

PROCEDURE 102A - PROHIBITION AGAINST PROTECTED STATUS DISCRIMINATION, HARASSMENT, VIOLENCE AND RETALIATION

I. SCOPE AND PURPOSE

This procedure addresses all forms of discrimination, harassment and violence based upon a person's protected status.

II. DEFINITIONS

- A. District employee: For purposes of the policy/procedures, district employee includes school board members, school district employees, third parties such as agents, volunteers, contractors/vendors, or persons subject to the supervision and control of the district.
- B. Discriminate: The term "discriminate" means to treat a person in a disparate manner because of that person's race, color, creed, religion, national origin, citizenship/immigration status, sex (including pregnancy), marital status, disability, genetic information, status with regard to public assistance, sexual orientation, gender identity and gender expression, age, familial status, family care leave status or veteran status. Discrimination may implicate more than one protected class such as an individual may be targeted based on sex and disability.
- C. Harassment: Harassment is unwelcome conduct that is based on race, color, creed, religion, national origin, citizenship/immigration status, sex (including pregnancy), marital status, disability, genetic information, status with regard to public assistance, sexual orientation, gender identity and gender expression, age, familial status, family care leave status or veteran status. Harassment may implicate more than one protected class. For example, an individual may be targeted because of his race and sexual orientation.
 - 1. Harassing conduct may take many forms, including but not limited to verbal acts and name-calling, as well as nonverbal behavior that is physically threatening, harmful, or humiliating. Harassment includes the use of derogatory language, intimidation, and threats; unwanted physical contact or physical violence; and the use of derogatory language and images in social media, graffiti, pictures or drawings, notes, e-mails, electronic postings and/or phone or text messages related to a person's membership in a protected class. Harassment includes behavior that may not be directed at a particular person, but may instead consist of harassing conduct (e.g. physical, verbal, graphic, or written) that creates a hostile environment for students or employees.
 - 2. Conduct is unwelcome if the student or employee did not request or invite it and considered the conduct to be undesirable or offensive. Submission or failure to complain does not mean that the conduct was welcome; the circumstances must be examined.
 - 3. With respect to students, a "hostile environment" exists when harassment is sufficiently severe, persistent, or pervasive to interfere with or limit one or more students' abilities to participate in or benefit from the education program.
 - 4. With respect to district employees, a "hostile environment" exists when harassment is sufficiently severe or pervasive so as to alter the conditions of the target's employment and create an abusive working environment.
- D. 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 submission to that conduct or communication is made a term or condition either explicitly or implicitly of obtaining employment or an education; or 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 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 educational environment.
 - 2. Sexual harassment may include but is not limited to: unwelcome verbal harassment or abuse, unwelcome pressure for sexual activity; 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; unwelcome sexual behavior or words including demands for sexual favors, accompanied by implied or overt promises or preferential treatment with regard to an individual's employment or educational status; or unwelcome behavior or words directed at an individual because of sexual orientation including gender identity or expression.

- E. Malicious and sadistic conduct is conduct that creates a hostile learning environment by acting with intent to cause harm by intentionally injuring another without just cause or reason or engaging in extreme or excessive cruelty or delighting in cruelty.
- F. 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.
- G. Sexual violence may include but is not limited to touching, patting, grabbing or pinching another person's intimate parts; coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts; coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse on another.
- H. 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 on another; or
 - 3. the threat to do bodily harm to another with present ability to carry out the threat.

III. NOTICE AND PUBLICATION OF REPORTING PROCEDURES

The school district will post complaint procedures regarding protected status discrimination, harassment and violence reports in its buildings, on its website and in employee and student handbooks. It will be distributed to each employee and independent contractor at the time of hiring or contracting, and a process for communicating this policy with students, employees and independent contractors.

IV. REPORTING PROCEDURES FOR INCIDENTS OF HARASSMENT, VIOLENCE AND/OR DISCRIMINATION AGAINST DISTRICT EMPLOYEES

A. Reporting Complaints

- 1. Any school district employee who believes he or she has experienced harassment, violence or discrimination under Policy 102, or any person with knowledge of or belief of conduct which may constitute harassment, violence, or discrimination, should report this information immediately, or as soon as possible, to an appropriate district official designated by these procedures.
- 2. Although the school district encourages the alleged target or other reporting party to use a district formal reporting form, use of the formal reporting form is not required. Oral reports shall be considered complaints as well. The form will be available from the principal of each building, the district office, and on the district's website. Upon request for qualified persons with a disability, alternative means of filing a complaint, such as through a personal interview or by tape recording, will be made available.
- 3. The reports may be made to any of the following: the employee's supervisor or supervisor of the supervisor, site principal or leader, department leader or Human Resources Department employee.
- 4. The district designates the Executive Director of Human Resources as the school district human rights officer to receive employee reports or complaints of harassment, violence and discrimination.

If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the Superintendent.

If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board.

If the complaint involves a School Board Member, the complaint shall be filed directly with the School Board Chair.

If the complaint involves the School Board Chair, the complaint shall be filed directly with the School Board Vice Chair.

All complaints may be titled to the person as indicated with the following mailing address:

11200 93rd Avenue North
Maple Grove, MN 55369

5. Any school district employee who receives a report shall inform their supervisor or their building principal or site leader immediately. If the supervisor or principal or site leader is not available on the date of the report, then the employee must forward the oral or written report/complaint directly to the human rights officer. If the complaint involves the supervisor or principal or site leader, the employee will provide the report directly to the school district human rights officer. Upon receipt of a report, the supervisor or principal must notify the school district human rights officer immediately, without screening or investigating the credibility of the report. The supervisor or principal or site leader may request, but may not insist on, a formal written complaint. If the report is verbal, the supervisor or principal or site leader shall prepare and provide to the human rights officer a written statement of the facts alleged within 24 business hours of receiving the report. Failure to forward a complaint under these procedures may result in disciplinary action against the responsible party.
 6. Nothing in these procedures shall prevent a school district employee from reporting alleged harassment, violence, or discrimination directly to the school district human rights officer or to the superintendent.
 7. The willful filing of a false report will be considered to be a violation of school district policy and may result in disciplinary action.
 8. Although confidentiality cannot be assured, the school district will respect the privacy of the alleged target, the reporter (if someone other than the alleged target), the individual(s) against whom the complaint is filed, and the witnesses as much as possible, to take appropriate action, and to conform with any discovery or disclosure obligations.
- B. Investigation – District Employees
1. The human rights officer or designee, upon receipt of a report or complaint, will promptly undertake or authorize an investigation. The investigation may be conducted by school district officials or by a neutral third party designated by the school district.
 2. The investigation will be completed within thirty (30) calendar days from receipt of the complaint, unless impracticable.
 3. The investigation may, as appropriate, consist of personal interviews with the alleged target, the reporter (if someone other than the alleged target), 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 (e.g. review of documents and electronic media) deemed pertinent by the investigator.
 4. In determining whether alleged conduct constitutes a violation of the policy/procedures the school district will consider the facts and 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 the policy/procedures requires a determination based on all the facts and surrounding circumstances.
 5. The school district, at its discretion, may take immediate steps, based on the severity of the allegations, to protect the parties involved in the complaint process pending completion of an investigation.

6. Individuals involved in the investigation will be provided updates on the status of the investigation.
- C. School District Action – District Employees
1. Upon completion of the investigation, the school district or neutral third party designated investigator will make a written report to the human rights officer. If the complaint involves the human rights officer, the report must be filed directly with the superintendent. If the complaint involves the superintendent, the report must be filed directly with the school board. The report will include the facts, a determination of whether the allegations have been substantiated/not substantiated or are inconclusive.
 2. The human rights officer or designee will determine if district policies, procedures, rules or guidelines are violated based on the evidence.
 3. Upon completion of the investigation, the human rights officer will provide a closure letter to the respondent which will include notice of the district's prohibition against retaliation, relevant resources and of the right to review relevant portions of the written report in accordance with state and federal law regarding data or records privacy and a contact to call with questions. The complainant and witnesses will also be provided with closure letters which will include notice of their rights not to be retaliated against, resources and a contact to call with questions.
 4. In the event a complaint is substantiated, the school district will take appropriate and effective action depending on the circumstances. Such action may include, but is not limited to, training, counseling, warning, suspension, transfer, remediation, or termination. School district action taken for violation of these procedures and related policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and school district policies.

V. REPORTING PROCEDURES FOR INCIDENTS OF HARASSMENT, DISCRIMINATION AND VIOLENCE AGAINST STUDENTS.

A. Reporting a Complaint

1. Any student who believes she/he has experienced harassment, violence or discrimination on the basis of their actual or perceived race, color, creed, religion, national origin, citizenship/immigration status, sex (including pregnancy), marital status, disability, genetic information, status with regard to public assistance, sexual orientation, gender identity and gender expression, age, familial status, family care leave status or veteran status should report the alleged acts immediately, or as soon as possible to their building principal or a staff member in their school. Students may also report through the district's online STOPIT application.
2. Any District employee who observes an act or receives a report of alleged harassment, violence or discrimination toward a student shall intervene to attempt to stop the act and shall report it to the building principal or principal's designee in their school immediately, or as soon as possible.
3. The district designates the building principal and their designee to monitor and receive student reports or complaints of alleged harassment, violence and discrimination against students.
4. If the complaint involves a principal, the complaint should be filed directly with the Assistant Superintendent that supervises the Principal. If a complaint involves the Assistant Superintendent, the complaint shall be filed directly with the Superintendent. If the complaint involves the Superintendent, the complaint shall be filed directly with the School Board.
5. If the complaint involves a School Board member, the complaint shall be filed directly with the School Board Chair. If the complaint involves the school board chair, the complaint shall be filed directly with the School Board Vice Chair.
6. Although the school district encourages the reporting student to submit a written complaint, it is not required. Oral reports shall be considered complaints as well. A form will be available in the counseling and administrative office of each school, the district office, and on the district's website.
7. Alternative, accessible means of filing a complaint, such as through a personal interview or by tape recording, will be made available..

B. Investigation – Students

1. Upon receipt of a report or complaint, the district shall promptly undertake or authorize an investigation. The investigation will be completed within thirty (30) days from receipt of the complaint, unless impracticable.
2. The investigation may, as appropriate, consist of personal interviews with the alleged target, the reporter (if someone other than the alleged target), 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.
3. In determining whether alleged conduct constitutes a violation of the policy/procedures, the school district will consider the age and level of understanding of the student(s) involved, the facts and 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 these policy and procedures requires a determination based on all the facts and surrounding circumstances.
4. The school district and building administration may, at its discretion, take immediate steps, based on the severity of the allegations, to protect the parties involved in the complaint process pending completion of an investigation.
5. The intentional filing of a false report will be considered to be a violation of the student discipline policy and may result in disciplinary action.

C. School District Action – Students

1. The investigator shall document the findings within five school days of concluding the investigation.
2. Upon conclusion of the investigation and receipt of the findings, and if harassment is found to have occurred, the school district will take appropriate and effective action with respect to the target and the offender, and document the action taken. If the investigator determined that a violation of the policy/procedures has occurred, such appropriate action may include, but is not limited to, an education component, alternative dispute resolution, training, counseling, warning, class transfer, suspension, expulsion, or transfer. Only if both the target and the alleged offender voluntarily agree, mediation or restorative practices will be considered.

D. Timelines and Notification to Parents / Guardians of the Target(s) and Alleged Offender(s)

1. The parent(s)/guardian(s) should be notified of the report before the close of the current school day, but not later than one school day of the report being filed, unless otherwise directed by law enforcement or required by law, or if in the professional judgment of the District notification will interfere with the investigation. The parents/guardians shall be notified if there is a physical or sexual assault, unless otherwise directed by law enforcement or required by law. Parents shall be notified of an interview of their student.
2. Following the investigation, the person handling the complaint or a representative of the District will communicate with the target regarding the outcome of the investigation.
 - a. This communication will include the parent(s)/guardian(s) of the student at the parent's/guardian's request if the student is under age 18, or at the student's request if over 18.
 - b. If the investigation has not been completed within ten school days, a status update will be given to those involved in the investigation.
 - c. The privacy and data privacy rights of all persons involved must be respected in accordance with current state and federal laws.

E. Persons Responsible for Investigation and Reporting Procedures

1. When a report is made or referred to the building principal, that person or their designee is responsible for carrying out and documenting this reporting procedure.
2. When a report is made or referred to the Assistant Superintendent, that person or their designee, is responsible for carrying out and documenting this reporting procedure.
3. When a report is made to the Superintendent, that person or their designee is responsible for carrying out and documenting this reporting procedure.
4. Incidents that include violence as defined in this procedure should also be referred to the police liaison officer serving the building for a possible separate criminal investigation.

5. When the report involves alleged harassment, violence or discrimination by a district employee or employee of an agency contracted by the District against a student, the investigation will be performed by the District Human Rights Office or their designee.
- F. Harassment or Violence Abuse
1. 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 section 626.556 may be applicable.
 2. Nothing in these procedures will prevent or prohibit the district from taking immediate action to protect victims of alleged harassment, violence or abuse.

VI. NO RETALIATION

VII. Retaliation against any individual who reports discrimination, harassment, or violence, or who participates in an investigation, proceeding, or hearing, is strictly prohibited. The school district will take appropriate disciplinary action against any student, employee, or other individual who engages in retaliation. Retaliation includes any adverse action that might discourage a reasonable person from making a report or participating in a process. Examples include, but are not limited to, intimidation, threats, coercion, harassment, exclusion, or changes in academic or work assignments. Individuals who make a good faith report or participate in an investigation are protected from retaliation, regardless of the outcome of the complaint. **APPEAL**

If the report or grievance has not been resolved to the satisfaction of the alleged target of harassment, violence or discrimination, they may appeal.

- A. Appeals of Alleged Prohibited Acts by Employee: If the alleged target of harassment, violence or discrimination believes that they are aggrieved by the actions taken by the school district, they may appeal to the district's general counsel.
- B. Appeals of Alleged Prohibited Acts by Student: If the alleged target of harassment, violence or discrimination believes that they are aggrieved by the actions by the school district, they may appeal to the Assistant Superintendent that supervises their school, site or program.

Appeals must be made in writing within ten (10) business days of receipt of notification of the closure of the investigation. The person designated to hear the appeal will conduct a review and issue a decision within ten (10) business days of receiving notice of the appeal. The decision issued under this section is final.

VII. CONFLICT OF INTEREST

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

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 agencies identified below, or initiating an action in state or federal court.

Minnesota Department of Human Rights
Freeman Building
625 Robert Street North
St. Paul, MN 55155
Toll free: 800.657.3704
TTY: 651.296.1283
Fax: 651.296.9042
www.humanrights.state.mn.us

U.S. Department of Education Office for
Civil Rights, Region V500
W. Madison Street-Suite 1475
Chicago, IL 60661
Tel: 312.730.1560 TDD: 312.730.1609

IX. DISSEMINATION OF THE POLICY

- A. Each school will ensure that the policy and procedures are discussed at the start of each school year with all staff and with each student in a manner appropriate to his/her age and

level of understanding and the principal or a designee will document the date it was discussed in each classroom.

- B. These procedures, including possible consequences for a violation, will be in the employee handbook and student handbook of every school.

Revised:

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Revised: 11/16/21

Revised: 4/17/18 (Procedures 413 & 548 combined)

Revised: 9/27/16

Revised: 9/10/13

Revised: 1/25/12

Revised: 5/17/10

Revised: 10/16/01

Revised: 2/2/99 (formerly Procedure 4153 & 4253)

Revised: 2/1/94

Revised: 4/3/90

Adopted: 8/20/85

Cross References:

Policy 414 – Mandated Reporting of Child Neglect or Physical or Sexual Abuse

Policy 506 – Student Discipline

Legal References:

M.S. 121A.0312

M.S. 121A.03, Subd. 2

M.S. 363A

M.S. 609.341-609.345

M.S. 609.321-609.324

M.S. 617.246

M.S. 626.556