

## **514 BULLYING PROHIBITION POLICY**

### **I. PURPOSE**

The purpose of this policy is to prohibit bullying behavior and assist the Duluth Public Schools in its goal of preventing and responding to acts of bullying, intimidation, violence, and other similar disruptive behavior.

The District strives to provide safe, secure and respectful learning environments for all students in school buildings, on school grounds, school buses and at school-sponsored activities. A safe and civil environment is needed for students to learn and attain high academic standards and to promote healthy human relationships.

A safe and civil environment is needed for students to learn and attain high academic standards and to promote healthy human relationships. Bullying, like other violent or disruptive behavior, is conduct that interferes with a student's ability to learn and/or a teacher's 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 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 bullying and to take action to investigate, respond to, and to remediate and discipline for those acts of bullying which have not been successfully prevented. The purpose of this policy is to assist in its goal of preventing and responding to acts of bullying, intimidation, violence, reprisal, retaliation, and other similar disruptive and detrimental behavior.

### **II. GENERAL STATEMENT OF POLICY**

- A. An act of bullying, by either an individual student or a group of students, is expressly prohibited on school premises, on school district property, at school functions or activities, or on school transportation. 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.
- B. No teacher, administrator, volunteer, contractor, or other employee of the school district shall permit, condone, or tolerate bullying.
- C. Apparent permission or consent by a student being bullied does not lessen or negate the prohibitions contained in this policy.

- D. Retaliation against a victim, good faith reporter, or a witness of bullying is prohibited.
- E. False accusations or reports of bullying against another student are prohibited.
- F. 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. 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.

- G. 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**

For purposes of this policy, the definitions included in this section apply.

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

1. an actual or perceived imbalance of power between the student engaging in prohibited conduct and the target of the 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 as defined in this policy.

- 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 on 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 student; or
  3. Is directed at 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 as defined in the Minnesota Human Rights Act (MHRA). However, prohibited conduct need not be based on any particular characteristic defined in this paragraph or the MHRA.
- E. "On Duluth Public Schools property or at school-related functions or on school transportation" means all 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 Duluth Public Schools 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. 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 bullying at these locations and events, the District does not represent that it will provide supervision or assume liability at these locations and events.

- F. "Prohibited conduct" means bullying or cyberbullying as defined in this policy or retaliation for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about bullying.
- G. "Remedial response" means a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of the student who is the target of the prohibited conduct.
- H. "Student" means a student enrolled in Duluth Public Schools.
- I. "District employee" includes school board members, administrators, educators, aides, school counselors, social workers, psychologists, other school mental health professionals, nurses and other school-based/linked medical providers/health professionals, cafeteria workers, custodians, bus drivers, athletic coaches, extracurricular activities advisors, paraprofessionals, school employees, agents or persons subject to the supervision and control of the district and its students.
- J. "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.

#### **IV. REPORTING PROCEDURE**

- A. Any person who believes he or she has been the target or 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 District has made available to the reporting party or complainant the use of a report form. Contact the principal, or Duluth Public Schools Website at [isd709.org/families/bullying-harassment](http://isd709.org/families/bullying-harassment) to access bullying report forms. Oral reports shall be considered complaints as well.
- C. The building principal or designee, or the building supervisor (hereinafter the "building report taker") is the person responsible for receiving reports of bullying at the building level. Any person may report bullying or other prohibited conduct directly to the school district human rights officer or the superintendent. If the complaint involves the building report taker, the complaint shall be made directly with the assistant superintendent or superintendent of the District. Please see our Parent & Student Handbook or Duluth Public Schools Website at [isd709.org](http://isd709.org) for principal and Duluth Public Schools contact information.

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 district employee, volunteer, or contractor shall be particularly alert to possible situations, circumstances, or events that might include 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 report taker immediately. District employees who fail to inform the building report taker of conduct that may constitute bullying or other prohibited conduct or who fail to make reasonable efforts to address and resolve the bullying or prohibited conduct in a timely manner may be subject to disciplinary action.
- E. Reports of bullying or prohibited conduct are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law. The building report taker, in conjunction with the responsible authority, shall be responsible for keeping and regulating access to any report of bullying and the record of any resulting investigation.
- F. Submission of a good faith complaint or report of bullying or other prohibited conduct 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 Duluth Public Schools' obligation to investigate, take appropriate action, and comply with any legal disclosure obligations.

## **V. SCHOOL DISTRICT ACTION**

- A. 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 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. When investigating a complaint, the building report taker may take into account the following factors:
  - The developmental ages and maturity levels of the parties involved.
  - The potential for culturally misinterpreting behavior.
  - The levels of harm, surrounding circumstances, and nature of the behavior.
  - Past incidences or past or continuing patterns of behavior.
  - The relationship between the parties involved.

- The context in which the alleged incidents occurred.
- 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 an 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 conduct. Remedial responses to the bullying or other prohibited conduct shall be tailored to the particular incident and nature of the conduct and shall take into account the factors specified in Section II.F. of this policy. 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; the student discipline policy and other applicable school district policies; and applicable regulations.
- For the student harmed: Protect, support, and intervene on behalf of the student who is the target of the prohibited conduct. Support may include: safety planning, student conference(s), referral to student support staff for one-to-one support or social skills training; check-in and/or check-out with a trusted adult in the school; and choice to participate in a restorative process - facilitated by a trained facilitator. When an incident includes documentation through an office discipline referral, information regarding the student harmed will be included on the referral.
  - For the student who violated the prohibited conduct policy: Schools may use multi-tiered levels of response that are individualized, consistent, reasonable, fair, and age-appropriate and should match the severity of the student's behavior and their developmental age. The response must be a natural and logical match to the prohibited behavior; consequences must be paired with meaningful instruction and guidance; and must be carefully planned with well-defined outcomes. Responses may include but are not limited to:
    - Safety planning
    - Student conference(s)
    - Working with parents of involved students
    - Teaching/reteaching of desired skills or behavior
    - Reinforcing desired skills or behaviors
    - School disciplinary action (detention, suspension, etc.)
    - Connecting students/families to school, district, community resources
    - Consideration of a restorative process if all parties are prepared and willing

- 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 who are targets of bullying or other prohibited conduct and the parent(s) or guardian(s) of alleged perpetrators of bullying or other prohibited conduct who have been involved in a reported and confirmed bullying incident of the remedial or disciplinary action taken, to the extent permitted by law.
- F. In order to prevent or respond to bullying or other prohibited conduct committed by or directed against a child with a disability, the 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.
- G. Any party who is not satisfied with the outcome of the investigation may appeal to the district's Office of the Assistant Superintendent within 10 school days of notification of the principal/designee's decision. The assistant superintendent or designee will conduct a review of the appeal and, within 10 school days of receipt of the appeal, will affirm, reverse or modify the findings of the report. The assistant superintendent or designee shall notify the party requesting the appeal and the principal that its decision is final and shall document that notification with the appeal.
- H. When it is determined that a district employee was aware prohibited conduct was taking place but failed to report it, the employee will be considered to have violated this policy. The employee's supervisor shall consider employee discipline for such violations, making reference to any applicable collective bargaining agreement. Remedies for offending contractors should be imposed according to their Duluth Public Schools contracts.

## **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 commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged bullying or prohibited conduct, who provides information about bullying or prohibited conduct, who testifies, assists, or participates in an investigation of alleged bullying or prohibited conduct, or who testifies, assists, or participates in a proceeding or hearing relating to such bullying or prohibited conduct. 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 prohibited conduct. Remedial responses to the prohibited conduct shall be tailored to the particular incident and nature of the conduct and shall take into account the factors specified in Section II.F. of this policy.

## **VII. RECORDS**

Information gained when investigating and remediating reports of bullying will be recorded and kept by the building principal or designee. Information regarding the

number of reports of bullying and the action taken to resolve the reports will be provided to the Duluth Public Schools climate coordinator by the building principal or designee annually.

Affected students and their parents may have rights under state and federal data practices laws to obtain access to data related to an incident and to contest the accuracy or completeness of the data.

## **VIII. TRAINING AND EDUCATION**

- A. The school district shall discuss this policy with district employees, volunteers, and contractors, and provide appropriate training and professional development to district employees regarding this policy. The school district shall establish a training cycle for school personnel to occur during a period not to exceed every three school years. Newly employed district employees must receive the training within the first year of their employment with the district or school. The district or a school administrator may accelerate the training cycle or provide additional training based on particular needs or circumstances. This policy shall be included in employee handbooks, training materials, and/or publications on school rules, procedures, and standards of conduct, which materials shall also be used to publicize this policy.
- B. The school district shall require ongoing professional development, consistent with Minnesota Statutes Section 122A.60, to build the skills of all school personnel who regularly interact with students to identify, prevent, and appropriately address bullying and other prohibited conduct. The content of such professional development shall include, but not be limited to:
  - 1. Developmentally appropriate strategies to prevent incidents of bullying and to intervene immediately and effectively to stop them in a manner that does not stigmatize the victim.
  - 2. Information about the complex interaction and power differential that can take place between and among an actor, target and witness to the bullying.
  - 3. Research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk and any specific interventions that may be particularly effective for addressing bullying behavior related to bias.
  - 4. Recognizing, responding to and reporting bullying.
  - 5. Information about the incidence and nature of cyberbullying.
  - 6. Information about Internet safety issues as they relate to cyberbullying.
  - 7. Student-staff relationships and initial responses to students making a report.
  - 8. A review of the district's reporting requirements related to bullying and cyberbullying.



- C. Student Education - Each school shall incorporate into the school curriculum developmentally appropriate programmatic instruction to help students identify, prevent and reduce bullying and create a safe learning environment, including information regarding this school district policy prohibiting bullying, the harmful effects of bullying, and other applicable initiatives to prevent bullying and other prohibited conduct.
- 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 in the student handbook.
- H. The school district will work with the Minnesota Department of Education Technical Assistance Center and provide resources for instruction and topics including but not limited to: evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct to engage all students in creating a safe and supportive school environment.

## **IX. NOTICE**

- A. 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 or a summary thereof must be conspicuously posted in the administrative offices of the school district and the office of each school.
- C. This policy must be given to each school employee and independent contractor who regularly interacts with students at the time of initial employment with the school district.
- D. Notice of the rights and responsibilities of students and their parents under this policy must be included in the student discipline policy 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. The school district shall provide an electronic copy of its most recently amended policy to the Commissioner of Education.

## **IX. 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 section 121A.031 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.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)

Malicious and sadistic conduct involving race, gender, religion, sexual harassment, sexual orientation, and sexual exploitation is prohibited under Minnesota Statutes, chapter 121A.0312

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)

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