

Approved: 6/12/2023

413 HARASSMENT AND VIOLENCE

[Note: State law (Minnesota Statutes section 121A.03) requires that charter schools adopt a sexual, religious, and racial harassment and violence policy that conforms with the Minnesota Human Rights Act, Minnesota Statutes section 363A (MHRA). This policy complies with that statutory requirement and addresses the other classifications protected by the MHRA and/or federal law. While the recommendation is that charter schools incorporate the other protected classifications, in addition to sex, religion, and race, into this policy, they are not specifically required to do so by Minnesota Statutes section 121A.03. The Minnesota Department of Education (MDE) is required to maintain and make available a model sexual, religious, and racial harassment policy in accordance with Minnesota Statutes section 121A.03. MDE's policy differs from that of MSBA and imposes greater requirements upon charter schools than required by law. For that reason, MSBA recommends the adoption of its model policy by charter school. Each charter school board must submit a copy of the policy the board has adopted to the Commissioner of MDE.]

I. PURPOSE

The purpose of this policy is for Crosslake Community School (CCS) to maintain a learning and working environment that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression, or disability (Protected Class).

II. GENERAL STATEMENT OF POLICY

- A. It is the policy of CCS to maintain a learning and working environment free from religious, racial or sexual harassment and violence on the basis of Protected Class. CCS prohibits any form of harassment or violence on the basis of Protected Class.
- B. A violation of this policy occurs when any student, teacher, Director(s) or other personnel of CCS harasses a student, teacher, Director(s) or other personnel through conduct or communication based on a person's Protected Class, as defined by this policy. (For purposes of this policy, CCS's personnel include school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of CCS.)
- C. A violation of this policy for any student, teacher, Director(s) or other personnel of CCS to inflict, threaten to inflict, or attempts to inflict violence upon any student, teacher, Director(s), or other CCS personnel or group of students, teachers, Director(s) or other CCS personnel based on a person's Protected Class.
- D. The CCS will act to investigate all complaints, either formal or informal, verbal or written, of harassment or violence based on a person's Protected Class and to discipline or take appropriate action against any student, teacher, Director(s), or other CCS personnel who is found to have violated this policy.

III. DEFINITIONS

- A. "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 upon another; or
 - 3. the threat to do bodily harm to another with present ability to carry out the threat.
- B. "Harassment" prohibited by this policy consists of physical or verbal conduct, including, but not limited to, electronic communications, relating to an individual's or group of individuals' race, color, creed,

religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression, or disability, when the conduct:

1. has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. otherwise adversely affects an individual's employment or academic opportunities.

[Note: In 2023, the Minnesota legislature revised the definition of "sexual orientation" in the Minnesota Human Rights Act as reflected in subpart 6 below. A charter school board may choose whether to retain the phrase "including gender identity or expression" in light of the legislative amendment.]

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

D. Protected Classifications; Definitions

1. "Disability" means, with respect to an individual any condition who:
 - a. a physical, sensory or mental impairment that materially limits one or more major life activities of such individual;
 - b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.
2. "Familial status" means the condition of one or more minors being domiciled with:
 - a. their parent or parents or the minor's legal guardian; or
 - b. the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against harassment or discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.
3. "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment or discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
4. "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.
5. "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
6. "Sexual orientation" means to whom someone is, or is perceived of as being, emotionally, physically, or sexually attracted to based on sex or gender identity. A person may be attracted to men, women, both, neither, or to people who are genderqueer, androgynous, or have other gender identities.

[Note: In 2023, the Minnesota legislature revised the definition of 'sexual orientation' in the Minnesota Human Rights Act to read as provided here.]

7. "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

E. "Remedial response" means a measure to stop and correct acts of harassment or violence, prevent acts of harassment or violence from recurring, and protect, support, and intervene on behalf of a student who is the target or victim of acts of harassment or violence.

F. Sexual Harassment; Definition

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:
 - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or an education; or
 - b. 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
 - c. 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 or educational environment.
2. Sexual harassment may include, but is not limited to:
 - a. unwelcome verbal harassment or abuse;
 - b. unwelcome pressure for sexual activity;
 - c. unwelcome, sexually motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of student(s) by teachers, administrators, or other charter school personnel to avoid physical harm to persons or property;
 - d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
 - e. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or
 - f. unwelcome behavior or words directed at an individual because of sexual orientation, including gender identity or expression.

G. Sexual Violence: Definition

1. Sexual violence is a physical act of aggression or force or the threat thereof that involves the touching of another's intimate parts or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minnesota Statutes section 609.341, includes the primary genital area, groin, inner thigh, buttocks, or breast, as well as the clothing covering these areas.
2. Sexual violence may include, but is not limited to:
 - a. touching, patting, grabbing, or pinching another person's intimate parts;
 - b. coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
 - c. coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another; or
 - d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

H. Violence: Definition

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.

IV. REPORTING PROCEDURES

- A. Any person who believes he or she has been the target or victim of harassment or violence on the basis of Protected Class by a student, teacher, CCS personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student, teacher, Director, or CCS personnel or group of students, teachers, Director, or other CCS personnel should report the alleged acts immediately to an appropriate CCS official designated by this policy. A person may report conduct that may constitute harassment or violence anonymously. However, CCS may not rely solely on an anonymous report to determine discipline or other remedial responses.

- B. CCS encourages the reporting party or complainant to use the report form available from the Director(s), but oral reports shall be considered complaints as well.
- C. Nothing in this policy shall prevent any person from reporting harassment or violence directly to CCS' s human rights officer or to Director(s). If the complaint involves the building report taker, the complaint shall be made or filed directly with the Director(s) or CCS' Human Rights Officer by the reporting party or complainant.
- D. In Each School Building. The executive director, building principal, the principal's designee, or the building supervisor (hereinafter the "building report taker") is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy at the building level. Any adult charter school personnel who receives a report of harassment or violence prohibited by this policy shall inform the building report taker immediately. If the complaint involves the building report taker, the complaint shall be made or filed directly with the executive director or the charter school 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 a primary contact on policy and procedural matters.
- E. A teacher, Director(s) , volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include acts of harassment or violence. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence shall make reasonable efforts to address and resolve the harassment or violence and shall inform the building report taker immediately. CCS personnel who fail to inform the Director or CCS's Human Rights Officer of conduct that may constitute harassment or violence or who fail to make reasonable efforts to address and resolve the harassment or violence in a timely manner may be subject to disciplinary action.
- F. Upon receipt of a report, the building report taker must notify CCS' human rights officer immediately, without screening or investigating the report. The building report taker may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the Business Manager/Human Rights staff. If the report was given verbally, the building report taker shall personally reduce it to written form within 24 hours and forward it to the human rights officer. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action against the building report taker.
- G. At CCS, CCS hereby designates Business Manager/Human Resources staff to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves the Business Manager/Human Rights staff, the complaint shall be filed directly with the Director(s).
- H.. CCS shall conspicuously post the name of the Business Manager/Human Rights staff including mailing addresses and telephone numbers.
- I. Submission of a good faith complaint or report of harassment or violence prohibited by this policy will not affect the complainant or reporter's future employment, grades, work assignments, or educational or work environment.
- J. Use of formal reporting forms is not mandatory.
- K. Reports of harassment or violence prohibited by this policy are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law.
- L. CCS 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 CCS's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.
- M. Retaliation against a victim, good faith reporter, or a witness of violence or harassment is prohibited.
- N. False accusations or reports of violence or harassment against another person are prohibited.

- O. A person who engages in an act of violence or harassment, reprisal, retaliation, or false reporting of violence or harassment, or permits, condones, or tolerates violence or harassment shall be subject to discipline or other remedial responses for that act in accordance with CCS's policies and procedures.

Consequences for students who commit, or are a party to, prohibited acts of violence or harassment or who engage in reprisal or intentional false reporting may range from remedial responses or positive behavioral interventions up to and including suspension and/or expulsion.

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

Consequences for other individuals engaging in prohibited acts of violence or harassment may include, but not be limited to, exclusion from CCS's property and events and/or termination of services and/or contracts.

V. INVESTIGATION

- A. By authority of CCS, the human rights officer, upon receipt of a report or complaint alleging harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by CCS' officials or by a third party designated by CCS.
- 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 any other methods and documents deemed pertinent by the investigator.
- C. In determining whether alleged conduct constitutes a violation of this policy, CCS should consider the 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 this policy requires a determination based on all the facts and surrounding circumstances.
- D. In addition, CCS may take immediate steps, at its discretion, to protect the target or victim complainant, and students, teachers, Director(s) or other personnel pending completion of an investigation of alleged harassment or violence prohibited by this policy.
- E. The alleged perpetrator of the act(s) of harassment or violence shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.
- F. The investigation will be completed as soon as practicable. CCS's human rights officer shall make a written report to the Director(s) upon completion of the investigation. If the complaint involves the Director(s), the report may be filed directly with the school board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

VI. CCS'S ACTION

- A. Upon completion of an investigation that determines a violation of this policy has occurred, CCS 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. CCS's action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and applicable CCS's policies and regulations.
- B. CCS is not authorized to disclose to a victim private educational or personnel data regarding an alleged

perpetrator who is a student or employee of CCS. School officials will notify the targets or victims and alleged perpetrators of harassment or violence, the parent(s) or guardian(s) of targets or victims of harassment or violence and the parent(s) or guardian(s) of alleged perpetrators of harassment or violence who have been involved in a reported and confirmed harassment or violence incident of the remedial or disciplinary action taken, to the extent permitted by law.

- C. In order to prevent or respond to acts of harassment or violence committed by or directed against a child with a disability, CCS shall, where determined appropriate by the child's individualized education program (IEP) 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 acts of harassment or violence.

VII. RETALIATION OR REPRISAL

CCS will discipline or take appropriate action against any student, teacher, Director(s), or other CCS personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy, who testifies, assists, or participates in an investigation of retaliation or alleged harassment or violence, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment or violence. 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 harassment or violence. Remedial responses to the harassment or violence shall be tailored to the particular incident and nature of the conduct.

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 Minnesota Department of Human Rights or another state or federal agency, initiating civil action, or seeking redress under state criminal statutes and/or federal law.

X. HARASSMENT OR VIOLENCE AS ABUSE

- A. Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of mandatory reporting under Minnesota Statute Chapter.260E may be applicable.
- B. Nothing in this policy will prohibit the CCS from taking immediate action to protect victims of alleged harassment, violence or abuse.

XI. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall be conspicuously posted throughout areas accessible to students and staff members.
- B. This policy shall be given to each employee and independent contractor at the time of entering into the person's employment contract.
- C. This policy shall appear in the student handbook.
- D. CCS will develop a method of discussing this policy with students and employees.
- E. CCS may implement violence prevention and character development education programs to prevent and 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, resourcefulness, and/or sexual abuse prevention.
- F. This policy shall be reviewed at least annually for compliance with state and federal law.

Legal References: Minn. Stat. § 120B.232 (Character Development Education)
Minn. Stat. § 120B.234 (Child Sexual Abuse Prevention Education)

Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious, and Racial Harassment and Violence Policy)
Minn. Stat. § 121A.031 (School Student Bullying Policy)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 609.341 (Definitions)
Minn. Stat. § Ch. 260E (Reporting of Maltreatment of Minors)
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)
29 U.S.C. § 621 *et seq.* (Age Discrimination in Employment Act)
29 U.S.C. § 794 (Section 504 of the Rehabilitation Act of 1973)
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)
42 U.S.C. § 2000d *et seq.* (Title VI of the Civil Rights Act of 1964)
42 U.S.C. § 2000e *et seq.* (Title VII of the Civil Rights Act)
42 U.S.C. § 12101 *et seq.* (Americans with Disabilities Act)

Cross References: MSBA/MASA Model Policy 102 (Equal Educational Opportunity)
MSBA/MASA Model Policy 401 (Equal Employment Opportunity)
MSBA/MASA Model Policy 402 (Disability Nondiscrimination Policy)
MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of Charter School Employees)
MSBA/MASA Model Policy 406 (Public and Private Personnel Data)
MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
MSBA/MASA Model Policy 414FRM (Harassment and Violence Report Form)
MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 514 (Bullying Prohibition Policy)
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, Grievance Procedures and Process)
MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)
MSBA/MASA Model Policy 524FRM (INternet Use Agreement Form)
MSBA/MASA Model Policy 525 (Violence Prevention)
MSBA/MASA Model Policy 526 (Hazing Prohibition)
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)

Policy 413 Harassment and Violence is also found in the Staff Handbook.

Policy 413 Harassment and Violence is also found in the Online Student and Family Handbook.

Policy 413 Harassment and Violence is also found in the Seat-Based Student and Family Handbook.