

103 COMPLAINTS – STUDENTS, EMPLOYEES, PARENTS, OTHER PERSONS

I. PURPOSE

The school district takes seriously all concerns or complaints by students, employees, parents or other persons. If a specific complaint procedure is provided within any other policy of the school district, the specific procedure shall be followed in reference to such a complaint. If a specific complaint procedure is not provided, the purpose of this policy is to provide a procedure that may be used.

II. GENERAL STATEMENT OF POLICY

- A. Students, parents, employees or other persons, may report concerns or complaints to the school district. While written reports are encouraged, a complaint may be made orally. Any employee receiving a complaint shall advise the principal or immediate supervisor of the receipt of the complaint. The supervisor shall make an initial determination as to the seriousness of the complaint and whether the matter should be referred to the superintendent. A person may file a complaint at any level of the school district; i.e., principal, superintendent or school board. However, persons are encouraged to file a complaint at the building level when appropriate.
- B. Depending upon the nature and seriousness of the complaint, the supervisor or other administrator receiving the complaint shall determine the nature and scope of the investigation or follow-up procedures. If the complaint involves serious allegations, the matter shall promptly be referred to the superintendent who shall determine whether an internal or external investigation should be conducted. In either case, the superintendent shall determine the nature and scope of the investigation and designate the person responsible for the investigation or follow-up relating to the complaint. The designated investigator shall ascertain details concerning the complaint and respond promptly to the appropriate administrator concerning the status or outcome of the matter.
- C. The appropriate administrator shall respond in the same communication method as the complaint was received to the complaining party concerning the outcome of the investigation or follow-up, including any appropriate action or corrective measure that was taken. The superintendent shall be copied on the correspondence and consulted in advance of the written response when appropriate. The response to the complaining party shall be consistent with the rights of others pursuant to the applicable provisions of Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act) or other law.

III. GRIEVANCE PROCEDURE FOR COMPLAINTS OF DISCRIMINATION

The following grievance procedure applies to claims of sex, disability, and racial discrimination:

A. Any person who believes he or she has been the victim of unlawful discrimination or any person with knowledge or belief of conduct that may constitute unlawful discrimination shall report the alleged acts immediately to an appropriate school district official designated by this policy. The complaint must be filed within 90 calendar days of the alleged violation.

B. The Human Rights Officer is responsible for receiving oral or written complaints of unlawful discrimination toward an employee or student. However, nothing in this policy shall prevent any person from reporting unlawful discrimination toward an employee or student directly with the Human Rights Officer, the school board or other school district official.

C. The school board hereby designates Timothy Sworsky, 215 N 1st Ave E, Duluth, MN 55802, (218) 336-8700 ext. 1062, timothy.sworsky@isd709.org, as the school district Human Rights Officer(s) to receive reports, complaints, or grievances of unlawful discrimination. If the complaint involves a Human Rights Officer, the complaint shall be filed directly with the Superintendent of Schools. ~~fa different staff member, such as the superintendent or school board chair, designated by the school board~~.

D. Upon receipt of a complaint, the Human Rights Officer shall immediately notify the superintendent. If the superintendent is the subject of the complaint, the Human Rights Officer shall immediately notify the school board.

E. The Human Rights Officer may request but not insist upon a written complaint. Alternative means of filing a complaint, such as through a personal interview or by tape recording, shall be made available upon request for qualified persons with a disability. If the complaint is oral, it shall be reduced to writing within 24 hours² business days and forwarded to the superintendent. Failure to do so may result in disciplinary action. The school district encourages the reporting party to complete the complaint form for written complaints. It is available from the principal of each building or the school district office.

F. The school district shall respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses, consistent with the school district's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations.

INVESTIGATION

A. The Human Rights Officer, upon receipt of a complaint alleging unlawful discrimination shall promptly undertake an investigation if deemed appropriate. The investigation may be conducted by the Title IX coordinator for complaints of sex discrimination or the Section 504 Coordinator for complaints of disability discrimination, or a school district official or neutral third party designated by the Title IX coordinator, Section 504 coordinator or Human Rights Officer. The investigation shall be completed within 30 days of the complaint, unless impracticable.

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 other methods deemed pertinent by the investigator.

C. In determining whether the alleged conduct constitutes a violation of this policy, the school district shall consider the facts and the surrounding circumstances such

as the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incident occurred.

D. The school district may take immediate steps to protect the parties involved in the complaint process, pending completion of an investigation of alleged unlawful discrimination.

E. Upon completion of the investigation, the school district investigator shall make a written report to the Human Rights Officer. If the complaint involves the Human Rights Officer, the report may be filed directly with the superintendent or school board. The report shall include the facts, a determination of whether the allegations have been substantiated, whether a violation of this policy has occurred as well as a description of any proposed resolution which may include alternative dispute resolution.

F. The district shall comply with federal and state law pertaining to retention of records.

APPEAL

If the grievance has not been resolved to the satisfaction of the complainant, s/he may appeal to the Human Rights Officer within ten (10) school days of receipt of the findings of the school district investigation. The school district investigator shall conduct a review of the appeal and within ten (10) school days of receipt of the appeal, shall affirm, reverse, or modify the findings of the report. The decision of the school district investigator is final but does not preclude pursuit of alternative complaint procedures noted in the section entitled "Right to Alternative Complaint Procedures."

SCHOOL DISTRICT ACTION

A. Upon conclusion of the investigation and receipt of the findings, the school district shall take appropriate action. If it is determined that a violation has occurred, such action may include, but is not limited to, warning, suspension, expulsion, transfer, remediation or termination.

School district action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, Minnesota and federal law and school district policies.

B. The result of the school district's investigation of each complaint filed under these procedures shall be reported in writing to the complainant by the school district in accordance with state and federal law regarding data or records privacy.

RETALIATION

The school district shall take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports alleged unlawful discrimination toward an employee or student or any person who testifies, assists or participates in an investigation or hearing relating to such unlawful discrimination. Retaliation includes, but is not limited to, any form of intimidation or harassment.

CONFLICT OF INTEREST

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

DISSEMINATION OF POLICY

The school district shall adopt and publish these procedures.

TITLE IX COORDINATOR

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SECTION 504 COORDINATOR

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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 listed below or initiating action in state or federal court.

Claims of discrimination may also be pursued through the following agencies where appropriate:

U.S. Department of Education
Office for Civil Rights, Region V
500 W. Madison Street – Suite 1475
Chicago, IL 60661
Tel: 312-730-1560
TDD: 312-730-1609

MN Department of Human Rights
540 Fairview Ave N, Ste. 201
St. Paul, MN 55104
800.657.3704
651.296.5663
TDD 651.296.1283

For complaints of employment discrimination:
Equal Employment Opportunity Commission
330 S. 2nd Avenue
Suite 430
Minneapolis, MN 55401
800.669.4000
612.335.4040
TDD 612.335.4045

This document provides general information and is not to be a substitute for legal advice. Changes in the law, including timelines for filing a complaint, may affect your rights.

Resources:

U.S. Department of Education
Office for Civil Rights, Region V
500 W. Madison Street – Suite 1475
Chicago, IL 60661
Tel: 312-730-1560
TDD: 312-730-1609

Reading Room, U.S. Department of Education, Office for Civil Rights:
<http://www2.ed.gov/about/offices/list/ocr/publications.html>

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
34 C.F.R. Section 104.7(b) (Section 504 of the Rehabilitation Act)
34 C.F.R. Section 106.8(b) (Title IX of the Education Amendments of 1972)

Cross References: MSBA/MASA Model Policy 206 (Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations)

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 514 (Bullying Prohibition)
MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records – Privacy – Access to Data)

New Policy
Replacing: Policy 1090
First Reading: 06-19-2018
Adopted: 07-17-2018
First Reading: 07-16-2019
Second Reading: 08-20-2019