

Adopted: 5/20/04

Independent School District #118 Policy 514

Revised: 5/24/05, 8/22

Reviewed /Revised: 2/16/06, 3/15/07, 3/09, 11/12, 10/13, 7/14, 2/16, 10/16, 8/17, 8/18, 12/19, 10/20, 10/21, 7/10/23

514 PROHIBITION OF HARRASSMENT, INTIMIDATION AND BULLYING

I. PURPOSE

A safe and civil environment is needed for students to learn and attain high academic standards and to promote healthy human relationships. Harassment, intimidation and bullying, like other violent or disruptive behavior, is conduct that interferes with students' ability to learn and/or a teachers' ability to educate students in a safe environment. The school district cannot monitor the activities of students at all times and eliminate all incidents of harassment, intimidation and bullying between students, particularly when students are not under the direct supervision of school personnel. However, to the extent such conduct affects the educational environment of the school district and the rights and welfare of its students and is within the control of the school district in its normal operations, the school district intends to prevent harassment, intimidation and bullying and to take action to investigate, respond to, and to remediate and discipline for those acts of harassment, intimidation and bullying which have not been successfully prevented. The purpose of this policy is to assist the school district in its goal of preventing and responding to acts of bullying, intimidation, violence, reprisal, retaliation, and other similar disruptive behavior.

II. GENERAL STATEMENT OF POLICY

- A. An act of bullying, by either an individual student or a group of students, is expressly prohibited:
 - 1. on the school premises, at the school functions or activities, on the school transportation;
 - 2. by the use of electronic technology and communications on the school premises, during the school functions or activities, on the school transportation, or on the school computers, networks, forums, and mailing lists; or
 - 3. by use of electronic technology and communications off the school premises to the extent such use substantially and materially disrupts student learning or the school environment.
- B. A school-aged child who voluntarily participates in a public school activity, such as a co curricular or extracurricular activity, is subject to the policy provisions applicable to the public school students participating in the activity.
- C. This policy applies not only to students who directly engage in an act of bullying but also to students who, by their indirect behavior, condone or support another student's act of bullying. This policy also applies to any student whose conduct at any time or in any place constitutes bullying or other prohibited conduct that interferes with or obstructs the mission or operations of the school district or the safety or welfare of the student or other students, or materially and substantially interferes with a student's educational opportunities or performance or ability to participate in school functions or

activities or receive school benefits, services, or privileges. This policy also applies to an act of cyberbullying regardless of whether such act is committed on or off school district property and/or with or without the use of school district resources. This policy also applies to sexual exploitation.

- D. Malicious and sadistic conduct involving race, color, creed, national origin, sex, age, marital status, status with regard to public assistance, disability, religion, sexual harassment, and sexual orientation and gender identity as defined in Minnesota Statutes, chapter 363A is prohibited. This prohibition applies to students, independent contractors, teachers, administrators, and other school personnel.

Malicious and sadistic conduct and sexual exploitation by a school district or school staff member, independent contractor, or enrolled student against a staff member, independent contractor, or student that occurs as described in Article II.A above is prohibited.

- E. No teacher, administrator, volunteer, contractor, or other employee of the school district shall permit, condone, or tolerate bullying.
- F. Apparent permission or consent by a student being bullied does not lessen or negate the prohibitions contained in this policy.
- G. Retaliation against a victim, good faith reporter, or a witness of bullying is prohibited.
- H. False accusations or reports of bullying against another student are prohibited.
- I. A person who engages in an act of bullying, reprisal, retaliation, or false reporting of bullying or permits, condones, or tolerates bullying shall be subject to discipline or other remedial responses for that act in accordance with the school district's policies and procedures, including the school district's discipline policy (See MSBA/MASA Model Policy 506). The school district may take into account the following factors:
 - 1. The developmental ages and maturity levels of the parties involved;
 - 2. The levels of harm, surrounding circumstances, and nature of the behavior;
 - 3. Past incidences or past or continuing patterns of behavior;
 - 4. The relationship between the parties involved; and
 - 5. The context in which the alleged incidents occurred.

Consequences for students who commit prohibited acts of bullying may range from remedial responses or positive behavioral interventions up to and including suspension and/or expulsion. The school district shall employ research-based developmentally appropriate best practices that include preventative and remedial measures and effective discipline for deterring violations of this policy, apply throughout the school district, and foster student, parent, and community participation.

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

Consequences for other individuals engaging in prohibited acts of bullying may include, but not be limited to, exclusion from school district property and events.

- J. The school district will act to investigate all complaints of bullying reported to the school district and will discipline or take appropriate action against any student, teacher, administrator, volunteer, contractor, or other employee of the school district who is found to have violated this policy.

III. DEFINITIONS

A. “Bullying” means intimidating, threatening, abusive, or harming conduct that is objectively offensive and:

1. an actual or perceived imbalance of power exists between the student engaged in the prohibited conduct and the target of the prohibited conduct, and the conduct is repeated or forms a pattern; or
2. materially and substantially interferes with a student’s educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services, or privileges.
 - . The term “bullying” specifically includes cyberbullying, malicious and sadistic conduct, and sexual exploitation.

B. “Cyberbullying” means bullying using technology or other electronic communication, including , but not limited to, a transfer of a sign, signal, writing, image, sound, or data, including a post on a social network Internet website or forum, transmitted through a computer, cell phone, or other electronic device. The term applies to prohibited conduct which occurs o school premises, on school district property, at school functions or activities, on school transportation, or on school computers, networks, forums, and mailing lists, or off school premises to the extent that it substantially and materially disrupts student learning or the school environment.

C. “Immediately” means as soon as possible but in no event longer than 24 hours.

D. “Intimidating, threatening, abusive, or harming conduct” means, but is not limited to, conduct that does the following:

1. Causes physical harm to a student or a student’s property or causes a student to be in reasonable fear of harm to person or property.
2. Under Minnesota common law, violates a student’s reasonable expectation of privacy, defames a student, or constitutes intentional infliction of emotional distress against a students; or
3. Is directed to any student or students, including those based on a person’s actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socioeconomic status, physical appearance, sexual orientation including gender identity and expression, academic status related to student performance, disability, or status with regard to public assistance, age or any additional characteristic defined in the Minnesota Human Rights act (MHRA). However, prohibited conduct need not be based on any particular characteristic defined on this paragraph or the MHRA.

E. “Malicious and sadistic conduct” means creating a hostile learning environment by acting with the 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 “On school premises, on school district property, at school-related functions or activities, or on school transportation” means all school district buildings, school grounds, and school property or property immediately adjacent to school grounds, school bus stops, school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school district purposes, the area of entrance or departure from school grounds, premises, or events, and all school-related functions, school-sponsored activities, events, or trips. School district property also may mean a student’s walking route to or from school for purposes of attending school or school-related functions, activities, or events. While prohibiting harassment, intimidation and bullying at these locations and events, the school district does not represent that it will provide supervision or assume liability at these locations and events.

G.. “Prohibited conduct” means bullying ,cyberbullying malicious and sadistic conduct, sexual exploitation, or retaliation or reprisal for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about bullying.

H. “Remedial response” means a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of a student who is the target or victim of prohibited conduct.

I “Student” means a student enrolled in a public school or a charter school.

IV. REPORTING PROCEDURE

A. Any person who believes he or she has been target or the victim of bullying or any person with knowledge or belief of conduct that may constitute bullying or prohibited conduct under this policy shall report the alleged acts immediately to an appropriate school district official designated by this policy. A person may report bullying 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 principal or building supervisor of each building or available in the school district office, but oral reports shall be considered complaints as well.

C. The building principal or the principal’s designee or the building supervisor (hereinafter “building report taker”) is the person responsible for receiving reports of bullying or other prohibited conduct at the building level. Any person may report bullying or other prohibited conduct directly to a school district human rights officer or the superintendent. If the complaint involves the building report taker, the complaint shall be made or filed directly with the superintendent or the school district human rights officer 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 the primary contact on policy and procedural matters. The building report taker or a third party designated by the school district shall be responsible for the investigation. The building report taker shall provide information about available community resources to the target or victim of the bullying

or other prohibited conduct, the perpetrator, and other affected individuals as appropriate.

D. A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include harassment, intimidation and bullying. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute bullying or other prohibited conduct shall make reasonable efforts to address and resolve the bullying or prohibited conduct and shall inform the building principal immediately.

E. Reports of harassment, intimidation and bullying are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law.

F. Submission of a good faith complaint or report of harassment, intimidation and bullying will not affect the complainant's or reporter's future employment, grades, or work assignments, or educational or work environment.

G. 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 obligation to investigate, take appropriate action, and comply with any legal disclosure obligations.

V. SCHOOL DISTRICT ACTION

A. Upon receipt of a complaint or report of harassment, intimidation and bullying, the school district shall undertake or authorize an investigation by school district officials or a third party designated by the school district. For the incident to be classified as bullying there must be:

1. An inequity of power between parties;
2. the event must have occurred over time, i.e., repeated;
3. must have malicious intent;
4. substantially interferes with the student's educational benefits, opportunities or performance.

OR Within three days of the receipt of a complaint or report of bullying or other prohibited conduct, the school district shall undertake or authorize an investigation by the building report taker or a third party designated by the school district.

B. The school district may take immediate steps, at its discretion, to protect the complainant, reporter, students, or others pending completion of an investigation of harassment, intimidation or bullying, consistent with applicable law.

OR The building report taker or other appropriate school district officials may take immediate steps, at their discretion, to protect the target or victim of the bullying or other prohibited conduct, the complainant, the reporter, and students or others, pending completion of an investigation of the bullying or other prohibited conduct, consistent with applicable law.

C. The alleged perpetrator of the bullying or other prohibited conduct shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.

D. Upon completion of the investigation that determines that bullying or other prohibited conduct has occurred, the school district 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. School district action taken for violation of this policy will be consistent with the requirements of applicable collective bargaining agreements; applicable statutory authority, including the Minnesota Pupil Fair Dismissal Act; school district policies; and regulations.

E. The school district is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student or employee of the school district. School officials will notify the parent(s) or guardian(s) of students involved in a harassment, intimidation or bullying incident and the remedial action taken, to the extent permitted by law, based on a confirmed report.

F. In order to prevent or respond to bullying or other prohibited conduct committed by or directed against a child with a disability, the school district shall, when determined appropriate by the child's individualized education program (IEP) team 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 bullying or other prohibited conduct.

VI. RETALIATION OR REPRISAL

The school district will discipline or take appropriate action against any student, teacher, administrator, volunteer, contractor, or other employee of the school district who retaliates against any person who makes a good faith report of alleged harassment, intimidation and bullying or against any person who testifies, assists, or participates in an investigation, or against any person who testifies, assists, or participates in a proceeding or hearing relating to such harassment, intimidation and bullying. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment, or intentional disparate treatment.

VII. TRAINING AND EDUCATION

A. The school district will provide information and any applicable training to school district staff regarding this policy. This policy will be reviewed annually with staff.

B. The school district will provide education and information to students regarding harassment, intimidation and bullying, including information regarding this school district policy prohibiting bullying, the harmful effects of harassment, intimidation and bullying and other applicable initiatives to prevent harassment, intimidation and bullying. This policy will be reviewed with students annually.

C. The administration of the school district is directed to implement programs and other initiatives to prevent harassment, intimidation and bullying, to respond to harassment,

intimidation and bullying in a manner that does not stigmatize the victim, and to make resources or referrals to resources available to victims of harassment, intimidation and bullying.

- . D. The administration of the school district is directed to implement programs and other initiatives to prevent bullying, to respond to bullying in a manner that does not stigmatize the target or victim, and to make resources or referrals to resources available to targets or victims of bullying.
- E. The administration is encouraged to provide developmentally appropriate instruction and is directed to review programmatic instruction to determine if adjustments are necessary to help students identify and prevent or reduce bullying and other prohibited conduct, to value diversity in school and society, to develop and improve students' knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting bullying or other prohibited conduct, and to make effective prevention and intervention programs available to students.

The administration must establish strategies for creating a positive school climate and use evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct.

The administration is encouraged, to the extent practicable, to take such actions as it may deem appropriate to accomplish the following:

1. Engage all students in creating a safe and supportive school environment;
 2. Partner with parents and other community members to develop and implement prevention and intervention programs;
 3. Engage all students and adults in integrating education, intervention, and other remedial responses into the school environment;
 4. Train student bystanders to intervene in and report incidents of bullying and other prohibited conduct to the schools' primary contact person;
 5. Teach students to advocate for themselves and others;
 6. Prevent inappropriate referrals to special education of students who may engage in bullying or other prohibited conduct; and
 7. Foster student collaborations that, in turn, foster a safe and supportive school climate.
- F. The school district may implement violence prevention and character development education programs to prevent or 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.
 - G. The school district shall inform affected students and their parents of rights they may have under state and federal data practices laws to obtain access to data related to an incident and their right to contest the accuracy or completeness of the data. The school district may accomplish this requirement by inclusion of all or applicable parts of its protection and privacy of pupil records policy (See MSBA/MASA Model Policy 515) in the student handbook.

VIII. NOTICE

The school district will give annual notice of this policy to students, parents or guardians, and staff, and this policy shall appear in the student handbook.

- B. This policy must be conspicuously posted throughout each school building, in the administrative offices of the school district, and in the office of each school.
- C. This policy must be distributed to each school district or school employee and independent contractor at the time of hiring or contracting.
- D. Notice of the rights and responsibilities of students and their parents under this policy must be included in the student discipline policy (See MSBA/MASA Model Policy 506) distributed to parents at the beginning of each school year.
- E. This policy shall be available to all parents and other school community members in an electronic format in the language appearing on the school district's or a school's website.
- F. Each school must develop a process for discussing this policy with students, parents of students, independent contractors, and school employees.
- G. The school district shall provide an electronic copy of its most recently amended policy to the Minnesota Commissioner of Education.

IX. PROCEDURE

A. The Superintendent of Schools or the Superintendent's designee shall annually place this policy in all publications of the School District's comprehensive rules, procedures and standards of conduct for schools within the district, including the student handbook.

B. The Principal or the Principal's designee is responsible for receiving complaints alleging violations of this policy. All school employees are required to report alleged violations of this policy. All other members of the school community including students, parents, volunteers and visitors, are encouraged to report any act that may be in violation of this policy. The reporting party is encouraged to submit reports in writing. Oral reports also shall be considered official reports. Reports may be made anonymously, but formal disciplinary action may not be based solely on the basis of an anonymous report.

C. The Principal or the Principal's designee shall conduct a prompt, (within 48 hours excluding weekends & holidays) thorough and complete investigation of the alleged incident.

D. The School District prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying. The consequence and appropriate remedial action for a person who engages in reprisal or retaliation shall be determined by the administrator after consideration of the nature and circumstances of the act, in accordance with case law, federal and state statutes and regulation and district policies and procedures.

E. In determining the appropriate response to students who commit acts of harassment, intimidation or bullying, the Principal shall consider the following factors:

1. the developmental and maturity levels of the parties involved,
2. the levels of harm,
3. the surrounding circumstances,
4. the nature of the behaviors,
5. past incidences or past or continuing patterns of behavior,
6. the relationships between the parties involved and the context in which the alleged incidents occurred,
7. an inequity of power between parties,
8. the event must have occurred over time, i.e., repeated,
9. must have malicious intent,
10. Substantially interferes with the student's educational benefits, opportunities or performance.

Consequences and appropriate remedial action for students who commit acts of harassment, intimidation or bullying may range from positive behavioral interventions up to and including suspension or expulsion.

F. The Principal or the Principal's designee shall develop appropriate remedial action for a student found to have falsely accused another as a means of harassment, intimidation or bullying range from positive behavioral interventions up to and including suspension or expulsion. Consequences and appropriate remedial action for a school employee found to have falsely accused another, as a means of harassment, intimidation or bullying shall be disciplined in accordance with District policies, procedures and agreements.

X. POLICY REVIEW

To the extent practicable, the school board shall, on a cycle consistent with other school district policies, review and revise this policy. The policy shall be made consistent with Minnesota Statutes, sections 121A.031 and 121A.0312 and other applicable law. Revisions shall be made in consultation with students, parents, and community organizations.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 120A.05, Subds. 9, 11, 13, and 17 (Definitions)
Minn. Stat. § 120B.232 (Character Development Education)
Minn. Stat. § 121A.03 (Model Policy)
Minn. Stat. § 121A.031 (School Student Bullying Policy)
Minn. Stat. § 121A.0312 (Malicious and Sadistic Conduct)
Minn. Stat. § 121A.0311 (Notice of the Rights and Responsibilities of Students and Parents under the Safe and Supportive Minnesota Schools Act)
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. § 121A.69 (Hazing Policy)
Minn. Stat. Ch. 124E (Charter Schools)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
20 U.S.C. § 1232g *et seq.* (Family Educational Rights and Privacy Act)
34 C.F.R. §§ 99.1 - 99.67 (Family Educational Rights and Privacy)

Cross References: MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 413 (Harassment and Violence)
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 423 (Employee-Student Relationships)
MSBA/MASA Model Policy 501 (School Weapons Policy)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 507 (Corporal Punishment)
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 Policy)
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 529 (Staff Notification of Violent Behavior by Students)
MSBA/MASA Model Policy 709 (Student Transportation Safety Policy)
MSBA/MASA Model Policy 711 (Video Recording on School Buses)
MSBA/MASA Model Policy 712 (Video Surveillance Other Than on Buses)