

INDEPENDENT SCHOOL DISTRICT #877 POLICY

Buffalo-Hanover-Montrose

INDEX TITLE Students (Addresses Students & Employees) SERIES NO. 5000

POLICY TITLE Harassment and Violence -
- Religious, Racial and Sexual CODE NO. 413

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is free from ~~religious, racial, or sexual~~ 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, or disability**. ~~The school district prohibits any form of religious, racial or sexual harassment and violence.~~

II. GENERAL STATEMENT OF POLICY

- A. ~~It is~~ **The** policy of Independent School District #877 **is** to maintain a learning and working environment that is free from ~~religious, racial or sexual~~ 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, or disability**. The School District prohibits any form of ~~religious, racial or sexual~~ harassment **and or 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, or disability**.
- B. ~~It shall be a~~ **A** violation of this policy **occurs when** ~~for~~ any pupil, teacher, administrator or other school personnel of School District #877 ~~to~~ **harasses** ~~a student or an employee~~ **pupil, teacher, administrator, or other school personnel or group of pupils, teachers, administrators, or other school personnel** through conduct or communication ~~of a sexual nature or regarding religion and race~~ **based on a person's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability**, as defined by this policy. (For purposes of this policy, school personnel includes school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the district.)
- C. ~~It shall be a~~ **A** violation of this policy **occurs when** ~~for~~ any pupil, teacher, administrator or other school personnel of School District #877 ~~to~~ **inflicts, threatens to inflict or attempts to inflict** ~~religious, racial or sexual~~ violence upon any pupil, teacher, administrator or other school personnel **or group of pupils, teachers, administrators, or other school personnel based on a person's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability**.

- D. The School District will act to investigate all complaints, either formal or informal, verbal or written, of ~~religious, racial or sexual~~ harassment or violence **based on a person's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability**, and to discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who is found to have violated this policy.

III. ~~RELIGIOUS, RACIAL OR SEXUAL HARASSMENT/VIOLENCE~~ DEFINED 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 individual's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, 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.**

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

D. Protected Classifications; Definitions

- 1. "Age" means the person is over the age of 25 years.**
- 2. "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who**
 - a. has a physical, sensory, or mental impairment which materially limits one or more major life activities;**
 - b. has a record of such an impairment; or**

- c. is regarded as having such an impairment.
3. “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 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.
 4. “Marital status” means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
 5. “National origin” means the place of birth of an individual or of any of the individual’s lineal ancestors.
 6. “Sex” includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
 7. “Sexual orientation” means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness. “Sexual orientation” does not include a physical or sexual attachment to children by an adult.
 8. “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.

A. E. 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 (including electronic 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 or retaining employment, or of obtaining 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 or unreasonably 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 pupil(s) by teachers, administrators or other 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 gender.

B. Racial Harassment; Definition

~~Racial harassment consists of physical or verbal conduct or communication (including electronic communication) relating to an individual's race 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.~~

C. Religious Harassment; Definition

~~Religious harassment consists of physical or verbal conduct or communication (including electronic communication) which is related to an individual's religion 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.~~

~~D.F.~~ Sexual Violence; Definition

1. Sexual violence is a physical act of aggression or force or the threat thereof which 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, include 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, whether that person is of the same sex or the opposite sex.
 - 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.

~~E.G.~~ Racial Violence; Definition

Racial 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, race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.

~~F.~~ Religious Violence; Definition

~~Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.~~

~~G.~~ Assault; Definition

~~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.~~

IV. REPORTING PROCEDURES

- A. Any person who believes he or she has been the victim of ~~religious, racial or sexual~~ harassment or violence **on the basis or race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability** by a pupil, teacher, administrator or other school personnel of the School District, or any person with knowledge or belief of conduct which may constitute ~~religious, racial or sexual~~ harassment or violence **prohibited by this policy** toward a pupil, teacher, administrator or other school personnel **or group of pupils, teachers, administrators, or other school personnel** should report the alleged acts immediately to an appropriate School District official designated by this policy. The School District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the School District office; but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to a school district human rights officer or to the superintendent. If the complaint involves the superintendent, the report may be filed directly with the school board.
- B. In Each School Building. The building principal, **the principal's designee, or the building supervisor (hereinafter building report taker)** is the person responsible for receiving oral or written reports of ~~religious, racial or sexual~~ harassment or violence **prohibited by this policy** at the building level. Any adult school district personnel who receives a report of ~~religious, racial or sexual~~ harassment or violence **prohibited by this policy** shall inform the building ~~principal~~ **report taker** immediately. **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. School district personnel who fail to inform the building report taker of a report of harassment or violence in a timely manner may be subject to disciplinary action.**
- C. Upon receipt of a report, ~~involving an employee and/or adult,~~ the **building report taker** ~~principal~~ must notify the District Human Rights Officer immediately, without screening or investigating the report. **The building report taker may request, but may not insist upon, a written complaint.** ~~If the report involves student on student sexual harassment and/or sexual violence the principal will investigate the report. Following the investigation and conclusion, a~~ written report **statement of the facts alleged** will be forwarded **as soon as practicable by the building report taker** to the Human Rights Officer. **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 ~~sexual~~ harassment or ~~sexual~~ violence report or complaint as provided herein will result in disciplinary action **against the building report taker.** ~~If the complaint involves the building principal, the complaint shall be filed directly with the District Human Rights Officer.~~

- ~~ED.~~ **In the** ~~District-Wide.~~ The School Board hereby designates the Director of Human Resources as the School District Human Rights Officer to receive reports or complaints of religious, racial or sexual harassment or violence **prohibited by this policy.** ~~from any individual, employee or victim of religious, racial or sexual harassment or violence and also from the building principals as outlined above.~~ If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the Superintendent.
- ~~DE.~~ The School District shall conspicuously post the name of the Human Rights Officer, including a mailing address and telephone number.
- ~~EF.~~ Submission of a good faith complaint or report of religious, racial or sexual harassment or violence **prohibited by this policy** will not affect the complainant or reporter's future employment, grades or work assignments.
- ~~FG.~~ ~~The u~~Use of formal reporting forms is not mandatory. ~~The School District will investigate all complaints of incidents, which may constitute religious, racial or sexual harassment or violence, whether the complaint is formal or informal, oral or written.~~
- ~~GH.~~ **Reports of harassment or violence prohibited by this policy are classified as private education and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law.** 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 legal obligations to investigate, to take appropriate action, and to ~~confirm~~ **comply** with any discovery or disclosure obligations.

V. INVESTIGATION ~~AND RECOMMENDATION~~

- A. By authority of the School District, the Human Rights Officer, upon receipt of a report or complaint alleging religious, racial or sexual harassment, or violence **prohibited by this policy**, shall immediately undertake or authorize an investigation. This investigation may be conducted by School District officials or by a third party designated by the School District.
- 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, the School District should consider the surrounding circumstances, the nature of the behavior, past incidents or continuing patterns of behavior 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, the School District may take immediate steps, at its discretion, to protect the complainant, students, **teachers, administrators, or other school personnel** and ~~employees~~ pending completion of an investigation of alleged ~~religious, racial or sexual~~ harassment or violence **prohibited by this policy.**
- E. The investigation will be completed as soon as practicable. The School District Human Rights Officer shall make a report to the Superintendent upon completion of the investigation. **If the complaint involves the Superintendent, the report may be file 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. SCHOOL DISTRICT ACTION

- A. Upon ~~receipt of a report~~ **completion of the investigation**, 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. School district action taken for violation of this policy will be consistent with 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 will be reported in writing to the complainant by the school district in accordance with state and federal law regarding data or records privacy.**

VII. REPRISAL

The School District will discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who makes a good faith reports of alleged ~~religious, racial or sexual~~ harassment or violence **prohibited by this policy** or any person who testifies, assists or participates in an investigation, 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, ~~or~~ **harassment, or intentional disparate treatment.**

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, initiating civil action or seeking redress under state criminal statutes and/or federal law.

IX. ~~RELIGIOUS, RACIAL OR SEXUAL 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 Minn. Stat. 626.556 may be applicable.
- B. Nothing from this policy will prohibit the School District from taking immediate action to protect victims of alleged harassment, violence or abuse.

X. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members.
- B. This policy shall be given to each school district 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. The school district will develop a method of discussing this policy with students and employees.

E. The school district 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, and resourcefulness.

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. § 121A.03, Subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 609.341 (Definitions)
Minn. Stat. § 626.556 *et seq.* (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 (Rehabilitation Act of 1973, § 504)
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)
***Puller v. Indep. Sch. Dist. No. 701*, 528 N.W.2d 273 (Minn. Ct. App. 1998)**

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 School District 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 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)
MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)
MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)
MSBA/MASA Model Policy 525 (Violence Prevention)
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)

**Administrative Offices
Buffalo, Minnesota 55313**

DATE OF ADOPTION November 7, 1983

DATE OF REVIEW ~~September 28, 2009~~ **September 26, 2011**

DATE OF APPROVAL ~~October 26, 2009~~