

INDEPENDENT SCHOOL DISTRICT #877 POLICY

Buffalo-Hanover-Montrose

INDEX TITLE Personnel (Addresses Students & Employees) SERIES NO. 400

POLICY TITLE Harassment and Violence CODE NO. 413

REFERENCE FORM NO. 413

I. PURPOSE

The purpose of this policy is 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.

II. GENERAL STATEMENT OF POLICY

- A. The policy of Independent School District #877 is 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. The School District prohibits any form of harassment 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, including gender identity or expression, or disability.
- B. A violation of this policy occurs when any, student, teacher, administrator or other school district personnel harasses a student, teacher, administrator, or other school district personnel or group of students, teachers, administrators, or other school district personnel through conduct or communication 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, including gender identity or expression, or disability, as defined by this policy. (For purposes of this policy, school district personnel includes school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the district.)
- C. A violation of this policy occurs when any, student, teacher, administrator or other school district personnel inflicts, threatens to inflict or attempts to inflict violence upon any , student, teacher, administrator or other school personnel or group of pupils, teachers, administrators, or other school district 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, including gender identity or expression, or disability.
- D. The School District will act to investigate all complaints, either formal or informal, verbal or

written, of 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, including gender identity or expression, or disability, and to discipline or take appropriate action against any student, teacher, administrator or other school district 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 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. "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.
2. "Familial status" means the condition of one or more minors ~~being domiciled with~~ **having legal status or custody with:**
 - a. the ~~if~~ **minor's** parent or parents or the minor's legal guardian **or guardians;** or

- b. the designee of the parent or parents or guardian or guardians with the written permission of the parent or parents or guardian or guardians. Familial status also means residing with and caring for one or more individuals who lack the ability to meet essential requirements for physical health, safety, or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions. 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.
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 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 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.~~ is defined for purposes of this policy as set forth in Minnesota Statutes section 363A.03, subdivision 44.
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 for Purposes of this Policy

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 student(s) by teachers, administrators or other school district 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 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.

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, 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.

IV. SEXUAL HARASSMENT REPORTING AND INVESTIGATION PROCEDURES

- A. Allegations of sexual harassment may be subject to detailed requirements outlined in federal regulations implementing Title IX. To ensure the District's compliance with Title IX requirements, *all allegations involving sexual harassment must be immediately brought to the attention of the District's Title IX Coordinator.*
- B. For Title IX purposes, "sexual harassment" means conduct on the basis of sex that includes one or more of the following elements:
 1. An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
 3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).
- C. Any District employee who is aware of an allegation of sexual harassment must immediately notify the Title IX Coordinator. Students are strongly encouraged to notify the Title IX Coordinator of sexual harassment allegations, but may report allegations to any District employee. A District employee who receives a report from a student is responsible for immediately notifying the Title IX Coordinator.
- D. Sexual harassment allegations will be processed in accordance with the Title IX Grievance Procedures attached to School Board Policy 522. The Grievance Procedures must be published and disseminated as required by law. Alleged conduct that does not meet Title IX's definition of "sexual harassment," if proved, may be investigated and addressed pursuant to the procedures outlined below.

The District's Special Education Services Director is designated as the District's Title IX Coordinator.

The Special Education Services Director is assigned to work out of the District's main offices at 214 1st Ave. NE, Buffalo, MN 55313 and may also be reached at (763) 682-8721 and aernst@bhmschools.org

V. REPORTING AND INVESTIGATION PROCEDURES IN SITUATIONS NOT INVOLVING SEXUAL HARASSMENT ALLEGATIONS

- A. For complaints other than those involving sexual harassment or retaliation allegations subject to the Title IX grievance procedures outlined above, any person who believes he or she has been the target or victim of harassment 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, including gender identity or expression, or disability by a student, teacher, administrator or other school district personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student, teacher, administrator or other school district personnel or group of students, teachers, administrators, or other school district personnel should report the alleged acts immediately the building principal or building supervisor (hereinafter "building report taker"). A person may report conduct which may constitute harassment or violence anonymously. However, the school district may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. The school district encourages the reporting party or complainant to use the report form available from the principal or building supervisor of each building or available from the School District office; 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 the school district human rights officer which is the Director of Human Resources, or to the superintendent. 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. If the complaint involves the superintendent, the report may be filed directly with the school board
- D. In Each School Building. 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 school district 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 superintendent or the 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, school administrator, 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. School district personnel who fail to inform the building report taker 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 the 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 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 harassment or violence report or complaint as provided herein will result in disciplinary action against the building report taker.
- G. In the District. The School Board hereby designates the Director of Human Resources as the School District Human Rights Officer to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves the Human Rights Officer, the complaint shall be filed directly with the Superintendent.
- H. The School District shall conspicuously post the name of the Human Rights Officer, including a mailing address telephone number and e-mail address. The mailing address and phone number for the Human Rights Officer are 214 1st Ave. NE, Buffalo, MN 55313 and (763) 682-8713. The Human Rights Officer may be contacted via e-mail at eronken@bhmschools.org
- 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 or 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 education and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted or required by law.
- L. 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 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 the school district'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 school district property and events and/or termination of services and/or contracts.

- P. By authority of the School District, the human rights officer, as soon as possible following the receipt of a report or complaint alleging harassment, or violence prohibited by this policy, shall undertake or authorize an investigation. This investigation may be conducted by School District officials or by a third party designated by the School District.
- Q. 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.
- R. 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.
- S. In addition, the School District may take immediate steps, at its discretion, to protect the target or victim, the complainant, students, teachers, administrators, or other school district personnel pending completion of an investigation of alleged harassment or violence prohibited by this policy.
- T. 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.
- U. The investigation will be completed as soon as practicable. The 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 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. SCHOOL DISTRICT ACTION

Upon completion of an investigation, that determines a violation of this policy 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 behavior. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law and applicable school district policies and regulations.

VII. RETALIATION OR REPRISAL

The School District will discipline or take appropriate action against any, student, teacher, administrator or other school district personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith reports 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, initiating civil action or seeking redress under state criminal statutes and/or federal law.

IX. 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 students and staff members.
- B. This policy shall be given to each school district employee and independent contractor who regularly interacts with students at the time of initial employment with the school district.
- C. A summary of this policy shall appear in the student handbook, along with information

about where students may obtain the full version of the policy.

- 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, 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. § 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)

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 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 (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 526 (Hazing Prohibition)
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)

Administrative Offices
Buffalo, Minnesota 55313

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