes they have been the target or 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, gender identity or expression, or disability Protected Class by a student, teacher, administrator, or other Nova Classical 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 Nova Classical personnel, or group of students, teachers, administrators, or other Nova Classical personnel should report the alleged acts immediately to an appropriate Nova Classical official designated by this policy. A person may report conduct that may constitute harassment or violence anonymously. However, Nova Classical may not rely solely on an anonymous report to determine discipline or other remedial responses.

- B. Nova Classical encourages the reporting party or complainant to use the report form available from the principal or building supervisor of each building or available from the Nova Classical office, but oral reports shall be considered complaints as well.
- C. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the Nova Classical human rights officer or to the Executive Director. If the complaint involves the Executive Director, the complaint shall be made or filed directly with the Board Chair or Chair-Elect by the reporting party or complainant.
- D. In Each School Building. The building principal, the principal's designee, or the building supervisor (hereinafter the **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 Nova Classical personnel who receives a report of harassment or violence prohibited by this policy shall inform the building report taker immediately. If the complaint involves the building report taker, the complaint shall be made or filed directly with the Executive Director by the reporting party or complainant. The building report taker shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as a primary contact on policy and procedural matters.
- 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 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 building report taker immediately. Nova Classical personnel 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 must notify the Executive Director 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 Executive Director. If the report was given verbally, the building report taker shall personally reduce it to written form within 24 hours and

forward it to the Executive Director. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action against the building report taker.

- G. In the District. The Board hereby designates the Lower School Principal and the Upper School Principal as Nova Classical human rights officers to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves a human rights officer, the complaint shall be filed directly with the Executive Director or Board Chair.
- H. Nova Classical shall conspicuously post the name of the human rights officer(s), including 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 or violence prohibited by this policy are classified as private educational data, private personnel data, and/or confidential investigative data and will not be disclosed except as permitted by law.
- L. Nova Classical 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 Nova Classical'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 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 who permits, condones, or tolerates violence or harassment, shall be subject to discipline or other remedial responses for that act in accordance with Nova Classical'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 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 Nova Classical property and events and/or termination of services and/or contracts.

V. INVESTIGATION

- A. By authority of Nova Classical, the human rights officer, within three (3) days of the receipt of a report or complaint alleging harassment or violence prohibited by this policy, shall undertake or authorize an investigation. The investigation may be conducted by Nova Classical officials or by a third party designated by Nova Classical.
- 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, Nova Classical 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, Nova Classical may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, teachers, administrators, or other Nova Classical 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 Nova Classical human rights officer shall make a written report to the Executive Director upon completion of the investigation. If the complaint involves the Executive Director, the report may be filed directly with the 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. SCHOOL DISTRICT ACTION

- A. Upon completion of an investigation that determines that a violation of this policy has occurred, Nova Classical 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. Nova Classical action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and applicable Nova Classical policies and regulations.

- B. Nova Classical is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student or employee of Nova Classical. School 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.
- C. In order to prevent or respond to acts of harassment or violence committed by or directed against a child with a disability, Nova Classical 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. RETALIATION OR REPRISAL

Nova Classical will discipline or take appropriate action against any student, teacher, administrator, or other Nova Classical personnel who commits an act of reprisal or who retaliates against any person:

- A. who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy;
- B. who testifies, assists, or participates in an investigation of retaliation or alleged harassment or violence; or
- C. 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 shall 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 Minnesota law. If so, the duties of mandatory reporting under Minnesota Statutes, chapter 260E may be applicable.
- B. Nothing in this policy will prohibit Nova Classical 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 Nova Classical employee and independent contractor who regularly interacts with students at the time of initial employment with Nova Classical.
- C. This policy shall appear in the student handbook.
- D. Nova Classical will develop a method of discussing this policy with students and employees.
- E. Nova Classical 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.

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. 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 (Section 504 of the Rehabilitation Act of 1973)
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: 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 514 (Bullying Prohibition Policy)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)
MSBA/MASA Model Policy 522 (Title IX Sex Nondiscrimination, Grievance Procedures and Process)
MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)
MSBA/MASA Model Policy 525 (Violence Prevention)
MSBA/MASA Model Policy 526 (Hazing Prohibition)
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)
Nova Policy 601 (Gender Inclusion Policy)

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