

**Minnesota Department of Human Rights and
Independent School District No. 709, Duluth,
Agreement**

This Agreement is entered into by and between the Minnesota Department of Human Rights (“Department”) and Independent School District No. 709, Duluth, (“District”). The Department and the District will be collectively referred to as the Parties.

WHEREAS, the Department enforces the Minnesota Human Rights Act (Act) and also addresses equity issues through education, conference, and conciliation. Minn. Stat. § 363A.06.

WHEREAS, the Department initiated a statewide effort to address issues related to disparities in student discipline rates that exist in school districts and charter schools across Minnesota.

WHEREAS, the Department invited the District to participate in its statewide efforts to address student discipline disparities in Minnesota.

WHEREAS, disparities in student discipline rates is an issue of national concern, there is no consensus as to the root cause of any disparities that exist in student discipline rates within the District, within Minnesota, or across the United States, and there is no current consensus as to how best to eliminate any disparities that may exist.

WHEREAS, the Department and District share mutual goals to ensure:

- Learning occurs in safe and supportive environments;
- Every student has an equal opportunity to fully participate in and to succeed in a quality education; and
- The District applies its student discipline policies and procedures in a consistent manner.

WHEREAS, the Department and District have a strong commitment to:

- Work together on behalf of all District students to ensure their success; and
- Collaborate and use their best efforts to improve student academic achievement by reducing the disparate suspension and expulsion outcomes for students from racial and ethnic minority communities and students with disabilities.

WHEREAS, the Department and District acknowledge that the unnecessary use of exclusionary discipline can have serious, long term, and detrimental effects on student engagement and academic achievement.

WHEREAS, the Department and District recognize that there are many strategies that can be implemented to address any student discipline disparities that may exist within the District or any of its schools and that the District should have the ability to select the specific strategies it feels are best for its school community.

WHEREAS, the District already proactively implemented a number of steps in an effort to determine and address the root cause of any discipline disparities that may exist and is willing to partner with the Department as part of a statewide effort to further explore avenues to reduce instances in which student behaviors result in students being subject to exclusionary discipline.

WHEREAS, the Department has not received any kind of charge of discrimination regarding the District's discipline policies and procedures, has not conducted a formal investigation into the District's discipline policies and procedures, and has not made a probable cause finding with respect to any discipline disparities that may exist within the District.

WHEREAS, the District expressly denies any allegation that any disparities that may exist with respect to student discipline imposed by the District are the result of discrimination or any other unlawful conduct.

WHEREAS, the District contends the Department does not have jurisdiction over disparate impact claims in education under the Act, and further contends that, even if such jurisdiction exists, the District has legally valid and legitimate defenses to such a claim.

WHEREAS, the Department has jurisdiction to investigate claims of discrimination in education under the Act and contends that it has jurisdiction over disparate impact claims in education under the Act.

Therefore, the Department and District, collectively referred to as Parties, agree as follows:

1. The Department acknowledges its review of the District's discipline data did not originate from any claims of differential treatments in a student discipline matter.
2. The District is voluntarily entering into this Agreement because it interested in being an active participant in the Department's statewide efforts to address disparities in student discipline and because this Agreement aligns with the District's interests instrengthening, promoting, and improving its existing anti-discrimination policies and procedures.
3. The District has developed and submitted to the Department an Educational Plan (Plan), which is attached as Exhibit A to this Agreement. In an effort to ensure consistency across the District with respect to student discipline decisions and to address any disparities that may exist with respect to student discipline rates, the District agrees, at a minimum, to include or address in its Plan, the following efforts:
 - a. How the District will obtain input from students, parents, and teachers concerning the plan identified in Exhibit A and will provide the Department with information on the District's engagement efforts and how input from students, parents, and teachers, if any, was or was not utilized.
 - b. How the District will continue to explore educational strategies and practices that are designed to address student behavioral issues in the classroom to the extent doing so is possible without interfering with other students' learning.

- c. How the District will incorporate any new strategies into in-service and other professional development opportunities for staff.
 - d. How the District will implement a system of its choosing for tracking suspensions, expulsions, and exclusions at each school site. The tracking system will include the reason for each suspension, expulsion, or exclusion, and the name, grade, race, and disability status of the student. The District will appoint an administrator to review data entered into the system at least twice a year in order to identify building-wide and District-wide trends related to student discipline and to make recommendations for responding to trends revealed in the data analysis.
 - e. Prior to the start of the 2018-2019 school year, the District will review its student discipline policies and student discipline handbook and make reasonable efforts to either remove or define offenses that are susceptible to multiple subjective interpretations.
 - f. The District will reiterate to all students, parents, employees, and School Resource Officers that School Resource Officers are not involved in recommending or determining student discipline or in investigating incidents of student discipline which do not involve potential criminal activity, except that a School Resource Officer who is a witness to alleged misconduct or otherwise has information related to alleged misconduct may be a witness in an investigation or hearing related to the incident.
4. The District will maintain discretion to determine how to undertake the efforts outlined in Section 3 above.
 5. The District will submit semi-annual reports to the Department demonstrating its efforts to comply with the provisions of this Agreement and to implement its Plan. The District will provide semi-annual reports by September 1 of each year, and the second semi-annual report by February 1. Each report will address activity for the preceding six months. The first semi-annual report is due to the Department on February 1, 2019.
 6. At a minimum, the semi-annual report will include the following information:
 - a. The District's intended outcomes for its Plan;
 - b. Specific steps the District took to comply with the requirements of the Plan;
 - c. Summary data, as defined in Minnesota Statutes section 13.02, subdivision 19, containing the following information: (1) the number of suspensions, exclusions, and expulsions at each school site during the reporting period; (2) a brief description of the reason for each suspension, exclusion, and expulsion; and (3) disaggregated data showing the breakdown of each disciplinary incident identified in the report by race and by disability status;
 - d. Any changes implemented by the District in light of the data analysis required pursuant to the Plan.

7. The Department will identify any concerns with the District's reports no later than sixty (60) days after the Department receives the report from the District. The Department will (a) identify any deficiencies it believes exist with the report provided by the District; (b) propose solutions to address the deficiencies it has identified; (c) allow the District an opportunity to respond to and propose solutions for the deficiencies identified by the Department; (d) respond to the adequacy of the District's response and proposed solutions; and (e) provide the District reasonably sufficient time to remedy the Department's identified deficiencies. The Department's failure to provide a timely response to the District's report will be deemed acceptance of the annual report by the Department.
8. Nothing within this Agreement prevents the Department from periodically requesting information from the District concerning all of its suspension and expulsion decisions to ensure that the District has correctly identified the suspension and expulsion decisions which are subject to this Agreement. Such disclosure requests are subject to state and federal data practices laws.
9. The Parties acknowledge that the release of information concerning this matter is governed by the Federal Educational Rights and Privacy Act, 20 U.S.C. 1232g, the Minnesota Human Rights Act, Minn. Stat. §§ 363A *et. seq.*, the Minnesota Government Data Practices Act, Minn. Stat. §§ 13.03 *et. seq.*, and the Official Records Act, Minn. Stat. §§ 15.17 *et. seq.* as well as the rules and regulations associated with these laws. The Department agrees that any personally identifiable educational data received from the District will not be re-released unless ordered by a Court of competent jurisdiction. The Department agrees to maintain any educational data received from the District in a secure manner with restricted internal Department access to such educational data. The District acknowledges the Department's right to seek educational data under Minn. Stat. § 363A.06, Subd. 1(a)(9) pursuant to a lawfully issued subpoena and the Department acknowledges the Student's or Parent's right to challenge the requested release of educational data. Nothing in this Agreement shall impair or restrict the District's ability to bring an action to quash the subpoena or otherwise seek protective action with respect to the subpoena.
10. The Department, in collaboration with MDE, School Districts, and Charter Schools, will create a Diversion Committee during the 2017-2018 school year. The District will designate a representative or representatives to serve on the Diversion Committee.
11. The Diversion Committee will:
 - a. Review and analyze aggregate suspension data of School Districts and Charter Schools;
 - b. Review and analyze suspension practices of School Districts and Charter Schools;
 - c. Develop legislative proposals that will have a positive impact on reducing suspensions and expulsions from racial and ethnic minority communities and students with disabilities; The District reserves the right to dissent or otherwise disassociate itself from the legislative proposals in its sole discretion;
 - d. Develop and create best practices for school boards, superintendents, discipline supervisors, principals, teachers, staff and discipline assessment teams on the issues identified within this Agreement.

12. The Diversion Committee will be comprised of the following subcommittees:
 - a. DIRS – Create greater clarity for schools on the conduct schools should report to MDE;
 - b. Corrective Action Strategies– Best practices for understanding, teaching, evaluating, and monitoring implementation of corrective action strategies;
 - c. Implicit Bias – Best practices for understanding, teaching, evaluating, and monitoring implementation of implicit bias education; and
 - d. Engagement – Best practices for ensuring student, teacher, and community involvement that leads to qualitative assessment.

13. The Diversion Committee will provide information and recommendations to the Department. Based on the information and recommendations made by the Diversion Committee, the Department will:
 - a. Coordinate external stakeholders to drive toward community based solutions;
 - b. In collaboration with MDE, publish technical guidance on best practices to reduce suspension and expulsion disparities for students from racial and ethnic minority communities and students with disabilities;
 - c. Facilitate conversations with other government units to explore ways to eliminate duplication of services, barriers for families and students, and improve data sharing;
 - d. Facilitate a legislative policy report;
 - e. Provide technical assistance on civic engagement;
 - f. Provide feedback to District on policies, efforts to reduce suspensions, and data analysis; and
 - g. Use its best efforts to secure resources from private foundations, private businesses, and other governmental units, such as MDE, Minnesota Department of Human Services, Minnesota Department of Health, public housing agencies, and counties.

14. The Department will not bring a Commissioner’s administrative charge for violations of the Act related to the suspension and expulsion decisions the District made prior to the execution of this Agreement. The Department will not bring a charge relating to the District’s suspension and expulsion decisions based upon a disparate impact theory under the Act during the term of this Agreement. The obligations of this paragraph survive the expiration of this Agreement contained in section no. 21 and expire on September 2, 2022.

15. This Agreement does not prohibit the Department from investigating charges of discrimination that are unrelated to the suspension and expulsion decisions made by the District or for any charges the Department receives from third parties.

16. If the Department believes the District is in material breach of this Agreement, the Department will notify the District in writing and will identify the specific provisions of this Agreement the Department believes the District is breaching. The Department will request a meeting with the Superintendent to resolve the outstanding issue. Notwithstanding section no. 14 of this Agreement, if the parties reach an impasse after negotiating in good faith for 30 days, the Parties agree the Department may initiate judicial proceedings to enforce this Agreement or initiate a Commissioner’s charge of discrimination

17. The Department agrees that the District commitments outlined in this Agreement and the Plan, if implemented consistent with the terms of this Agreement, are reasonably calculated to address any discipline disparities that may exist within the District.
18. The Parties agree that the Department may make public: (a) the terms of this Agreement pursuant to Minn. Stat. § 363A.06, Subd. 4 and (b) the information identified as public data in Minn. Stat. § 363A.35.
19. If a Court of competent jurisdiction, for any reason, holds any part of this Agreement invalid, unlawful, or otherwise unenforceable, such decision shall not affect the validity of any other part of the Agreement. In the event any portion of this Agreement is declared invalid, the Parties will meet within 15 days of the declaration and engage in good faith negotiations to determine if they should modify or terminate the Agreement.
20. This Agreement is not to be construed as an admission of liability or wrongdoing by or on behalf of the District or any other party identified in interest with the District. The Department has not made a probable cause discrimination finding against the District that it has in any way or manner violated the Act.
21. This Agreement begins on the date that the parties execute it and ends on September 1, 2021.
22. The parties to this Agreement acknowledge that they have read and have gained an understanding of the terms of this Agreement, that legal counsel has represented them or they had the opportunity to retain legal counsel, and they are voluntarily entering into this Agreement.
23. This Agreement may be executed in multiple counterparts, which shall be construed together as if one instrument. In addition, any party shall be entitled to rely on an electronic copy of a signature as if it were the original. The parties have caused this Agreement to be signed on the dates opposite their signatures.
24. Minnesota law will govern the construction and interpretation of this Agreement. No rule of strict construction shall apply against either Party as both Parties equally drafted the Agreement. The Parties agree that any action regarding interpretation or adherence to the terms of this Agreement shall be filed in Ramsey County district court.
25. This Agreement shall be effective only upon its approval by the District's School Board.

BALANCE OF THE PAGE INTENTIONALLY LEFT BLANK

Date

David Kirby, Chair of the Board of
Education
Independent School District 709

Date

William Gronseth, Superintendent
Independent School District 709

Date

Kevin Lindsey, Commissioner
Minnesota Department of Human Rights