

Policy Committee

Monday, March 13, 2023 6:00 PM

Waconia High School - Room B107, 1650 Community Drive, Waconia, MN 55387

1. Carryover from 02/13/23 Policy Committee Meeting

1.A. 600 EDUCATION PROGRAMS

Presenter: Sarah Klitzke, Interim Director of Teaching & Learning

1.A.1. 616 School District System Accountability

Adopted: _____

MSBA/MASA Model Policy 616

Orig. 1997

Revised: _____

Rev. 2022~~19~~

616 SCHOOL DISTRICT SYSTEM ACCOUNTABILITY

[Note: ~~Minn. Stat. § Minnesota Statutes section~~ 120B.11 requires school districts to adopt a comprehensive long-term strategic plan that addresses the review of curriculum, instruction, student achievement, and assessment. MSBA/MASA Model Policies 601, 603, and 616 address these statutory requirements. In addition, MSBA/MASA Model Policies 613-615 and 617-620 provide procedures to further implement the requirements of ~~Minn. Stat. §Minnesota Statutes section~~ 120B.11.]

I. PURPOSE

The purpose of this policy is to focus public education strategies on a process ~~which that~~ promotes higher academic achievement for all students and ensures broad-based community participation in decisions regarding the implementation of the Minnesota K-12 Academic Standards and federal law.

II. GENERAL STATEMENT OF POLICY

Implementation of the Minnesota K-12 Academic Standards and federal law ~~will requires a new level of~~ accountability for the school district. The school district ~~will established~~ a system to transition to the graduation requirements of the Minnesota K-12 Academic Standards. The school district also ~~will established~~ a system to review and improve instruction, curriculum, and assessment which will include substantial input by students, parents or guardians, and local community members. The school district will be accountable to the public and the state through annual reporting.

III. DEFINITIONS

- A. "Credit" means a student's successful completion of an academic ~~course year of study~~ or a student's mastery of the applicable subject matter, as determined by the school district.
- B. "Graduation Standards" means the credit requirements and locally adopted content standards or Minnesota K-12 Academic Standards that school districts must offer and certify that students complete to be eligible for a high school diploma.
- C. "World's best workforce" means striving to: meet school readiness goals; have all third grade students achieve grade-level literacy; close the academic achievement gap among all racial and ethnic groups of students and between students living in poverty and students not living in poverty; have all students attain career and college readiness before graduating from high school; and have all students graduate from high school.

IV. ESTABLISHMENT OF GOALS; IMPLEMENTATION; EVALUATION AND REPORTING

A. School District Goals

- 1. The school board has established school district-wide goals ~~which that~~ provide broad direction for the school district. Incorporated in these goals are the graduation and education standards contained in the Minnesota K-12 Academic Standards and federal law. The broad goals shall be reviewed annually and approved by the school board. The school board shall adopt annual goals based on the recommendations of the school district's Advisory Committee.

2. ~~The school board shall approve the guidelines for member representation of the Advisory Committee is will be established by the school board~~ to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards.
 3. The school district-wide improvement goals should address recommendations identified through the Advisory Committee process. The school district's goal setting process will include consideration of individual site goals. School district goals may also be developed through an education effectiveness program, an evaluation of student progress committee, or through some other locally determined process.
- B. System for Reviewing All Instruction and Curriculum. Incorporated in the process will be analysis of the school district's progress toward implementation of the Minnesota Academic Standards. Instruction and curriculum shall be reviewed and evaluated by taking into account strategies and best practices, student outcomes, principal evaluations under ~~Minn. Stat. §Minnesota Statutes section 123B.147, Subd. 3,~~ and teacher evaluations under ~~Minn. Stat. §Minnesota Statutes section 122A.40, Subd. 8,~~ or ~~122A.41, Subd. 5.~~
- [Insert Local Cycle in this space]***
1. The ~~Director of Teaching and Learning~~ superintendent **[or designee]** shall be responsible for developing procedures and guidelines to establish an orderly process for the review and recommendation of textbooks and other instructional materials by the professional staff.
- C. Implementation of Graduation Requirements
1. The Advisory Committee shall also advise the school board on implementation of the state and local graduation requirements, including K-12 curriculum, assessment, student learning opportunities, and other related issues. Recommendations of the Advisory Committee shall be published annually to the community. The school board shall receive public input and comment and shall adopt or update this policy at least annually.
 2. The school board shall annually review and determine if student achievement levels at each school site meet federal expectations. If the school board determines that student achievement levels at a school site do not meet federal expectations and the site has not made adequate yearly progress for two consecutive school years, the Advisory Committee shall work with the school site to adopt a plan to raise student achievement levels to meet federal expectations. The Advisory Committee may seek assistance from the Commissioner of the Minnesota Department of Education (MDE) (Commissioner) in developing a plan which must include parental involvement components.
 3. The educational assessment system component utilized by the school board to measure individual students' educational progress must be based, to the extent annual tests are administered, on indicators of achievement growth that show an individual student's prior achievement. Indicators of achievement and prior achievement must be based on highly reliable statewide or districtwide assessments. The school board will utilize models developed by the Commissioner for measuring individual student progress. The school board must coordinate with MDE in evaluating school sites and continuous improvement plans, consistent with best practices.
- D. Comprehensive Continuous Improvement of Student Achievement
1. By ~~[]~~ **December 1st** of each year, the Advisory Committee will meet

to advise and assist the school district in the implementation of the school district system accountability and comprehensive continuous improvement process.

2. The Advisory Committee, working in cooperation with other committees of the school district [*such as the Technology, Educational Effectiveness, Grade Level, Site Instruction, Curriculum and Assessment Committees, etc.*], will provide active community participation in:
 - a. Reviewing the school district instructional and curriculum plan, with emphasis on implementing the Minnesota K-12 Academic Standards;
 - b. Identifying annual instruction and curriculum improvement goals for recommendation to the school board;
 - c. Making recommendations regarding the evaluation process that will be used to measure school district progress toward its goals; and,
 - d. Advising the school board about development of the annual budget.
3. The Advisory Committee shall meet the following criteria:
 - a. The Advisory Committee shall ensure active community participation in all planning for instruction and curriculum affecting Graduation Standards.
 - b. The Advisory Committee shall make recommendations to the school board on school district-wide standards, assessments, and program evaluation.
 - c. Building teams may be established as subcommittees to develop and implement an education effectiveness plan and to carry out methods to improve instruction, curriculum, and assessments as well as methods to use technology in meeting the school district improvement plan.
 - d. A local plan to evaluate student progress, using a local process, shall be used for developing a plan for assessment of student progress toward the Graduation Standards, as well as program evaluation data for use by the Advisory Committee in the instruction and curriculum review process. This plan shall annually be approved by the school board.
4. The Advisory Committee shall, when possible, be comprised of at least two-thirds community representatives and shall reflect the diversity of the community. To the extent possible, the Advisory Committee shall reflect the diversity of the school district and its school sites and include teachers, parents (non-employee), support staff, students, and other community residents. Included in its membership should be:
 - ~~a. The Director of Curriculum (or similar educational leader)~~
 - ~~b. Principal~~
 - ~~c. School Board Member~~
 - ~~d. Student Representative~~
 - ~~e. One teacher from each building or instructional level~~

- ~~f. Two parents from each building or instructional level~~
- ~~g. Two residents without school-aged children, non-representative of local business or industry~~
- ~~h. Two residents representative of local business or industry~~
- ~~i. District Assessment Coordinator (if different from "a." above)~~

[Note: This Advisory Committee composition is a model only.]

- 5. Translation services should be provided to the extent appropriate and practicable.
- 6. The Advisory Committee shall meet ~~the following timeline each year at least 4 times per year and cover the following items:~~

~~Month:~~ a. Organizational meeting of the Committee to review the authorizing legislation and the roles and responsibilities of the Committee as determined by the school board.

~~Month(s):~~ b. Agree on the process to be used. Become familiar with the instruction and curriculum of the cycle content area.

~~Month(s):~~ c. Review evaluation results and prepare recommendations.

~~Month:~~ d. Present recommendations to the school board for its input and approval.

- E. Evaluation of Student Progress Committee. A committee of professional staff shall develop a plan for assessment of student progress toward Literacy by Grade 3, the Graduation Standards, as well as program evaluation data for use by the Advisory Committee to review instruction and curriculum, cultural competencies, including cultural awareness and cross-cultural communication, and student achievement at the school site. This plan shall annually be approved by the school board.

F. Reporting

- 1. Consistent with ~~Minn. Stat. §Minnesota Statutes section~~ 120B.36, Subd. 1, the school board shall publish a report in the local newspaper with the largest circulation in the district, by mail, or by electronic means on the school district website. The school board shall hold an annual public meeting to review and revise, where appropriate, student achievement goals, local assessment outcomes, plans, strategies, and practices for improving curriculum and instruction and cultural competency and efforts to equitably distribute diverse, effective, experienced, and in-field teachers, and to review school district success in realizing the previously adopted student achievement goals and related benchmarks and the improvement plans leading to the world's best workforce. The school board must transmit an electronic summary of its report to the Commissioner in the form and manner the Commissioner determines. The school district shall periodically survey affected constituencies in their native languages, where appropriate and practicable, about their connection to and level of satisfaction with school. The school district shall include the results of this evaluation in its published reports and in its summary report to the Commissioner.
- 2. The school performance report for a school site and a school district must include performance reporting information and calculate proficiency rates as required

by the most recently reauthorized Elementary and Secondary Education Act.

Legal References:

Minn. Stat. § 120B.018 (Definitions)
Minn. Stat. § 120B.02 (Educational Expectations and Graduation Requirements for Minnesota's Students)
Minn. Stat. § 120B.11 (School District Process for Reviewing Curriculum, Instruction, and Student Achievement; Striving for the World's Best Workforce)
Minn. Stat. § 120B.35 (Student Academic Achievement Levels and Growth)
Minn. Stat. § 120B.36 (School Accountability; ~~Appeals Process~~)
Minn. Stat. § 122A.40, ~~Subd. 8~~ (Employment; Contracts; Termination)
Minn. Stat. § 122A.41, ~~Subd. 5~~ (Teacher Tenure Act; Cities of the First Class; Definitions)
Minn. Stat. § 123B.04 (Site Decision Making; Individualized Learning Agreement; Other Agreements Agreement)
Minn. Stat. § 123B.147, ~~Subd. 3~~ (Principals)
Minn. Rules Parts 3501.0640-3501.0655 (Academic Standards for Language Arts)
Minn. Rules Parts 3501.0700-3501.0745 (Academic Standards for Mathematics)
Minn. Rules Parts 3501.0820 00-3501.0815 (Academic Standards for the Arts)
Minn. Rules Parts 3501.0900-3501.0955 (Academic Standards in Science)
Minn. Rules Parts 3501.1300-3501.1345 (Academic Standards for Social Studies)
Minn. Rules Parts 3501.1400-3501.1410 (Academic Standards for Physical Education)
20 U.S.C. § 6301, *et seq.* (Every Student Succeeds Act)

Cross References:

MSBA/MASA Model Policy 104 (School District Mission Statement)
MSBA/MASA Model Policy 601 (School District Curriculum and Instruction Goals)
District 110 Policy 603 (Curriculum Development)
District 110 Policy 606 (Textbooks and Instructional Materials)
MSBA/MASA Model Policy 613 (Graduation Requirements)
MSBA/MASA Model Policy 614 (School District Testing Plan and Procedure)
MSBA/MASA Model Policy 615 (Testing Accommodations, Modifications, and Exemptions for IEPs, Section 504 Plans, and LEP Students)
MSBA/MASA Model Policy 617 (School District Ensurance of Preparatory and High School Standards)
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 - 2. The Advisory Committee is established by the school board to ensure active

community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards.

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[Insert Local Cycle in this space]

- C. Implementation of Graduation Requirements

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with school. The school district shall include the results of this evaluation in its published reports and in its summary report to the Commissioner.

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Minn. Stat. § 120B.11 (School District Process for Reviewing Curriculum, Instruction, and Student Achievement; Striving for the World’s Best Workforce)
Minn. Stat. § 120B.35 (Student Academic Achievement and Growth)
Minn. Stat. § 120B.36 (School Accountability)
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MSBA/MASA Model Policy 619 (Staff Development for Standards)
MSBA/MASA Model Policy 620 (Credit for Learning)

Policy Adopted: March 2004

Reviewed: June 2015, May 2016, April 2021

Revised: June 2022

Independent School District No. 110

Waconia, MN

1.A.2. 698 Teaching Controversial Topics

698 Teaching about Controversial Issues

I. PURPOSE

The District has a responsibility to include, in various curriculum areas and at all grade levels, content dealing with critical topics and using materials, some of which will be controversial or raise objections within the community. The school board has the final authority to give or withhold consent for any school activity or program.

II. DEFINITION

Controversial topics are defined as problems, subjects or questions about which there are major differences of opinion, for which there are no easy answers, and discussion of which generally create strong feelings among people.

III. GENERAL STATEMENT OF POLICY

The Policy of the Waconia Public School District is as follows:

A. Development of rational thinking and preparation for citizenship are the primary reasons for including the study of controversial topics or use of controversial materials in the curriculum.

B. The District, as an educational institution and as individual classroom teachers have a responsibility to give the student:

1. An opportunity to study controversial topics or read controversial materials which have political, economic or social significance about which they will begin to have an opinion.
2. Access to all relevant information, including the materials that circulate freely in the community.
3. Competent instruction balancing the various points-of-view in an atmosphere free from bias and prejudice.
4. The right to form and express their own opinions on controversial topics or materials without jeopardizing their relations with teachers or the schools.
5. Deliberate effort shall be made by the teacher to achieve balance over time in the viewpoints to which students are exposed. The teacher shall not espouse a biased viewpoint that is intended to influence students' creation of their own viewpoints.
6. Any outside speaker on controversial topics shall be approved by the Principal prior to utilization of the speaker. The use of any speaker on a controversial topic shall be balanced by another speaker who espouses an opposing view.
7. If a controversial issue that is neither directly related to the course content nor specified as a part of the curriculum unexpectedly arises during a class discussion, for example as the result of a student's questions or comments or in the coverage of current events, the teacher may dedicate sufficient time to the issue to assure balanced, impartial coverage.

IV. GUIDELINES

Guidelines for the selection of controversial topics or materials to be studied in the classroom:

- A. The topic or material should contribute toward helping students develop techniques for examining other controversial topics or materials.
- B. The topic or material should be suitable for students of the maturity and background represented in the respective class.
- C. The topic or material should be related to the standards and course content and help achieve those standards and course objectives.
- D. The topic or material should be of continuing significance.
- E. Exceptions to the above expectations may be granted by the building principal on a case-by-case basis.

F. Administration shall be responsible for informing all staff members of the policy on coverage of controversial issues in the curriculum. In doing so, they shall emphasize the basic assumption that the school is providing an opportunity for students to study controversial issues, not teaching a viewpoint on controversial issues.

G. A teacher who is in doubt concerning the advisability of discussing certain issues and materials in the classroom shall confer with his/her principal as to the appropriateness of doing so. If the teacher and principal are unable to agree, the issue shall be referred to the superintendent or superintendent's designee.

V. RECONSIDERATION OF A CONTROVERSIAL TOPIC

- A. The school district shall provide a process for members of the school district community to seek reconsideration of the use of a controversial topic or material as outlined in District Policy 606.
- B. The Superintendent or designee shall be responsible for the development of guidelines and procedures to identify the steps to be followed to seek reconsideration of the use of a controversial topic or material.

Cross References: District 110 Policy #604 Instructional Curriculum
District 110 Policy #606 Textbook and Instructional Materials
District 110 Policy #625 Media and Book Selection

1.B. 400 PERSONNEL

Presenter: Dr. Enid
Schonewise, Director
of Human Resources

1.B.1. Non-Substantial Updates

1.B.1.a. 404 Employment Background Checks

Adopted: _____

MSBA/MASA Model Policy 404

Orig. 1995

Revised: _____

Rev. 2018-2022

404 EMPLOYMENT BACKGROUND CHECKS

[Note: The provisions of this policy substantially reflect statutory requirements.]

I. PURPOSE

The purpose of this policy is to maintain a safe and healthful environment in the school district in order to promote the physical, social, and psychological well-being of its students. To that end, the school district will seek a criminal history background check for applicants who receive an offer of employment with the school district and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, regardless of whether any compensation is paid, or such other background checks as provided by this policy. The school district may also elect to do background checks of other volunteers, independent contractors, and student employees in the school district.

II. GENERAL STATEMENT OF POLICY

- A. The school district shall require that applicants for school district positions who receive an offer of employment and all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, regardless of whether any compensation is paid, submit to a criminal history background check. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by the school district that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the school district.
- B. The school district specifically reserves any and all rights it may have to conduct background checks regarding current employees, applicants, or service providers without the consent of such individuals.
- C. Adherence to this policy by the school district shall in no way limit the school district's right to require additional information, or to use procedures currently in place or other procedures to gain additional background information concerning employees, applicants, volunteers, service providers, independent contractors, and student employees.

III. PROCEDURES

- A. Normally an individual will not commence employment or provide services until the school district receives the results of the criminal history background check. The school district may conditionally hire an applicant or allow an individual to provide services pending completion of the background check but shall notify the individual that the individual's employment or opportunity to provide services may be terminated based on the result of the background check. Background checks will be performed by the Minnesota Bureau of Criminal Apprehension (BCA). The BCA shall conduct the background check by retrieving criminal history data as defined in Minn. Stat. §Minnesota Statutes section 13.87. The school district reserves the right to also have criminal history background checks conducted by other organizations or agencies.

- B. In order for an individual to be eligible for employment or to provide athletic coaching services or other extracurricular academic coaching services to the school district, except for an enrolled student volunteer, the individual must sign a criminal history consent form, which provides permission for the school district to conduct a criminal history background check, and provide a money order or check payable to either the BCA or to the school district, at the election of the school district, in an amount equal to the actual cost to the BCA and the school district of conducting the criminal history background check. The cost of the criminal history background check is the responsibility of the individual, unless the school district decides to pay the costs for a volunteer, an independent contractor, or a student employee. If the individual fails to provide the school district with a signed Informed Consent Form and fee at the time the individual receives a job offer, or permission to provide services, the individual will be considered to have voluntarily withdrawn the application for employment or request to provide services.

[Note: If the school district elects to receive payment, it may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and then pay the superintendent of the BCA directly to conduct the background check.]

- C. The school district, in its discretion, may elect not to request a criminal history background check on an individual who holds an initial entrance license issued by the Minnesota Professional Educator Licensing and Standards Board or the [Minnesota Commissioner of Education](#) within the 12 months preceding an offer of employment or permission to provide services.
- D. The school district may use the results of a criminal background check conducted at the request of another school hiring authority if:
1. the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;
 2. the other school hiring authority conducted a criminal background check within the previous 12 months;
 3. the individual executes a written consent form giving the school district access to the results of the check; and
 4. there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment or provision of services.
- E. For all nonstate residents who are offered employment with or the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, the school district shall request a criminal history background check on such individuals from the superintendent of the BCA and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by the school district that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the school district. Such individuals must provide an executed criminal history consent form.
- F. When required, individuals must provide fingerprints to assist in a criminal history

background check. If the fingerprints provided by the individual are unusable, the individual will be required to submit another set of prints.

- G. Copies of this policy shall be available in the school district's employment office and will be distributed to applicants for employment and individuals who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services upon request. The need to submit to a criminal history background check may be included with the basic criteria for employment or provision of services in the position posting and position advertisements.
- H. The individual will be informed of the results of the criminal background check(s) to the extent required by law.
- I. If the criminal history background check precludes employment with, or provision of services to, the school district, the individual will be so advised.
- J. The school district may apply these procedures to other volunteers, independent contractors, or student employees.
- K. At the beginning of each school year or when a student enrolls, the school district will notify parents and guardians about this policy and identify those positions subject to a background check and the extent of the school district's discretion in requiring a background check. The school district may include this notice in its student handbook, a school policy guide, or other similar communication. A form notice for this purpose is included with this policy.

IV. CRIMINAL HISTORY CONSENT FORM

A form to obtain consent for a criminal history background check is included with this policy.

Legal References: Minn. Stat. § 13.04, Subd. 4 (~~Rights of Subjects of Data Inaccurate or Incomplete Data~~)
Minn. Stat. § 13.87, Subd. 1 (Criminal ~~Justice~~History Data)
Minn. Stat. § 123B.03 (Background Check)
Minn. Stat. §§ 299C.60-299C.64 (Minnesota Child, ~~Elder, and Individuals with Disabilities~~ Protection Background Check Act)
Minn. Stat. § 364.09(b) (Exception for School Districts)

Cross References: None

404 EMPLOYMENT BACKGROUND CHECKS

[Note: The provisions of this policy substantially reflect statutory requirements.]

I. PURPOSE

The purpose of this policy is to maintain a safe and healthful environment in the school district in order to promote the physical, social, and psychological well-being of its students. To that end, the school district will seek a criminal history background check for applicants who receive an offer of employment with the school district and on all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, regardless of whether any compensation is paid, or such other background checks as provided by this policy. The school district may also elect to do background checks of other volunteers, independent contractors, and student employees in the school district.

II. GENERAL STATEMENT OF POLICY

- A. The school district shall require that applicants for school district positions who receive an offer of employment and all individuals, except enrolled student volunteers, who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, regardless of whether any compensation is paid, submit to a criminal history background check. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by the school district that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the school district.
- B. The school district specifically reserves any and all rights it may have to conduct background checks regarding current employees, applicants, or service providers without the consent of such individuals.
- C. Adherence to this policy by the school district shall in no way limit the school district's right to require additional information, or to use procedures currently in place or other procedures to gain additional background information concerning employees, applicants, volunteers, service providers, independent contractors, and student employees.

III. PROCEDURES

- A. Normally an individual will not commence employment or provide services until the school district receives the results of the criminal history background check. The school district may conditionally hire an applicant or allow an individual to provide services pending completion of the background check, but shall notify the individual that the individual's employment or opportunity to provide services may be terminated based on the result of the background check. Background checks will be performed by the Minnesota Bureau of Criminal Apprehension (BCA). The BCA shall conduct the background check by retrieving criminal history data as defined in Minn. Stat. § 13.87. The school district reserves the

right to also have criminal history background checks conducted by other organizations or agencies.

- B. In order for an individual to be eligible for employment or to provide athletic coaching services or other extracurricular academic coaching services to the school district, except for an enrolled student volunteer, the individual must sign a criminal history consent form, which provides permission for the school district to conduct a criminal history background check, and provide a money order or check payable to either the BCA or to the school district, at the election of the school district, in an amount equal to the actual cost to the BCA and the school district of conducting the criminal history background check. The cost of the criminal history background check is the responsibility of the individual, unless the school district decides to pay the costs for a volunteer, an independent contractor, or a student employee. If the individual fails to provide the school district with a signed Informed Consent Form and fee at the time the individual receives a job offer, or permission to provide services, the individual will be considered to have voluntarily withdrawn the application for employment or request to provide services.

[Note: If the school district elects to receive payment, it may, at its discretion, accept payment in the form of a negotiable instrument other than a money order or check and then pay the superintendent of the BCA directly to conduct the background check.]

- C. The school district, in its discretion, may elect not to request a criminal history background check on an individual who holds an initial entrance license issued by the Minnesota Professional Educator Licensing and Standards Board or the commissioner of education within the 12 months preceding an offer of employment or permission to provide services.
- D. The school district may use the results of a criminal background check conducted at the request of another school hiring authority if:
1. the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;
 2. the other school hiring authority conducted a criminal background check within the previous 12 months;
 3. the individual executes a written consent form giving the school district access to the results of the check; and
 4. there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment or provision of services.
- E. For all nonstate residents who are offered employment with or the opportunity to provide athletic coaching services or other extracurricular academic coaching services to the school district, the school district shall request a criminal history background check on such individuals from the superintendent of the BCA and

from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by the school district that an individual's criminal history does not preclude the individual from employment with, or provision of services to, the school district. Such individuals must provide an executed criminal history consent form.

- F. When required, individuals must provide fingerprints to assist in a criminal history background check. If the fingerprints provided by the individual are unusable, the individual will be required to submit another set of prints.
- G. Copies of this policy shall be available in the school district's employment office and will be distributed to applicants for employment and individuals who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching services upon request. The need to submit to a criminal history background check may be included with the basic criteria for employment or provision of services in the position posting and position advertisements.
- H. The individual will be informed of the results of the criminal background check(s) to the extent required by law.
- I. If the criminal history background check precludes employment with, or provision of services to, the school district, the individual will be so advised.
- J. The school district may apply these procedures to other volunteers, independent contractors, or student employees.
- K. At the beginning of each school year or when a student enrolls, the school district will notify parents and guardians about this policy and identify those positions subject to a background check and the extent of the school district's discretion in requiring a background check. The school district may include this notice in its student handbook, a school policy guide, or other similar communication. A form notice for this purpose is included with this policy.

Legal References: Minn. Stat. § 13.04, Subd. 4 (Inaccurate or Incomplete Data)
Minn. Stat. § 13.87, Subd. 1 (Criminal History Data)
Minn. Stat. § 123B.03 (Background Check)
Minn. Stat. §§ 299C.60-299C.64 (Minnesota Child Protection Background Check Act)
Minn. Stat. § 364.09(b) (Exception for School Districts)

Cross References:

Policy Adopted: May 11, 1998

Amended: February 11, 2002, March 2008, February 2009, June 2011, reviewed February 2018, amended July 2021

Independent School District No. 110

Waconia, MN 55387

1.B.1.b. 406 Form: Consent to Release Data -
Request from an Individual

Consent to Release Data – Request from an Individual

An individual asks the school district to release private data to an outside entity or person. Because the district does not have statutory authority to release the data, it must get the individual's written informed consent.

Explanation of Your Rights

If you have a question about anything on this form or would like more explanation, please talk to **the Director of Human Resources** before you sign it.

I, _____, give my permission for **Waconia Public Schools** to release
(name of individual)

data about me to _____ as described in this consent form.
(name of other entity/person)

1. The specific data I want **Waconia Public Schools** to release include:

(explanation of data requested)

2. I understand that I have asked **Waconia Public Schools** to release the data.

3. I understand that although the data are classified as private at **Waconia Public Schools**,

classification/treatment of the data at _____ depends on laws or policies
(name of other entity/person)

that apply to _____.
(name of other entity/person)

This authorization to release expires _____.
(date/time of expiration)

Individual data subject's signature _____ Date _____

Parent/guardian's signature [if needed] _____ Date _____

Consent to Release Data – Request from an Individual

An individual asks the government entity to release his/her private data to an outside entity or person. Because the entity does not have statutory authority to release the data, it must get the individual's written informed consent.

Explanation of Your Rights

If you have a question about anything on this form, or would like more explanation, please talk to

_____ before you sign it.
[entity contact person name and contact information]

I, _____, give my permission for _____
[name of individual data subject] [name of government entity]

to release data about me to _____ as described on this form.
[name of other entity or person]

1. The specific data I want _____ to release _____.
[name of government entity] [explanation of data]
2. I understand that I have asked _____ to release the data.
[name of government entity]
3. I understand that although the data are classified as private at _____, the
[name of government entity]
classification/treatment of the data at _____ depends on laws or
[name of other entity or person]
policies that apply to _____.
[name of other entity or person]

This authorization to release expires _____.
[date/time of expiration]

Individual data subject's signature _____ Date _____

Parent/guardian's signature [if needed] _____ Date _____

1.B.1.c. 408 Subpoena of a School District
Employee

Adopted: _____

MSBA/MASA Model Policy 408

Orig. 1995

Revised: _____

Rev. 202207

408 SUBPOENA OF A SCHOOL DISTRICT EMPLOYEE

I. PURPOSE

The purpose of this policy is to protect the privacy rights of school district employees and students under both state and federal law when requested to testify or provide educational records for a judicial or administrative proceeding.

II. GENERAL STATEMENT OF POLICY

This policy is to provide guidance and direction for school district employees who may be subpoenaed to testify and/or provide educational records for a judicial or administrative proceeding.

III. DATA CLASSIFICATION

A. Educational Data

1. State Law

The Minnesota Government Data Practices Act (MGDPA), ~~Minnesota Statutes, Ch. chapter~~ 13, classifies all educational data, except for directory information as designated by the school district, as private data on individuals. The state statute provides that **private data on individuals may not be released, except pursuant to a valid court order or informed consent by the subject of the data or a parent if the subject of the data is a minor.**

2. Federal Law

The Family Educational Rights and Privacy Act (FERPA), 20 United States Code section U.S.C. § 1232g, provides that educational data may not be released, except pursuant to informed consent by the individual subject of the data or any lawfully issued subpoena. Regulations promulgated under the federal law require that the school district must first make a reasonable effort to notify the parent of the student, or the student if the student is 18 years of age or older, of the subpoena in advance of releasing the information pursuant to the subpoena.

B. Personnel Data

The MGDPA, ~~Minn. Stat. Ch. 13~~, also classifies all personnel data, except for certain data specifically classified as public, as private data on individuals. The state statute provides that **private data on individuals may not be released, except pursuant to a valid court order or informed consent by the subject of the data.**

IV. APPLICATION AND PROCEDURES

- A. Any employee who receives a subpoena for any purpose related to employment is to inform the building administrator or designated supervisor when the employee receives

the subpoena. The building administrator or designated supervisor shall immediately inform the superintendent that the employee has received a subpoena.

- B. No employee may release educational data, personnel data, or any other data of any kind without consultation in advance with the school district official who is designated as the authority responsible for the collection, use and dissemination of data.
- C. Payment for attendance at judicial or administrative proceedings and the retention of witness and mileage fees is to be determined in accordance with the applicable school board policies and collective bargaining agreements.
- D. The administration shall not release any information except in strict compliance with state and federal law and this policy. Recognizing that an unauthorized release may expose the school district or its employees to civil or criminal penalties or loss of employment, the administration shall confer with school district legal counsel prior to release of such data.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Rules 1205.0100, Subp. 5 (~~How These Rules Apply~~[Minnesota Rules Regarding Data Practices](#))
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)

Cross References: MSBA/MASA Model Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee, or Student)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA ~~Service Manual, Chapter 13, School~~ Law Bulletin "I" (School Records – Privacy – Access to Data)

408 SUBPOENA OF A SCHOOL DISTRICT EMPLOYEE

I. PURPOSE

The purpose of this policy is to protect the privacy rights of school district employees and students under both state and federal law when requested to testify or provide educational records for a judicial or administrative proceeding.

II. GENERAL STATEMENT OF POLICY

This policy is to provide guidance and direction for school district employees who may be subpoenaed to testify and/or provide educational records for a judicial or administrative proceeding.

III. DATA CLASSIFICATION

A. Educational Data

1. State Law

The Minnesota Government Data Practices Act (MGDPA), Minn. Stat. Ch. 13, classifies all educational data, except for directory information as designated by the school district, as private data on individuals. The state statute provides that **private data on individuals may not be released, except pursuant to a valid court order or informed consent by the subject of the data or a parent if the subject of the data is a minor.**

2. Federal Law

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, provides that educational data may not be released, except pursuant to informed consent by the individual subject of the data or any lawfully issued subpoena. Regulations promulgated under the federal law require that the school district must first make a reasonable effort to notify the parent of the student, or the student if the student is 18 years of age or older, of the subpoena in advance of releasing the information pursuant to the subpoena.

B. Personnel Data

The MGDPA, Minn. Stat. Ch. 13, also classifies all personnel data, except for certain data specifically classified as public, as private data on individuals. The state statute provides that **private data on individuals may not be released, except pursuant to a valid court order or informed consent by the subject of the data.**

IV. APPLICATION AND PROCEDURES

- A. Any employee who receives a subpoena for any purpose related to employment is to inform the building administrator or designated supervisor when the employee receives the subpoena. The building administrator or designated supervisor shall immediately inform the superintendent that the employee has received a subpoena.
- B. No employee may release educational data, personnel data, or any other data of any kind without consultation in advance with the school district official who is designated as the authority responsible for the collection, use and dissemination of data.
- C. Payment for attendance at judicial or administrative proceedings and the retention of witness and mileage fees is to be determined in accordance with the applicable school board policies and collective bargaining agreements.
- D. The administration shall not release any information except in strict compliance with state and federal law and this policy. Recognizing that an unauthorized release may expose the school district or its employees to civil or criminal penalties or loss of employment, the administration shall confer with school district legal counsel prior to release of such data.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Rules 1205.0100, Subp. 5 (Minnesota Rules Regarding Data Practices)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)

Cross References: MSBA/MASA Model Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee, or Student)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA Service Manual, Chapter 13, School Law Bulletin “I” (School Records – Privacy – Access to Data)

Policy Adopted: May 11,1998

Amended: February 11,2002/March 10, 2008/December 2018/June 2021

Independent School District No.110

Waconia, MN 55387

1.B.1.d. 414 Mandated Reporting Child Neglect or
Physical or Sexual Abuse

414 MANDATED REPORTING OF CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE

[Note: This policy reflects the mandatory law regarding reporting of maltreatment of minors and is not discretionary in nature.]

I. PURPOSE

The purpose of this policy is to make clear the statutory requirements of school personnel to report suspected child neglect or physical or sexual abuse.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the school district is to fully comply with ~~Minn. Stat. Ch.~~ **Minnesota Statutes chapter 260E** requiring school personnel to report suspected child neglect or physical or sexual abuse.
- B. A violation of this policy occurs when any school personnel fails to immediately report instances of child neglect or physical or sexual abuse when the school personnel knows or has reason to believe a child is being neglected or physically or sexually abused or has been neglected or physically or sexually abused within the preceding three years.

III. DEFINITIONS

- A. "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event that:
 - 1. is not likely to occur and could not have been prevented by exercise of due care; and
 - 2. if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence of event.
- B. "Child" means one under age 18 and, for purposes of ~~Minn. Stat. Ch.~~ **Minnesota Statutes chapter 260C** (Juvenile Safety and Placement) and ~~Minn. Stat. Ch.~~ **Minnesota Statutes chapter 260D** (Child in Voluntary Foster Care for Treatment), includes an individual under age 21 who is in foster care pursuant to ~~Minn. Stat. §~~ **Minnesota Statutes chapter 260C.451** (Foster Care Benefits Past Age 18).
- C. "Immediately" means as soon as possible but in no event longer than 24 hours.
- D. "Mandated reporter" means any school personnel who knows or has reason to believe a child is being maltreated or has been maltreated within the preceding three years.
- E. "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.
- F. "Neglect" means the commission or omission of any of the acts specified below, other than by accidental means:
 - 1. failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health care, medical, or other care required for the child's physical or mental health when reasonably able to do so;

2. failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
3. failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in his or her care;
4. failure to ensure that a child is educated in accordance with state law, which does not include a parent's refusal to provide his or her child with sympathomimetic medications;
5. prenatal exposure to a controlled substance as defined in state law used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child's birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;
6. medical neglect as defined by ~~Minn. Stat. §~~ **Minnesota Statutes section 260C.007, Subd. subdivision 6, Clause (5)**;
7. chronic and severe use of alcohol or a controlled substance by a person responsible for the care of the child that adversely affects the child's basic needs and safety; or
8. emotional harm from a pattern of behavior that contributes to impaired emotional functioning of the child, which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

Neglect does not occur solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care.

- G. "Nonmaltreatment mistake" occurs when: (1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under **Minnesota** Rules Part 9503.0045; (2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years; (3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years; (4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and (5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident. This definition only applies to child care centers licensed under ~~Minn. Rules Ch.~~ **Minnesota Statutes chapter 9503**.
- H. "Person responsible for the child's care" means (1) an individual functioning within the

family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employee or agent, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

- I. "Physical abuse" means any physical injury, mental injury (under subdivision 13), or threatened injury (under subdivision 23), inflicted by a person responsible for the child's care on a child other than by accidental means; or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized by ~~Minn. Stat. §~~ [Minnesota Statutes section 125A.0942](#) or [§ 245.825](#).

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by ~~Minn. Stat. §~~ [Minnesota Statutes section 121A.582](#).

Actions that are not reasonable and moderate include, but are not limited to, any of the following: (1) throwing, kicking, burning, biting, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) striking or other actions that result in any nonaccidental injury to a child under 18 months of age; (5) unreasonable interference with a child's breathing; (6) threatening a child with a weapon, as defined in ~~Minn. Stat. §~~ [Minnesota Statutes section 609.02, Subd. subdivision 6](#); (7) striking a child under age one on the face or head; (8) striking a child who is at least age one but under age four on the face or head, which results in an injury; (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances that were not prescribed for the child by a practitioner, in order to control or punish the child, or other substances that substantially affect the child's behavior, motor coordination, or judgment, or that result in sickness or internal injury, or that subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances; (10) unreasonable physical confinement or restraint not permitted under ~~Minn. Stat. §~~ [Minnesota Statutes section 609.379](#), including, but not limited to, tying, caging, or chaining; or (11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under ~~Minn. Stat. §~~ [Minnesota Statutes section 121A.58](#).

- J. "Report" means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes maltreatment of a child and contains sufficient content to identify the child and any person believed to be responsible for the maltreatment, if known.
- K. "School personnel" means professional employee or professional's delegate of the school district who provides health, educational, social, psychological, law enforcement, or child care services.
- L. "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child (as defined in ~~Minn. Stat. §~~ [Minnesota Statutes section 609.341, Subd. subdivision 15](#)), or by a person in a current or recent position of authority (as defined in ~~Minn. Stat. §~~ [Minnesota Statutes section 609.341, Subd. subdivision 10](#)) to any act which constitutes a violation of Minnesota statutes prohibiting criminal sexual conduct. Such acts include sexual penetration, sexual contact, solicitation of children to engage in sexual conduct, and

communication of sexually explicit materials to children. Sexual abuse also includes any act involving a minor that constitutes a violation of Minnesota statutes prohibiting prostitution or use of a minor in a sexual performance. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation that requires registration under ~~Minn. Stat. §~~ **Minnesota Statutes section** 243.166, ~~Subd.~~ **subdivision** 1b(a) or (b) (Registration of Predatory Offenders).

- M. "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care who has (1) subjected the child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm; (2) been found to be palpably unfit; (3) committed an act that resulted in an involuntary termination of parental rights; (4) , or committed an act that resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative.

IV. REPORTING PROCEDURES

- A. A mandated reporter shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department. The reporter will include his or her name and address in the report.
- B. An oral report shall be made immediately by telephone or otherwise., The oral report shall be followed by a written report within 72 hours (exclusive of weekends and holidays) to the appropriate police department, the county sheriff, local welfare agency, or agency responsible for assessing or investigating the report. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the maltreatment of the child if the person is known, the nature and extent of the maltreatment, and the name and address of the reporter.
- C. Regardless of whether a report is made, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.
- D. A mandated reporter who knows or has reason to know of the deprivation of custodial or parental rights or the kidnapping of a child shall report the information to the local police department or the county sheriff.
- E. With the exception of a health care professional or a social service professional who is providing the woman with prenatal care or other health care services, a mandated reporter shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.
- F. A person mandated by Minnesota law and this policy to report who fails to report may be subject to criminal penalties and/or discipline, up to and including termination of employment.
- G. An employer of a mandated reporter shall not retaliate against the person for reporting

in good faith maltreatment against a child with respect to whom a report is made, because of the report.

- H. Any person who knowingly or recklessly makes a false report under the provisions of applicable Minnesota law or this policy shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees. Knowingly or recklessly making a false report also may result in discipline.

[Note: The Minnesota Department of Education (MDE) is responsible for assessing or investigating allegations of child maltreatment in schools. Although a report may be made to any of the agencies listed in Section IV. A., above, and there is no requirement to file more than one report, if the initial report is not made to MDE, it would be helpful to MDE if schools also report to MDE.]

V. INVESTIGATION

- A. The responsibility for assessing or investigating reports of suspected maltreatment rests with the appropriate state, county, or local agency or agencies. The agency responsible for assessing or investigating reports of maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged offender, and any other person with knowledge of the maltreatment for the purpose of gathering facts, assessing safety and risk to the child, and formulating a plan. The investigating agency may interview the child at school. The interview may take place outside the presence of the alleged offender or parent, legal guardian, or school official. The investigating agency, not the school, is responsible for either notifying or withholding notification of the interview to the parent, guardian, or person responsible for the child's care. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded.
- B. When the investigating agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property.
- C. Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable, and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school employees when an interview is conducted on school premises.
- D. Where the alleged offender is believed to be a school official or employee, the school district shall conduct its own investigation independent of MDE and, if involved, the local welfare or law enforcement agency.
- E. Upon request by MDE, the school district shall provide all requested data that are relevant to a report of maltreatment and are in the possession of a school facility,

pursuant to an assessment or investigation of a maltreatment report of a student in school. The school district shall provide the requested data in accordance with the requirements of the Minnesota Government Data Practices Act, ~~Minn. Stat. Ch.~~ [Minnesota Statutes chapter 13](#), and the Family Educational Rights and Privacy Act, 20 ~~U.S.C. §~~ [United States Code section 1232g](#).

VI. MAINTENANCE OF SCHOOL RECORDS CONCERNING ABUSE OR POTENTIAL ABUSE

- A. When a local welfare or local law enforcement agency determines that a potentially abused or abuser child should be interviewed on school property, written notification of the agency's intent to interview on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct the interview. The notification shall be private data. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notice or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation has been concluded.
- B. All records regarding a report of maltreatment, including any notification of intent to interview which was received by the school as described above in Paragraph A., shall be destroyed by the school only when ordered by the agency conducting the investigation or by a court of competent jurisdiction.

VII. PHYSICAL OR SEXUAL ABUSE AS SEXUAL HARASSMENT OR VIOLENCE

Under certain circumstances, alleged physical or sexual abuse may also be sexual harassment or violence under Minnesota law. If so, the duties relating to the reporting and investigation of such harassment or violence may be applicable.

VIII. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall appear in school personnel handbooks.
- B. The school district will develop a method of discussing this policy with school personnel.
- C. This policy shall be reviewed at least annually for compliance with state law.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 121A.58 (Corporal Punishment)
Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)
Minn. Stat. § 125A.0942 (Standards for Restrictive Procedures)
Minn. Stat. § 243.166, Subd. 1b(a)(b) (Registration of Predatory Offenders)
Minn. Stat. § 245.825 (Use of Aversive or Deprivation Procedures)
Minn. Stat. § 260C.007, Subd. 6, Clause (5) (Child in Need of Protection)
Minn. Stat. § 260C.451 (Foster Care Benefits Past Age 18)
Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment)
Minn. Stat. Ch. 260E (Reporting of Maltreatment of Minors)
Minn. Stat. § 609.02, Subd. 6 (Definitions – Dangerous Weapon)
Minn. Stat. § 609.341, Subd. 10 (Definitions – Position of Authority)
Minn. Stat. § 609.341, Subd. 15 (Definitions – Significant Relationship)
Minn. Stat. § 609.379 (Reasonable Force)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)

Cross References: MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)

414 MANDATED REPORTING OF CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE

[Note: This policy reflects the mandatory law regarding reporting of maltreatment of minors and is not discretionary in nature.]

I. PURPOSE

The purpose of this policy is to make clear the statutory requirements of school personnel to report suspected child neglect or physical or sexual abuse.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the school district is to fully comply with Minn. Stat. Ch. 260E requiring school personnel to report suspected child neglect or physical or sexual abuse.
- B. A violation of this policy occurs when any school personnel fails to immediately report instances of child neglect or physical or sexual abuse when the school personnel knows or has reason to believe a child is being neglected or physically or sexually abused or has been neglected or physically or sexually abused within the preceding three years.

III. DEFINITIONS

- A. "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event that:
 - 1. is not likely to occur and could not have been prevented by exercise of due care; and
 - 2. if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence of event.
- B. "Child" means one under age 18 and, for purposes of Minn. Stat. Ch. 260C (Juvenile Safety and Placement) and Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment), includes an individual under age 21 who is in foster care pursuant to Minn. Stat. § 260C.451 (Foster Care Benefits Past Age 18).
- C. "Immediately" means as soon as possible but in no event longer than 24 hours.
- D. "Mandated reporter" means any school personnel who knows or has reason to believe a child is being maltreated or has been maltreated within the preceding three years.
- E. "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.
- F. "Neglect" means the commission or omission of any of the acts specified below, other than by accidental means:
 - 1. failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health care, medical, or other care required for the child's physical or mental health when reasonably able to do so;
 - 2. failure to protect a child from conditions or actions that seriously endanger the

child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

3. failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in his or her care;
4. failure to ensure that a child is educated in accordance with state law, which does not include a parent's refusal to provide his or her child with sympathomimetic medications;
5. prenatal exposure to a controlled substance as defined in state law used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child's birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;
6. medical neglect as defined by Minn. Stat. § 260C.007, Subd. 6, Clause (5);
7. chronic and severe use of alcohol or a controlled substance by a person responsible for the care of the child that adversely affects the child's basic needs and safety; or
8. emotional harm from a pattern of behavior that contributes to impaired emotional functioning of the child, which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

Neglect does not occur solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care.

- G. "Nonmaltreatment mistake" occurs when: (1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minn. Rules Part 9503.0045; (2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years; (3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years; (4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and (5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident. This definition only applies to child care centers licensed under Minn. Rules Ch. 9503.
- H. "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employee or agent, or other lawful

custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

- I. "Physical abuse" means any physical injury, mental injury (under subdivision 13), or threatened injury (under subdivision 23), inflicted by a person responsible for the child's care on a child other than by accidental means; or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized by Minn. Stat. § 125A.0942 or § 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by Minn. Stat. § 121A.582.

Actions that are not reasonable and moderate include, but are not limited to, any of the following: (1) throwing, kicking, burning, biting, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) striking or other actions that result in any nonaccidental injury to a child under 18 months of age; (5) unreasonable interference with a child's breathing; (6) threatening a child with a weapon, as defined in Minn. Stat. § 609.02, Subd. 6; (7) striking a child under age one on the face or head; (8) striking a child who is at least age one but under age four on the face or head, which results in an injury; (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances that were not prescribed for the child by a practitioner, in order to control or punish the child, or other substances that substantially affect the child's behavior, motor coordination, or judgment, or that result in sickness or internal injury, or that subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances; (10) unreasonable physical confinement or restraint not permitted under Minn. Stat. § 609.379, including, but not limited to, tying, caging, or chaining; or (11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under Minn. Stat. § 121A.58.

- J. "Report" means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes maltreatment of a child and contains sufficient content to identify the child and any person believed to be responsible for the maltreatment, if known.

- K. "School personnel" means professional employee or professional's delegate of the school district who provides health, educational, social, psychological, law enforcement, or child care services.

- L. "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child (as defined in Minn. Stat. § 609.341, Subd. 15), or by a person in a current or recent position of authority (as defined in Minn. Stat. § 609.341, Subd. 10) to any act which constitutes a violation of Minnesota statutes prohibiting criminal sexual conduct. Such acts include sexual penetration, sexual contact, solicitation of children to engage in sexual conduct, and communication of sexually explicit materials to children. Sexual abuse also includes any act involving a minor that constitutes a violation of Minnesota statutes prohibiting prostitution or use of a minor in a sexual performance. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation that requires registration under Minn. Stat. § 243.166, Subd. 1b(a) or (b) (Registration of Predatory

Offenders).

- M. "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care who has (1) subjected the child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm; (2) been found to be palpably unfit; (3) committed an act that resulted in an involuntary termination of parental rights; (4) , or committed an act that resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative.

IV. REPORTING PROCEDURES

- A. A mandated reporter shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department. The reporter will include his or her name and address in the report.
- B. An oral report shall be made immediately by telephone or otherwise., The oral report shall be followed by a written report within 72 hours (exclusive of weekends and holidays) to the appropriate police department, the county sheriff, local welfare agency, or agency responsible for assessing or investigating the report. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the maltreatment of the child if the person is known, the nature and extent of the maltreatment, and the name and address of the reporter.
- C. Regardless of whether a report is made, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.
- D. A mandated reporter who knows or has reason to know of the deprivation of custodial or parental rights or the kidnapping of a child shall report the information to the local police department or the county sheriff.
- E. With the exception of a health care professional or a social service professional who is providing the woman with prenatal care or other health care services, a mandated reporter shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.
- F. A person mandated by Minnesota law and this policy to report who fails to report may be subject to criminal penalties and/or discipline, up to and including termination of employment.
- G. An employer of a mandated reporter shall not retaliate against the person for reporting in good faith maltreatment against a child with respect to whom a report is made, because of the report.
- H. Any person who knowingly or recklessly makes a false report under the provisions of applicable Minnesota law or this policy shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees. Knowingly or recklessly making

a false report also may result in discipline.

[Note: The Minnesota Department of Education (MDE) is responsible for assessing or investigating allegations of child maltreatment in schools. Although a report may be made to any of the agencies listed in Section IV. A., above, and there is no requirement to file more than one report, if the initial report is not made to MDE, it would be helpful to MDE if schools also report to MDE.]

V. INVESTIGATION

- A. The responsibility for assessing or investigating reports of suspected maltreatment rests with the appropriate state, county, or local agency or agencies. The agency responsible for assessing or investigating reports of maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged offender, and any other person with knowledge of the maltreatment for the purpose of gathering facts, assessing safety and risk to the child, and formulating a plan. The investigating agency may interview the child at school. The interview may take place outside the presence of the alleged offender or parent, legal guardian, or school official. The investigating agency, not the school, is responsible for either notifying or withholding notification of the interview to the parent, guardian, or person responsible for the child's care. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded.
- B. When the investigating agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property.
- C. Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable, and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school employees when an interview is conducted on school premises.
- D. Where the alleged offender is believed to be a school official or employee, the school district shall conduct its own investigation independent of MDE and, if involved, the local welfare or law enforcement agency.
- E. Upon request by MDE, the school district shall provide all requested data that are relevant to a report of maltreatment and are in the possession of a school facility, pursuant to an assessment or investigation of a maltreatment report of a student in school. The school district shall provide the requested data in accordance with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

VI. MAINTENANCE OF SCHOOL RECORDS CONCERNING ABUSE OR POTENTIAL ABUSE

- A. When a local welfare or local law enforcement agency determines that a potentially abused or abused child should be interviewed on school property, written notification of the agency's intent to interview on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct the interview. The notification shall be private data. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notice or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation has been concluded.
- B. All records regarding a report of maltreatment, including any notification of intent to interview which was received by the school as described above in Paragraph A., shall be destroyed by the school only when ordered by the agency conducting the investigation or by a court of competent jurisdiction.

VII. PHYSICAL OR SEXUAL ABUSE AS SEXUAL HARASSMENT OR VIOLENCE

Under certain circumstances, alleged physical or sexual abuse may also be sexual harassment or violence under Minnesota law. If so, the duties relating to the reporting and investigation of such harassment or violence may be applicable.

VIII. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall appear in school personnel handbooks.
- B. The school district will develop a method of discussing this policy with school personnel.
- C. This policy shall be reviewed at least annually for compliance with state law.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
 Minn. Stat. § 121A.58 (Corporal Punishment)
 Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)
 Minn. Stat. § 125A.0942 (Standards for Restrictive Procedures)
 Minn. Stat. § 243.166, Subd. 1b(a)(b) (Registration of Predatory Offenders)
 Minn. Stat. § 245.825 (Use of Aversive or Deprivation Procedures)
 Minn. Stat. § 260C.007, Subd. 6, Clause (5) (Child in Need of Protection)
 Minn. Stat. § 260C.451 (Foster Care Benefits Past Age 18)
 Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment)
 Minn. Stat. Ch. 260E (Reporting of Maltreatment of Minors)
 Minn. Stat. § 609.02, Subd. 6 (Definitions – Dangerous Weapon)
 Minn. Stat. § 609.341, Subd. 10 (Definitions – Position of Authority)
 Minn. Stat. § 609.341, Subd. 15 (Definitions – Significant Relationship)
 Minn. Stat. § 609.379 (Reasonable Force)
 20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)

Cross References: MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)

Policy Adopted: May 11, 1998

Revised: August 9, 1999, July 18, 2005, June 2011, August 2014, May 2016, April 2017, Oct. 2017, December 2019, April 2021, June 2022

Reviewed: May 2018

Independent School District No. 110

Waconia, MN

1.B.1.e. 419 Tobacco Free Environment

Adopted: _____

MSBA/MASA Model Policy 419

Orig. 1995

Revised: _____

Rev. 202220

419 TOBACCO-FREE ENVIRONMENT; POSSESSION AND USE OF TOBACCO, TOBACCO-RELATED DEVICES, AND ELECTRONIC DELIVERY DEVICES; VAPING AWARENESS AND PREVENTION INSTRUCTION

[Note: School districts are not required by statute to have a policy addressing these issues. However, ~~Minn. Stat. §Minnesota Statutes section~~ 144.416 requires that entities that control public places must make reasonable efforts to prevent smoking in public places, including the posting of signs or any other means which may be appropriate. Additionally, ~~Minn. Stat. §Minnesota Statutes section~~ 120B.238 requires that vaping prevention instruction be provided as set forth in this policy.]

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is tobacco free.

II. GENERAL STATEMENT OF POLICY

- A. A violation of this policy occurs when any student, teacher, administrator, other school personnel of the school district, or person smokes or uses tobacco, tobacco-related devices, or carries or uses an activated electronic delivery device in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls. In addition, this prohibition includes vehicles used, in whole or in part, for work purposes, during hours of school operation, if more than one person is present. This prohibition includes all school district property and all off-campus events sponsored by the school district.
- B. A violation of this policy occurs when any elementary school, middle school, or secondary school student possesses any type of tobacco, tobacco-related devices, or electronic delivery devices in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls and includes vehicles used, in whole or in part, for school purposes, during hours of school operation, if more than one person is present. This prohibition includes all school district property and all off-campus events sponsored by the school district.
- C. The school district will act to enforce this policy and to discipline or take appropriate action against any student, teacher, administrator, school personnel, or person who is found to have violated this policy.

[Note: The following language is not required by law, but is recommended by MSBA for inclusion in this policy.]

- D. ***The school district will not solicit or accept any contributions or gifts of money, curricula, materials, or equipment from companies that directly manufacture and are identified with tobacco products, tobacco-related devices, or electronic delivery devices. The school district will not promote or allow promotion of tobacco products or electronic delivery devices on school property or at school-sponsored events.***

III. DEFINITIONS

- A. "Electronic delivery device" means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of aerosol or vapor from the product. Electronic delivery devices includes but is not limited to devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.
- B. "Heated tobacco product" means a tobacco product that produces aerosols containing nicotine and other chemicals which are inhaled by users through the mouth.
- C. "Tobacco" means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.
- D. "Tobacco-related devices" means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors aerosol or vapor of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.
- E. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic delivery device.
- F. "Vaping" means using an activated electronic delivery device or heated tobacco product."

IV. EXCEPTIONS

- A. A violation of this policy does not occur when an Indian adult lights tobacco on school district property as a part of a traditional Indian spiritual or cultural ceremony. An Indian is a person who is a member of an Indian tribe as defined under Minnesota law.
- B. A violation of this policy does not occur when an adult nonstudent possesses a tobacco or nicotine product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. Nothing in this exception authorizes smoking or use of tobacco, tobacco-related devices, or electronic delivery devices on school property or at off-campus events sponsored by the school district.

V. VAPING PREVENTION INSTRUCTION

- A. The school district must provide vaping prevention instruction at least once to students in grades 6 through 8.
- B. The school district may use instructional materials based upon the Minnesota Department of Health’s school e-cigarette toolkit or may use other smoking prevention instructional materials with a focus on vaping and the use of electronic delivery devices and heated tobacco products. The instruction may be provided as part of the school district’s locally developed health standards.

[NOTE: In addition, school districts may choose to require (a) evidence-based vaping prevention instruction to students in grades 9 through 12; and/or (b) a peer-to-peer education program to provide vaping prevention instruction.]

VI. ENFORCEMENT

- A. All individuals on school premises shall adhere to this policy.
- B. Students who violate this tobacco-free policy shall be subject to school district discipline procedures.
- C. School district administrators and other school personnel who violate this tobacco-free policy shall be subject to school district discipline procedures.
- D. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota or federal law, and school district policies.
- E. Persons who violate this tobacco-free policy may be referred to the building administration or other school district supervisory personnel responsible for the area or program at which the violation occurred.
- F. School administrators may call the local law enforcement agency to assist with enforcement of this policy. Smoking or use of any tobacco product in a public school is a violation of the Minnesota Clean Indoor Air Act and/or the Freedom to Breathe Act of 2007 and is a petty misdemeanor. A court injunction may be instituted against a repeated violator.
- G. No persons shall be discharged, refused to be hired, penalized, discriminated against, or in any manner retaliated against for exercising any right to a smoke-free environment provided by the Freedom to Breathe Act of 2007 or other law.

VII. DISSEMINATION OF POLICY

- A. This policy shall appear in the student handbook.
- B. The school district will develop a method of discussing this policy with students and employees.

Legal References: Minn. Stat. § 120B.238 (Vaping Awareness and Prevention)
Minn. Stat. §§ 144.411-144.417 (Minnesota Clean Indoor Air Act)
Minn. Stat. § 609.685 (Sale of Tobacco to ~~Children~~Persons Under Age 21)
2007 Minn. Laws Ch. 82 (Freedom to Breathe Act of 2007)

Cross References: MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 506 (Student Discipline)
~~MSBA Service Manual, Chapter 2, Students; Rights, Responsibilities and Behavior~~

419 TOBACCO-FREE ENVIRONMENT; POSSESSION AND USE OF TOBACCO, TOBACCO-RELATED DEVICES, AND ELECTRONIC DELIVERY DEVICES; VAPING AWARENESS AND PREVENTION INSTRUCTION

[Note: School districts are not required by statute to have a policy addressing these issues. However, Minn. Stat. § 144.416 requires that entities that control public places must make reasonable efforts to prevent smoking in public places, including the posting of signs or any other means which may be appropriate. Additionally, Minn. Stat. § 120B.238 requires that vaping prevention instruction be provided as set forth in this policy.]

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is tobacco free.

II. GENERAL STATEMENT OF POLICY

- A. A violation of this policy occurs when any student, teacher, administrator, other school personnel of the school district, or person smokes or uses tobacco, tobacco-related devices, or carries or uses an activated electronic delivery device in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls. In addition, this prohibition includes vehicles used, in whole or in part, for work purposes, during hours of school operation, if more than one person is present. This prohibition includes all school district property and all off-campus events sponsored by the school district.
- B. A violation of this policy occurs when any elementary school, middle school, or secondary school student possesses any type of tobacco, tobacco-related devices, or electronic delivery devices in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls and includes vehicles used, in whole or in part, for school purposes, during hours of school operation, if more than one person is present. This prohibition includes all school district property and all off-campus events sponsored by the school district.
- C. The school district will act to enforce this policy and to discipline or take appropriate action against any student, teacher, administrator, school personnel, or person who is found to have violated this policy.

[Note: The following language is not required by law but is recommended by MSBA for inclusion in this policy.]

- D. *The school district will not solicit or accept any contributions or gifts of money, curricula, materials, or equipment from companies that directly manufacture and are identified with tobacco products, tobacco-related devices, or electronic delivery devices. The school district will not promote or allow promotion of*

tobacco products or electronic delivery devices on school property or at school-sponsored events.

III. DEFINITIONS

- A. “Electronic delivery device” means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of aerosol or vapor from the product. Electronic delivery devices includes but is not limited to devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.
- B. “Heated tobacco product” means a tobacco product that produces aerosols containing nicotine and other chemicals which are inhaled by users through the mouth.
- C. “Tobacco” means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including, but not limited to, cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.
- D. “Tobacco-related devices” means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors aerosol or vapor of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.
- E. “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic delivery device.
- F. “Vaping” means using an activated electronic delivery device or heated tobacco product.”

IV. EXCEPTIONS

- A. A violation of this policy does not occur when an Indian adult lights tobacco on school district property as a part of a traditional Indian spiritual or cultural ceremony. An Indian is a person who is a member of an Indian tribe as defined under Minnesota law.
- B. A violation of this policy does not occur when an adult nonstudent possesses a tobacco or nicotine product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. Nothing in this exception authorizes smoking or use of tobacco, tobacco-related devices, or electronic delivery devices on school property or at off-campus events sponsored by the school district.

V. VAPING PREVENTION INSTRUCTION

- A. The school district must provide vaping prevention instruction at least once to students in grades 6 through 8.
- B. The school district may use instructional materials based upon the Minnesota Department of Health's school e-cigarette toolkit or may use other smoking prevention instructional materials with a focus on vaping and the use of electronic delivery devices and heated tobacco products. The instruction may be provided as part of the school district's locally developed health standards.

[NOTE: In addition, school districts may choose to require (a) evidence-based vaping prevention instruction to students in grades 9 through 12; and/or (b) a peer-to-peer education program to provide vaping prevention instruction.]

VI. ENFORCEMENT

- A. All individuals on school premises shall adhere to this policy.
- B. Students who violate this tobacco-free policy shall be subject to school district discipline procedures.
- C. School district administrators and other school personnel who violate this tobacco-free policy shall be subject to school district discipline procedures.
- D. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota or federal law, and school district policies.
- E. Persons who violate this tobacco-free policy may be referred to the building administration or other school district supervisory personnel responsible for the area or program at which the violation occurred.

- F. School administrators may call the local law enforcement agency to assist with enforcement of this policy. Smoking or use of any tobacco product in a public school is a violation of the Minnesota Clean Indoor Air Act and/or the Freedom to Breathe Act of 2007 and is a petty misdemeanor. A court injunction may be instituted against a repeated violator.
- G. No persons shall be discharged, refused to be hired, penalized, discriminated against, or in any manner retaliated against for exercising any right to a smoke-free environment provided by the Freedom to Breathe Act of 2007 or other law.

VII. DISSEMINATION OF POLICY

- A. This policy shall appear in the student handbook.
- B. The school district will develop a method of discussing this policy with students and employees.

Legal References: Minn. Stat. § 120B.238 (Vaping Awareness and Prevention)
Minn. Stat. §§ 144.411-144.417 (Minnesota Clean Indoor Air Act)
Minn. Stat. § 609.685 (Sale of Tobacco to Children)
2007 Minn. Laws Ch. 82 (Freedom to Breathe Act of 2007)

Cross References: MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA Service Manual, Chapter 2, Students; Rights, Responsibilities and Behavior

Policy Adopted: June 8, 1988

Revised: February 11, 2002, May 12, 2008, June 2011, August 2015, December 2018, December 2019, June 2021

Independent School District No. 110
Waconia, MN

1.B.1.f. 420 Students and Employees with Sexually Transmitted Infections and Diseases and Certain Other Communicable Diseases and Infectious Conditions

Adopted: _____

MSBA/MASA Model Policy 420

Orig. 1995

Revised: _____

Rev. 202215

420 STUDENTS AND EMPLOYEES WITH SEXUALLY TRANSMITTED INFECTIONS AND DISEASES AND CERTAIN OTHER COMMUNICABLE DISEASES AND INFECTIOUS CONDITIONS

[Note: School districts are not required by statute to have a policy addressing these issues. However, ~~Minn. Stat. §Minnesota Statutes section~~ 121A.23 provides that school districts must have a program that incorporates the provisions contained in this policy.]

I. PURPOSE

Public concern that students and staff of the school district be able to attend the schools of the district without becoming infected with serious communicable or infectious diseases, including, but not limited to, Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS), Hepatitis B, and Tuberculosis, requires that the school board adopt measures effectively responding to health concerns while respecting the rights of all students, employees, and contractors, including those who are so infected. The purpose of this policy is to adopt such measures.

II. GENERAL STATEMENT OF POLICY

A. Students

The policy of the school board is that students with communicable diseases not be excluded from attending school in their usual daily attendance setting so long as their health permits and their attendance does not create a significant risk of the transmission of illness to students or employees of the school district. A procedure for minimizing interruptions to learning resulting from communicable diseases will be established by the school district in its IEP and Section 504 team process, if applicable, and in consultation with community health and private health care providers. Procedures for the inclusion of students with communicable diseases will include any applicable educational team planning processes, including the review of the educational implications for the student and others with whom the student comes into contact.

B. Employees

The policy of the school board is that employees with communicable diseases not be excluded from attending to their customary employment so long as they are physically, mentally, and emotionally able to safely perform tasks assigned to them and so long as their employment does not create a significant risk of the transmission of illness to students, employees, or others in the school district. If a reasonable accommodation will eliminate the significant risk of transmission, such accommodation will be undertaken unless it poses an undue hardship to the school district.

C. Circumstances and Conditions

1. Determinations of whether a contagious individual's school attendance or job performance creates a significant risk of the transmission of the illness to students or employees of the school district will be made on a case by case

basis. Such decisions will be based upon the nature of the risk (how it is transmitted), the duration of the risk (how long the carrier is infectious), the severity of the risk (what is the potential harm to third parties), and the probabilities the disease will be transmitted and will cause varying degrees of harm. When a student is disabled, such a determination will be made in consultation with the educational planning team.

2. The school board recognizes that some students and some employees, because of special circumstances and conditions, may pose greater risks for the transmission of infectious conditions than other persons infected with the same illness. Examples include students who display biting behavior, students or employees who are unable to control their bodily fluids, who have oozing skin lesions, or who have severe disorders which result in spontaneous external bleeding. These conditions need to be taken into account and considered in assessing the risk of transmission of the disease and the resulting effect upon the educational program of the student or employment of the employee by consulting with the Commissioner of Health, the physician of the student or employee, and the parent(s)/guardian(s) of the student.

D. Students with Special Circumstances and Conditions

The school (title), along with the infected individual's physician, the infected individual or parent(s)/guardian(s), and others, if appropriate, will weigh risks and benefits to the student and to others, consider the least restrictive appropriate educational placement, and arrange for periodic reevaluation as deemed necessary by the state epidemiologist. The risks to the student shall be determined by the student's physician.

E. Extracurricular Student Participation

Student participation in nonacademic, extracurricular, and non-educational programs of the school district are subject to a requirement of equal access and comparable services.

F. Precautions

The school district will develop routine procedures for infection control at school and for educating employees about these procedures. The procedures shall be developed through cooperation with health professionals taking into consideration any guidelines of the Minnesota Department of Education and the Minnesota Department of Health. (These precautionary procedures shall be consistent with the school district's procedures regarding blood-borne pathogens developed pursuant to the school district's employee right to know policy.)

G. Information Sharing

1. Employee and student health information shall be shared within the school district only with those whose jobs require such information and with those who have a legitimate educational interest (including health and safety) in such information and shall be shared only to the extent required to accomplish legitimate educational goals and to comply with employees' right to know requirements.
2. Employee and student health data shall be shared outside the school district only in accordance with state and federal law and with the school district's

policies on employee and student records and data.

H. Reporting

If a medical condition of student or staff threatens public health, it must be reported to the Minnesota Commissioner of Health.

I. Prevention

The school district shall, with the assistance of the Minnesota Commissioners of Health and -Education, implement a program to prevent and reduce the risk of sexually transmitted diseases in accordance with Minn. Stat. §Minnesota Statutes section 121A.23 ~~which that~~ includes:

1. planning materials, guidelines, and other technically accurate and updated information;
2. a comprehensive, developmentally appropriate, technically accurate, and updated curriculum that includes helping students to abstain from sexual activity until marriage;
3. cooperation and coordination among school districts and Service Cooperatives;
4. a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted diseases and infections, for prevention efforts;
5. involvement of parents and other community members;
6. in-service training for district staff and school board members;
7. collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;
8. collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease risk reduction program; and
9. participation by state and local student organizations.
10. The program must be consistent with the health and wellness curriculum.
11. The school district may accept funds for sexually transmitted infection and disease prevention programs developed and implemented under this section from public and private sources, including public health funds and foundations, department professional development funds, federal block grants, or other federal or state grants.

J. Vaccination and Screening

The school district will develop procedures regarding the administration of Hepatitis B vaccinations and Tuberculosis screenings in keeping with current state and federal law. The procedures shall provide that the Hepatitis B vaccination series be offered to all who have occupational exposure at no cost to the employee.

Legal References: Minn. Stat. § 121A.23 (Programs to Prevent and Reduce the Risks of Sexually Transmitted Infections and Diseases)
Minn. Stat. § 144.441-~~442~~ (Tuberculosis Screening in Schools)
Minn. Stat. § 142 (Testing in School Clinics)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
20 U.S.C. § 1400 *et seq.* (Individuals with Disabilities Education ~~Improvement Act of 2004~~)
29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)
42 U.S.C. § 12101 *et seq.* (Americans with Disabilities Act)
29 C.F.R. 1910.1030 (~~Occupational Exposure to~~ Bloodborne Pathogens)
Kohl by Kohl v. Woodhaven Learning Center, 865 F.2d 930 (8th Cir.), *cert. denied*, 493 U.S. 892, ~~110 S.Ct. 239~~ (1989)
School Board of Nassau County, Fla. v. Arline, 480 U.S. 273, ~~107 S.Ct. 1123~~ (1987)
16 EHLR 712, OCR Staff Memo, April 5, 1990

Cross References: MSBA/MASA Model Policy 402 (Disability Nondiscrimination)
MSBA/MASA Model Policy 407 (Employee Right to Know – Exposure to Hazardous Substances)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)

420 STUDENTS AND EMPLOYEES WITH SEXUALLY TRANSMITTED INFECTIONS AND DISEASES AND CERTAIN OTHER COMMUNICABLE DISEASES AND INFECTIOUS CONDITIONS

[Note: School districts are not required by statute to have a policy addressing these issues. However, Minn. Stat. § 121A.23 provides that school districts must have a program that incorporates the provisions contained in this policy.]

I. PURPOSE

Public concern that students and staff of the school district be able to attend the schools of the district without becoming infected with serious communicable or infectious diseases, including, but not limited to, Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS), Hepatitis B, and Tuberculosis, requires that the school board adopt measures effectively responding to health concerns while respecting the rights of all students, employees, and contractors, including those who are so infected. The purpose of this policy is to adopt such measures.

II. GENERAL STATEMENT OF POLICY

A. Students

The policy of the school board is that students with communicable diseases not be excluded from attending school in their usual daily attendance setting so long as their health permits and their attendance does not create a significant risk of the transmission of illness to students or employees of the school district. A procedure for minimizing interruptions to learning resulting from communicable diseases will be established by the school district in its IEP and Section 504 team process, if applicable, and in consultation with community health and private health care providers. Procedures for the inclusion of students with communicable diseases will include any applicable educational team planning processes, including the review of the educational implications for the student and others with whom the student comes into contact.

B. Employees

The policy of the school board is that employees with communicable diseases not be excluded from attending to their customary employment so long as they are physically, mentally, and emotionally able to safely perform tasks assigned to them and so long as their employment does not create a significant risk of the transmission of illness to students, employees, or others in the school district. If a reasonable accommodation will eliminate the significant risk of transmission, such accommodation will be undertaken unless it poses an undue hardship to the school district.

C. Circumstances and Conditions

1. Determinations of whether a contagious individual's school attendance or

job performance creates a significant risk of the transmission of the illness to students or employees of the school district will be made on a case by case basis. Such decisions will be based upon the nature of the risk (how it is transmitted), the duration of the risk (how long the carrier is infectious), the severity of the risk (what is the potential harm to third parties), and the probabilities the disease will be transmitted and will cause varying degrees of harm. When a student is disabled, such a determination will be made in consultation with the educational planning team.

2. The school board recognizes that some students and some employees, because of special circumstances and conditions, may pose greater risks for the transmission of infectious conditions than other persons infected with the same illness. Examples include students who display biting behavior, students or employees who are unable to control their bodily fluids, who have oozing skin lesions, or who have severe disorders which result in spontaneous external bleeding. These conditions need to be taken into account and considered in assessing the risk of transmission of the disease and the resulting effect upon the educational program of the student or employment of the employee by consulting with the Commissioner of Health, the physician of the student or employee, and the parent(s)/guardian(s) of the student.

D. Students with Special Circumstances and Conditions

The school district, along with the infected individual's physician, the infected individual or parent(s)/guardian(s), and others, if appropriate, will weigh risks and benefits to the student and to others, consider the least restrictive appropriate educational placement, and arrange for periodic reevaluation as deemed necessary by the state epidemiologist. The risks to the student shall be determined by the student's physician.

E. Extracurricular Student Participation

Student participation in nonacademic, extracurricular, and non-educational programs of the school district are subject to a requirement of equal access and comparable services.

F. Precautions

The school district will develop routine procedures for infection control at school and for educating employees about these procedures. The procedures shall be developed through cooperation with health professionals taking into consideration any guidelines of the Minnesota Department of Education and the Minnesota Department of Health. (These precautionary procedures shall be consistent with the school district's procedures regarding blood-borne pathogens developed pursuant to the school district's employee right to know policy.)

G. Information Sharing

1. Employee and student health information shall be shared within the school district only with those whose jobs require such information and with those who have a legitimate educational interest (including health and safety) in such information and shall be shared only to the extent required to accomplish legitimate educational goals and to comply with employees' right to know requirements.
2. Employee and student health data shall be shared outside the school district only in accordance with state and federal law and with the school district's policies on employee and student records and data.

H. Reporting

If a medical condition of student or staff threatens public health, it must be reported to the Commissioner of Health.

I. Prevention

The school district shall, with the assistance of the Commissioners of Health and Education, implement a program to prevent and reduce the risk of sexually transmitted diseases in accordance with Minn. Stat. § 121A.23 which includes:

1. planning materials, guidelines, and other technically accurate and updated information;
2. a comprehensive, developmentally appropriate, technically accurate, and updated curriculum that includes helping students to abstain from sexual activity until marriage;
3. cooperation and coordination among school districts and Service Cooperatives;
4. a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted diseases and infections, for prevention efforts;
5. involvement of parents and other community members;
6. in-service training for district staff and school board members;
7. collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;
8. collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease risk

reduction program; and

9. participation by state and local student organizations.
10. The program must be consistent with the health and wellness curriculum.
11. The school district may accept funds for sexually transmitted infection and disease prevention programs developed and implemented under this section from public and private sources, including public health funds and foundations, department professional development funds, federal block grants, or other federal or state grants.

J. Vaccination and Screening

The school district will develop procedures regarding the administration of Hepatitis B vaccinations and Tuberculosis screenings in keeping with current state and federal law. The procedures shall provide that the Hepatitis B vaccination series be offered to all who have occupational exposure at no cost to the employee.

Legal References: Minn. Stat. § 121A.23 (Health-Related Programs)
Minn. Stat. § 144.441-442 (Tuberculosis)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
20 U.S.C. § 1400 *et seq.* (Individuals with Disabilities Education Improvement Act of 2004)
29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)
42 U.S.C. § 12101 *et seq.* (Americans with Disabilities Act)
29 C.F.R. 1910.1030 (Occupational Exposure to Bloodborne Pathogens)
Kohl by Kohl v. Woodhaven Learning Center, 865 F.2d 930 (8th Cir.), *cert. denied*, 493 U.S. 892, 110 S.Ct. 239 (1989)
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16 EHLR 712, OCR Staff Memo, April 5, 1990

Cross References: MSBA/MASA Model Policy 402 (Disability Nondiscrimination)
MSBA/MASA Model Policy 407 (Employee Right to Know – Exposure to Hazardous Substances)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)

Policy Adopted: March 9, 1987

Amended: February 8, 1992 / June 8, 1998 / August 9, 1999 / July 18, 2005 / May 12, 2008 / Oct. 2016/ December 9, 2019

Independent School District No. 110 Waconia, MN

1.B.1.g. 423 Employee Student Relationships

Adopted: _____

MSBA/MASA Model Policy 423

Orig. 1999

Revised: _____

Rev. 202209

423 EMPLOYEE-STUDENT RELATIONSHIPS

I. PURPOSE

The school district is committed to an educational environment in which all students are treated with respect and dignity. Every school district employee is to provide students with appropriate guidance, understanding, and direction while maintaining a standard of professionalism and acting within accepted standards of conduct.

II. GENERAL STATEMENT OF POLICY

- A. This policy applies to all school district employees at all times, whether on or off duty and on or off of school district locations.
- B. At all times, students will be treated by teachers and other school district employees with respect, courtesy, and consideration and in a professional manner. Each school district employee is expected to exercise good judgment and professionalism in all interpersonal relationships with students. Such relationships must be and remain on a teacher-student basis or an employee-student basis.
- C. Teachers must be mindful of their inherent positions of authority and influence over students. Similarly, other school district employees also may hold positions of authority over students of the school district and must be mindful of their authority and influence over students.
- D. Sexual relationships between school district employees and students, without regard to the age of the student, are strictly forbidden and may subject the employee to criminal liability.
- E. Other actions that violate this policy include, but are not limited to, the following:
 - 1. Dating students.
 - 2. Having any interaction/activity of a sexual nature with a student.
 - 3. Committing or attempting to induce students or others to commit an illegal act or act of immoral conduct which may be harmful to others or bring discredit to the school district.
 - 4. Supplying alcohol or any illegal substance to a student, allowing a student access to such substances, or failing to take reasonable steps to prevent such access from occurring.
- F. School district employees shall, whenever possible, employ safeguards against improper relationships with students and/or claims of such improper relationships.

[Note: Such safeguards may include the following: avoiding altogether or minimizing physical contact, keeping doors open when talking or meeting with students one-on-one, and/or making sure that such meetings with a

student take place in rooms with windows and/or others nearby.]

- G. Excessive informal and social involvement with individual students is unprofessional, is not compatible with employee-student relationships, and is inappropriate.
- H. School district employees will adhere to applicable standards of ethics and professional conduct in Minnesota law.

III. REPORTING AND INVESTIGATION

- A. Complaints and/or concerns regarding alleged violations of this policy shall be handled in accordance with MSBA/MASA Model Policy 103 (Complaints – Students, Employees, Parents, Other Persons) unless other specific complaint procedures are provided within any other policy of the school district.
- B. All employees shall cooperate with any investigation of alleged acts, conduct, or communications in violation of this policy.

IV. SCHOOL DISTRICT ACTION

Upon receipt of a report, 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. It also may include reporting to appropriate state or federal authorities, including the Minnesota Professional Educator Licensing and Standards Board or the appropriate licensing authority and appropriate agencies responsible for investigating reports of maltreatment of minors and/or vulnerable adults. 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.

V. SCOPE OF LIABILITY

Employees are placed on notice that if an employee acts outside the performance of the duties of the position for which the employee is employed or is guilty of malfeasance, willful neglect of duty, or bad faith, the school district is not required to defend and indemnify the employee for damages in school-related litigation.

Legal References: Minn. Stat. § 13.43, Subd. 16 (~~School District or Charter School Disclosure of Violence or Inappropriate Sexual Contact~~Personnel Data)
Minn. Stat. § 122A.20, Subd. 2 (~~Mandatory Reporting to Professional Educator Licensing and Standards Board or Board of School Administrators~~Suspension or Revocation of Licenses)
Minn. Stat. § 122A.40, Subds. 5(b) and 13(b) (~~Employment; Contracts; Termination~~Mandatory immediate discharge of teachers with license revocations due to child or sex abuse convictions)
Minn. Stat. §§ 609.341-609.352 (~~Defining “intimate parts” and “position of authority” as well as detailing various sex offenses~~Definitions)
Minn. Stat. ~~Ch. 260E § 626.556~~ (Reporting of Maltreatment of Minors)
Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)
Minn. Rules Part 3512.5200 (Code of Ethics for School Administrators)
Minn. Rules Part 8710.2100 (Code of Ethics for Minnesota Teachers)

Cross References: MSBA/MASA Model Policy 103 (Complaints – Students, Employees, Parents, Other Persons)
MSBA/MASA Model Policy 211 (Criminal or Civil Action Against School District,

School Board Member, Employee, or Student)
MSBA/MASA Model Policy 306 (Administrator Code of Ethics)
MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 413 (Harassment and Violence)
MSBA/MASA Model Policy 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 421 (Gifts to Employees and School Board Members)
MSBA/MASA Model Policy 507 (Corporal Punishment)

423 EMPLOYEE-STUDENT RELATIONSHIPS

I. PURPOSE

The school district is committed to an educational environment in which all students are treated with respect and dignity. Every school district employee is to provide students with appropriate guidance, understanding, and direction while maintaining a standard of professionalism and acting within accepted standards of conduct.

II. GENERAL STATEMENT OF POLICY

- A. This policy applies to all school district employees at all times, whether on or off duty and on or off of school district locations.
- B. At all times, students will be treated by teachers and other school district employees with respect, courtesy, and consideration and in a professional manner. Each school district employee is expected to exercise good judgment and professionalism in all interpersonal relationships with students. Such relationships must be and remain on a teacher-student basis or an employee-student basis.
- C. Teachers must be mindful of their inherent positions of authority and influence over students. Similarly, other school district employees also may hold positions of authority over students of the school district and must be mindful of their authority and influence over students.
- D. Sexual relationships between school district employees and students, without regard to the age of the student, are strictly forbidden and may subject the employee to criminal liability.
- E. Other actions that violate this policy include, but are not limited to, the following:
 - 1. Dating students.
 - 2. Having any interaction/activity of a sexual nature with a student.
 - 3. Committing or attempting to induce students or others to commit an illegal act or act of immoral conduct which may be harmful to others or bring discredit to the school district.
 - 4. Supplying alcohol or any illegal substance to a student, allowing a student access to such substances, or failing to take reasonable steps to prevent such access from occurring.
- F. School district employees shall, whenever possible, employ safeguards against improper relationships with students and/or claims of such improper relationships.

[Note: Such safeguards may include the following: avoiding altogether or minimizing physical contact, keeping doors open when talking or meeting with students one-on-one, and/or making sure that such meetings with a student take place in rooms with windows and/or others nearby.]

- G. Excessive informal and social involvement with individual students is unprofessional, is not compatible with employee-student relationships, and is inappropriate.
- H. School district employees will adhere to applicable standards of ethics and professional conduct in Minnesota law.

III. REPORTING AND INVESTIGATION

- A. Complaints and/or concerns regarding alleged violations of this policy shall be handled in accordance with MSBA/MASA Model Policy 103 (Complaints – Students, Employees, Parents, Other Persons) unless other specific complaint procedures are provided within any other policy of the school district.
- B. All employees shall cooperate with any investigation of alleged acts, conduct, or communications in violation of this policy.

IV. SCHOOL DISTRICT ACTION

Upon receipt of a report, 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. It also may include reporting to appropriate state or federal authorities, including the Minnesota Professional Educator Licensing and Standards Board or the appropriate licensing authority and appropriate agencies responsible for investigating reports of maltreatment of minors and/or vulnerable adults. 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.

V. SCOPE OF LIABILITY

Employees are placed on notice that if an employee acts outside the performance of the duties of the position for which the employee is employed or is guilty of malfeasance, willful neglect of duty, or bad faith, the school district is not required to defend and indemnify the employee for damages in school-related litigation.

Legal References: Minn. Stat. § 13.43, Subd. 16 (School District or Charter School Disclosure of Violence or Inappropriate Sexual Contact)
Minn. Stat. § 122A.20, Subd. 2 (Mandatory Reporting to Professional Educator Licensing and Standards Board or Board of School Administrators)
Minn. Stat. § 122A.40, Subds. 5(b) and 13(b) (Mandatory immediate

discharge of teachers with license revocations due to child or sex abuse convictions)

Minn. Stat. §§ 609.341-609.352 (Defining “intimate parts” and “position of authority” as well as detailing various sex offenses)

Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)

Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)

Minn. Rules Part 3512.5200 (Code of Ethics for School Administrators)

Minn. Rules Part 8710.2100 (Code of Ethics for Minnesota Teachers)

Cross References: MSBA/MASA Model Policy 103 (Complaints – Students, Employees, Parents, Other Persons)
MSBA/MASA Model Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee, or Student)
MSBA/MASA Model Policy 306 (Administrator Code of Ethics)
MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 413 (Harassment and Violence)
MSBA/MASA Model Policy 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 421 (Gifts to Employees and School Board Members)
MSBA/MASA Model Policy 507 (Corporal Punishment)

Policy Adopted: May 12, 2008

Revised: April 2009, June 2011, Oct. 2016, December 2018, December 9, 2019

Independent School District No. 110

Waconia, MN

1.B.1.h. 427 Workload Limits for Certain Special
Education Teachers

Adopted: _____

MSBA/MASA Model Policy 427

Orig. 202215

Revised: _____

427 WORKLOAD LIMITS FOR CERTAIN SPECIAL EDUCATION TEACHERS

[Note: School districts are required by Minnesota, Rules 3525.2340, Subpart. 4.B., to have a policy for determining the workload limits of special education staff who provide services to students who receive direct special education services 60 percent or less of the instructional day.]

[Note: Minn. Stat. §Minnesota Statutes section 179A.07, subdivisionSubd. 1, of the Public Employment Labor Relations Act (PELRA) provides that a public employer is not required to meet and negotiate on matters of inherent managerial policy. Matters of inherent managerial policy include, but are not limited to, the organizational structure, selection of personnel, and direction and number of personnel. MSBA's position is that this policy is not a mandatory subject of bargaining. School districts, therefore, are cautioned to not relinquish their inherent managerial right to determine workload limits for special education teachers.]

I. PURPOSE

The purpose of this policy is to establish general parameters for determining the workload limits of special education staff who provide services to children with disabilities receiving direct special education services 60 percent or less of the instructional day.

II. DEFINITIONS

A. Special Education Staff; Special Education Teacher

"Special education staff" and "special education teacher" both mean a teacher employed by the school district who is licensed under the rules of the Minnesota Professional Educator Licensing and Standards Board to instruct children with specific disabling conditions.

B. Direct Services

"Direct services" means special education services provided by a special education teacher or a related service professional when the services are related to instruction, including cooperative teaching.

C. Indirect Services

"Indirect services" means special education services provided by a special education teacher or a related service professional which include ongoing progress reviews; cooperative planning; consultation; demonstration teaching; modification and adaptation of the environment, curriculum, materials, or equipment; and direct contact with ~~children with disabilities~~ the pupil to monitor and observe.

D. Workload

"Workload" means a special education teacher's total number of minutes required for all due process responsibilities, including direct and indirect services, evaluation and

reevaluation time, management of individualized education programs (IEPs), travel time, parental contact, and other services required in the IEPs.

III. GENERAL STATEMENT OF POLICY

- A. Workload limits for special education teachers shall be determined by the appropriate special education administrator, in consultation with the building principal and the superintendent.
- B. In determining workload limits for special education staff, the school district shall take into consideration the following factors: student contact minutes, evaluation and reevaluation time, indirect services, management of IEPs, travel time, and other services required in the IEPs of eligible students.

IV. COLLECTIVE BARGAINING AGREEMENT UNAFFECTED

This policy shall not be construed as a reopening of negotiations between the school district and the special education teachers' exclusive representative, nor shall it be construed to alter or limit in any way the managerial rights or other authority of the school district set forth in the Public Employment Labor Relations Act or in the collective bargaining agreement between the school district and the special education teachers' exclusive representative.

Legal References: Minn. Stat. § 179A.07, Subd. 1 (Inherent Managerial Policy)
Minn. Rule 3525.0210, Subps. 14, 27, 44, and 49 (Definitions) ~~of "Direct Services," "Indirect Services," "Teacher," and "Workload"~~
Minn. Rule 3525.2340, Subp. 4.B. (Case Loads for School-Age Educational Service Alternatives)

Cross References: MSBA/MASA Model Policy 508 (Extended School Year for Certain Students with Individualized Education Programs)
MSBA/MASA Model Policy 608 (Instructional Services – Special Education)

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Legal References: Minn. Stat. § 179A.07, Subd. 1 (Inherent Managerial Policy)
Minn. Rule 3525.0210, Subps. 14, 27, 44, and 49 (Definitions of “Direct Services,” “Indirect Services,” “Teacher,” and “Workload”)
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Policy Adopted: August 2015
Reviewed June 2021
Amended: December 2018
Waconia Public Schools
ISD 110

1.B.2. Substantial Updates

1.B.2.a. 410 Family and Medical Leave Policy

Adopted: _____

MSBA/MASA Model Policy 410

Orig. 1995

Revised: _____

Rev. 20~~22~~15

410 FAMILY AND MEDICAL LEAVE POLICY

[Note: School districts are required by statute to have a policy addressing these issues.]

I. PURPOSE

The purpose of this policy is to provide for family and medical leave to school district employees in accordance with the Family and Medical Leave Act of 1993 (FMLA) and also with parenting leave under state law.

II. GENERAL STATEMENT OF POLICY

The following procedures and policies regarding family and medical leave are adopted by the school district, pursuant to the requirements of the FMLA and consistent with the requirements of the Minnesota parenting leave laws.

III. DEFINITIONS

A. "Covered active duty" means:

1. in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
2. in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 [United States Code section U.S.C. § 101\(a\)\(13\)\(B\)](#).

B. "Covered servicemember" means:

1. a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
2. a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, and was discharged or released under conditions other than dishonorable, at any time during the period of five years preceding the first date the eligible employee takes FMLA leave to care for the covered veteran.

C. "Eligible employee" means an employee who has been employed by the school district for a total of at least 12 months and who has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. An employee returning from fulfilling his or her Uniformed Services Employment and Reemployment Rights Act (USERRA)-covered service obligation shall be credited with the hours of service that would have been performed but for the period of absence

from work due to or necessitated by USERRA-covered service. In determining whether the employee met the hours of service requirement, and to determine the hours that would have been worked during the period of absence from work due to or necessitated by USERRA-covered service, the employee's pre-service work schedule can generally be used for calculations. While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more may not be counted unless: (1) the break is occasioned by the employee's fulfillment of his or her USERRA-covered service obligation; or (2) a written agreement, including a collective bargaining agreement, exists concerning the school district's intention to rehire the employee after the break in service.

- D. "Military caregiver leave" means leave taken to care for a covered servicemember with a serious injury or illness.
- E. "Next of kin of a covered servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin, and the employee may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.
- F. "Outpatient status" means, with respect to a covered servicemember who is a current member of the Armed Forces, the status of a member of the Armed Forces assigned to:
 - 1. a military medical treatment facility as an outpatient; or
 - 2. a unit established for the purpose of providing command and control of members of the Armed Forces receiving care as outpatients.
- G. "Qualifying exigency" means a situation where the eligible employee seeks leave for one or more of the following reasons:
 - 1. to address any issues that arise from a short-notice deployment (seven calendar days or less) of a covered military member;
 - 2. to attend military events and related activities of a covered military member;
 - 3. to address issues related to childcare and school activities of a covered military member's child;
 - 4. to address financial and legal arrangements for a covered military member;
 - 5. to attend counseling provided by someone other than a health care provider for oneself, a covered military member, or his/her child;
 - 6. to spend up to 15 calendar days with a covered military member who is on short-term, temporary rest and recuperation leave during a period of deployment;

7. to attend post-deployment activities related to a covered military member;
 8. to address ~~parental~~ care needs of a covered military member's parent who is incapable of self-care; and
 9. to address other events related to a covered military member that both the employee and school district agree is a qualifying exigency.
- H. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
1. inpatient care in a hospital, hospice, or residential medical care facility; or
 2. continuing treatment by a health care provider.
- I. "Spouse" means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state. This definition includes an individual in a same-sex or common law marriage that either: (1) was entered into in a state that recognizes such marriages; or (2) if entered into outside of any state, is valid in the place where entered into and could have been entered into in at least one state.
- J. "Veteran" has the meaning given in 38 United States Code section U.S.C. § 101.

IV. LEAVE ENTITLEMENT

- A. Twelve-week Leave under Federal Law
1. Eligible employees are entitled to a total of 12 work weeks of unpaid family or medical leave during the applicable 12-month period as defined below, plus any additional leave as required by law. Leave may be taken for one or more of the following reasons in accordance with applicable law:
 - a. birth of the employee's child and to care for such child;
 - b. placement of an adopted or foster child with the employee;
 - c. to care for the employee's spouse, son, daughter, or parent with a serious health condition;
 - d. the employee's serious health condition makes the employee unable to perform the functions of the employee's job; and/or
 - e. any qualifying exigency arising from the employee's spouse, son, daughter, or parent being on covered active duty, or notified of an impending call or order to covered active duty in the Armed Forces.
 2. For the purposes of this policy, "year" is defined as a rolling 12-month period measured backward from the date an employee's leave is to commence.

[Note: An employer is permitted to choose any one of the following

methods for determining the 12-month period in which the 12 weeks of FMLA leave entitlement occurs: (a) the calendar year; (b) any fixed 12-month leave year, such as a fiscal year, a year required by State law, or a year starting on an employee's anniversary date;(c) the 12-month period measured forward from the date any employee's first FMLA leave; or (d) a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave. It is recommended, however, that school districts use the 12-month rolling measurement as it prevents employees from stacking 12-week leave entitlement that could occur if, for example, a calendar or fiscal year is utilized. Where a calendar, fiscal or similar period is used, an employee could use 12 weeks at the end of the period and then again at the beginning of the period, providing an entitlement to a leave of 24 consecutive weeks. If a school district changes its definition of a "year" in this policy, it must give employees notice of at least 60 days before implementing this change.]

3. An employee's entitlement to FMLA leave for the birth, adoption, or foster care of a child expires at the end of the 12-month period beginning on the date of the birth or placement.
4. A "serious health condition" typically requires either inpatient care or continuing treatment by or under the supervision of a health care provider, as defined by applicable law. Family and medical leave generally is not intended to cover short-term conditions for which treatment and recovery are very brief.
5. A "serious injury or illness," in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means:
 - a. injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
 - b. in the case of a covered veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time, during the period of five years preceding the date on which the veteran undergoes the medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty in the Armed Forces and that manifested itself before or after the member became a veteran, and is:
 - (1) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; or
 - (2) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability (VASRD) rating of 50 percent or greater and such VASRD rating is based, in

whole or in part, on the condition precipitating the need for military caregiver leave; or

- (3) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
 - (4) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
6. Eligible spouses employed by the school district are limited to an aggregate of 12 weeks of leave during any 12-month period for the birth and care of a newborn child or adoption of a child, the placement of a child for foster care, or to care for a parent. This limitation for spouses employed by the school district does not apply to leave taken: by one spouse to care for the other spouse who is seriously ill; to care for a child with a serious health condition; because of the employee's own serious health condition; or pursuant to Paragraph IV.A.1.e. above.
7. Depending on the type of leave, intermittent or reduced schedule leave may be granted in the discretion of the school district or when medically necessary. However, part-time employees are only eligible for a pro-rata portion of leave to be used on an intermittent or reduced schedule basis, based on their average hours worked per week. Where an intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the school district may transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position, and which has equivalent pay and benefits.
8. If an employee requests a leave for the serious health condition of the employee or the employee's spouse, child, or parent, the employee will be required to submit sufficient medical certification. In such a case, the employee must submit the medical certification within 15 days from the date of the request or as soon as practicable under the circumstances.
9. If the school district has reason to doubt the validity of a health care provider's certification, it may require a second opinion at the school district's expense. If the opinions of the first and second health care providers differ, the school district may require certification from a third health care provider at the school district's expense. An employee may also be required to present a certification from a health care provider indicating that the employee is able to return to work.
10. Requests for leave shall be made to the school district. When leave relates to an employee's spouse, son, daughter, parent, or covered servicemember being on covered active duty, or notified of an impending call or order to covered active duty pursuant to Paragraph IV.A.1.e. above, and such leave is foreseeable, the employee shall provide reasonable and practical notice to the school district of the need for leave. For all other leaves, employees must give 30 days' written notice of a leave of absence where practicable. The failure to

provide the required notice may result in a delay of the requested leave. Employees are expected to make a reasonable effort to schedule leaves resulting from planned medical treatment so as not to disrupt unduly the operations of the school district, subject to and in coordination with the health care provider.

11. The school district may require that a request for leave under Paragraph IV.A.1.e. above be supported by a copy of the covered military member's active duty orders or other documentation issued by the military indicating active duty or a call to active duty status and the dates of active duty service. In addition, the school district may require the employee to provide sufficient certification supporting the qualifying exigency for which leave is requested.
12. During the period of a leave permitted under this policy, the school district will provide health insurance under its group health plan under the same conditions coverage would have been provided had the employee not taken the leave. The employee will be responsible for payment of the employee contribution to continue group health insurance coverage during the leave. An employee's failure to make necessary and timely contributions may result in termination of coverage. An employee who does not return to work after the leave may be required, in some situations, to reimburse the school district for the cost of the health plan premiums paid by it.
13. The school district may request or require the employee to substitute accrued paid leave for any part of the 12-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave. The superintendent shall be responsible to develop directives and guidelines as necessary to implement this policy. Such directives and guidelines shall be submitted to the school board for annual review.

The school district shall comply with written notice requirements as set forth in federal regulations.

14. Employees returning from a leave permitted under this policy are eligible for reinstatement in the same or an equivalent position as provided by law. However, the employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave.

B. Twelve-week Leave under State Law

An employee who does not qualify for parenting leave under Paragraphs IV.A.1.a. or IV.A.1.b. above may qualify for a 12-week unpaid leave which is available to a biological or adoptive parent in conjunction with the birth or adoption of a child, or to a female employee for prenatal care or incapacity due to pregnancy, childbirth, or related health conditions. The length of the leave shall be determined by the employee but must not exceed 12 weeks unless agreed to by the employerschool district. The employee may qualify if he or she has worked for the school district for at least 12 months and has worked an average number of hours per week equal to one-half of the full time equivalent during the 12-month period immediately preceding the leave. This leave is separate and exclusive of the family and medical leave described in the preceding paragraphs but may be reduced by any period of paid parental, disability, personal, or medical, or sick leave, or accrued vacation provided by the employerschool district so

that the total leave does not exceed 12 weeks, unless agreed to by the employerschool district, or leave taken for the same purpose under the FMLA. The leave taken under this section shall begin at a time requested by the employee. An employee who plans to take leave under this section must give the employerschool district reasonable notice of the date the leave shall commence and the estimated duration of the leave. For leave taken by a biological or adoptive parent in conjunction with the birth or adoption of a child, the leave must begin within 12 months of the birth or adoption; except that, in the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital.

C. Twenty-six-week Servicemember Family Military Leave

1. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 work weeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall be available only during a single 12-month period. For purposes of this leave, the need to care for a servicemember includes both physical and psychological care.
2. During a single 12-month period, an employee shall be entitled to a combined total of 26 work weeks of leave under Paragraphs IV.A. and IV.C. above.
3. The 12-month period referred to in this section begins on the first day the eligible employee takes leave to care for a covered servicemember and ends 12 months after that date.
4. Eligible spouses employed by the school district are limited to an aggregate of 26 weeks of leave during any 12-month period if leave is taken for birth of the employee's child or to care for the child after birth; for placement of a child with the employee for adoption or foster care or to care for the child after placement; to care for the employee's parent with a serious health condition; or to care for a covered servicemember with a serious injury or illness.
5. The school district may request or require the employee to substitute accrued paid leave for any part of the 26-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave.
6. An employee will be required to submit sufficient medical certification issued by the health care provider of the covered servicemember and other information in support of requested leave and eligibility for such leave under this section within 15 days from the date of the request or as soon as practicable under the circumstances.
7. The provisions of Paragraphs IV.A.7., IV.A.10., IV.A.12., IV.A.13., and IV.A.14. above shall apply to leaves under this section.

V. SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES

- A. An instructional employee is one whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This includes, but is not limited to, teachers, coaches, driver's education instructors, and special education assistants.

- B. Instructional employees who request foreseeable medically necessary intermittent or reduced work schedule leave greater than 20 percent of the workdays in the leave period may be required to:
1. take leave for the entire period or periods of the planned medical treatment; or
 2. move to an available alternative position for which the employee is qualified, and which provides equivalent pay and benefits, but not necessarily equivalent duties.
- C. Instructional employees who request continuous leave near the end of a semester may be required to extend the leave through the end of the semester. The number of weeks remaining before the end of a semester does not include scheduled school breaks, such as summer, winter, or spring break.
1. If an instructional employee begins leave for any purpose more than five weeks before the end of a semester and it is likely the leave will last at least three weeks, the school district may require that the leave be continued until the end of the semester.
 2. If the instructional employee begins leave for a purpose other than the employee's own serious health condition during the last five weeks of a semester, the school district may require that the leave be continued until the end of the semester if the leave will last more than two weeks or if the employee's return from leave would occur during the last two weeks of the semester.
 3. If the instructional employee begins leave for a purpose other than the employee's own serious health condition during the last three weeks of the semester and the leave will last more than five working days, the school district may require the employee to continue taking leave until the end of the semester.
- 4D. If the school district requires an instructional employee to extend leave through the end of a semester as set forth in this paragraph, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by the school district to the end of the school term is not counted as FMLA leave but as an unpaid or paid leave, to the extent the instructional employee has accrued paid leave available and the school district shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the conclusion of the leave.

VI. OTHER

- A. The provisions of this policy are intended to comply with applicable law, including the FMLA and applicable regulations. Any terms used from the FMLA will have the same meaning as defined by the FMLA and/or applicable regulations. To the extent that this policy is ambiguous or contradicts applicable law, the language of the applicable law will prevail.
- B. The requirements stated in the collective bargaining agreement between employees in a certified collective bargaining unit and the school district regarding family and medical leaves (if any) shall be followed.

VII. DISSEMINATION OF POLICY

- A. ~~This policy~~A poster prepared by the U.S. Department of Labor summarizing the major provisions of the Family and Medical Leave Act and informing employees how to file a complaint—shall be conspicuously posted in each school district building in areas accessible to employees and applicants for employment.
- B. This policy will be reviewed at least annually for compliance with state and federal law.

Legal References: Minn. Stat. §§ 181.940-181.944 (Parenting Leave and Accommodations)
10 U.S.C. § 101 *et seq.* (Armed Forces General Military Law)
29 U.S.C. § 2601 *et seq.* (Family and Medical Leave Act)
38 U.S.C. § 101 (Definitions)
29 C.F.R. Part 825 (Family and Medical Leave Act)

Cross References: MSBA School Law Bulletin “M” (Licensed and Non-Licensed School District Employee Leave—~~Family and Medical Leave Act Summary~~)

410 FAMILY AND MEDICAL LEAVE POLICY

[Note: School districts are required by statute to have a policy addressing these issues.]

I. PURPOSE

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II. GENERAL STATEMENT OF POLICY

The following procedures and policies regarding family and medical leave are adopted by the school district, pursuant to the requirements of the FMLA and consistent with the requirements of the Minnesota parenting leave laws.

III. DEFINITIONS

A. “Covered active duty” means:

1. in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
2. in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. § 101(a)(13)(B).

B. “Covered servicemember” means:

1. a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
2. a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, and was discharged or released under conditions other than dishonorable, at any time during the period of five years preceding the first date the eligible employee takes FMLA leave to care for the covered veteran.

C. “Eligible employee” means an employee who has been employed by the school district for a total of at least 12 months and who has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. An employee returning from fulfilling his or her

Uniformed Services Employment and Reemployment Rights Act (USERRA)-covered service obligation shall be credited with the hours of service that would have been performed but for the period of absence from work due to or necessitated by USERRA-covered service. In determining whether the employee met the hours of service requirement, and to determine the hours that would have been worked during the period of absence from work due to or necessitated by USERRA-covered service, the employee's pre-service work schedule can generally be used for calculations. While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more may not be counted unless the break is occasioned by the employee's fulfillment of his or her USERRA-covered service obligation or a written agreement, including a collective bargaining agreement, exists concerning the school district's intention to rehire the employee after the break in service.

- D. "Military caregiver leave" means leave taken to care for a covered servicemember with a serious injury or illness.
- E. "Next of kin of a covered servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin, and the employee may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.
- F. "Outpatient status" means, with respect to a covered servicemember who is a current member of the Armed Forces, the status of a member of the Armed Forces assigned to:
 - 1. a military medical treatment facility as an outpatient; or
 - 2. a unit established for the purpose of providing command and control of members of the Armed Forces receiving care as outpatients.
- G. "Qualifying exigency" means a situation where the eligible employee seeks leave for one or more of the following reasons:
 - 1. to address any issues that arise from a short-notice deployment (seven calendar days or less) of a covered military member;
 - 2. to attend military events and related activities of a covered military

member;

3. to address issues related to childcare and school activities of a covered military member's child;
4. to address financial and legal arrangements for a covered military member;
5. to attend counseling provided by someone other than a health care provider for oneself, a covered military member, or his/her child;
6. to spend up to 15 calendar days with a covered military member who is on short-term, temporary rest and recuperation leave during a period of deployment;
7. to attend post-deployment activities related to a covered military member;
8. to address parental care needs; and
9. to address other events related to a covered military member that both the employee and school district agree is a qualifying exigency.

H. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

1. inpatient care in a hospital, hospice, or residential medical care facility; or
2. continuing treatment by a health care provider.

I. "Spouse" means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state. This definition includes an individual in a same-sex or common law marriage that either: (1) was entered into in a state that recognizes such marriages; or (2) if entered into outside of any state, is valid in the place where entered into and could have been entered into in at least one state.

J. "Veteran" has the meaning given in 38 U.S.C. § 101.

IV. LEAVE ENTITLEMENT

A. Twelve-week Leave under Federal Law

1. Eligible employees are entitled to a total of 12 work weeks of unpaid family or medical leave during the applicable 12-month period as defined

below, plus any additional leave as required by law. Leave may be taken for one or more of the following reasons in accordance with applicable law:

- a. birth of the employee's child and to care for such child;
 - b. placement of an adopted or foster child with the employee;
 - c. to care for the employee's spouse, son, daughter, or parent with a serious health condition;
 - d. the employee's serious health condition makes the employee unable to perform the functions of the employee's job; and/or
 - e. any qualifying exigency arising from the employee's spouse, son, daughter, or parent being on covered active duty, or notified of an impending call or order to covered active duty in the Armed Forces.
2. For the purposes of this policy, "year" is defined as a rolling 12-month period measured backward from the date an employee's leave is to commence.
 3. An employee's entitlement to FMLA leave for the birth, adoption, or foster care of a child expires at the end of the 12-month period beginning on the date of the birth or placement.
 4. A "serious health condition" typically requires either inpatient care or continuing treatment by or under the supervision of a health care provider, as defined by applicable law. Family and medical leave generally is not intended to cover short-term conditions for which treatment and recovery are very brief.
 5. A "serious injury or illness," in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means:
 - a. injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
 - b. in the case of a covered veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time, during the period of five years preceding the date on which the veteran undergoes the medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred

by the member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty in the Armed Forces and that manifested itself before or after the member became a veteran, and is:

- (1) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; or
 - (2) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability (VASRD) rating of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
 - (3) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
 - (4) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
6. Eligible spouses employed by the school district are limited to an aggregate of 12 weeks of leave during any 12-month period for the birth and care of a newborn child or adoption of a child, the placement of a child for foster care, or to care for a parent. This limitation for spouses employed by the school district does not apply to leave taken: by one spouse to care for the other spouse who is seriously ill; to care for a child with a serious health condition; because of the employee's own serious health condition; or pursuant to Paragraph IV.A.1.e. above.
7. Depending on the type of leave, intermittent or reduced schedule leave may be granted in the discretion of the school district or when medically necessary. However, part-time employees are only eligible for a pro-rata portion of leave to be used on an intermittent or reduced schedule basis, based on their average hours worked per week. Where an intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the school district may transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular

position, and which has equivalent pay and benefits.

8. If an employee requests a leave for the serious health condition of the employee or the employee's spouse, child, or parent, the employee will be required to submit sufficient medical certification. In such a case, the employee must submit the medical certification within 15 days from the date of the request or as soon as practicable under the circumstances.
9. If the school district has reason to doubt the validity of a health care provider's certification, it may require a second opinion at the school district's expense. If the opinions of the first and second health care providers differ, the school district may require certification from a third health care provider at the school district's expense. An employee may also be required to present a certification from a health care provider indicating that the employee is able to return to work.
10. Requests for leave shall be made to the school district. When leave relates to an employee's spouse, son, daughter, parent, or covered servicemember being on covered active duty, or notified of an impending call or order to covered active duty pursuant to Paragraph IV.A.1.e. above, and such leave is foreseeable, the employee shall provide reasonable and practical notice to the school district of the need for leave. For all other leaves, employees must give 30 days' written notice of a leave of absence where practicable. The failure to provide the required notice may result in a delay of the requested leave. Employees are expected to make a reasonable effort to schedule leaves resulting from planned medical treatment so as not to disrupt unduly the operations of the school district, subject to and in coordination with the health care provider.
11. The school district may require that a request for leave under Paragraph IV.A.1.e. above be supported by a copy of the covered military member's active duty orders or other documentation issued by the military indicating active duty or a call to active duty status and the dates of active duty service. In addition, the school district may require the employee to provide sufficient certification supporting the qualifying exigency for which leave is requested.
12. During the period of a leave permitted under this policy, the school district will provide health insurance under its group health plan under the same conditions coverage would have been provided had the employee not taken the leave. The employee will be responsible for payment of the employee contribution to continue group health insurance coverage during the leave. An employee's failure to make necessary and timely contributions may result in termination of coverage. An employee who does not return to work after the leave may be required, in some situations, to reimburse the school district for the cost of the health plan premiums paid by it.

13. The school district may request or require the employee to substitute accrued paid leave for any part of the 12-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave. The superintendent shall be responsible to develop directives and guidelines as necessary to implement this policy. Such directives and guidelines shall be submitted to the school board for annual review.

The school district shall comply with written notice requirements as set forth in federal regulations.

14. Employees returning from a leave permitted under this policy are eligible for reinstatement in the same or an equivalent position as provided by law. However, the employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave.

B. Twelve-week Leave under State Law

An employee who does not qualify for parenting leave under Paragraphs IV.A.1.a. or IV.A.1.b. above may qualify for a 12-week unpaid leave which is available to a biological or adoptive parent in conjunction with the birth or adoption of a child, or to a female employee for prenatal care or incapacity due to pregnancy, childbirth, or related health conditions. The length of the leave shall be determined by the employee but must not exceed 12 weeks unless agreed by the employer. The employee may qualify if he or she has worked for the school district for at least 12 months and has worked an average number of hours per week equal to one-half of the full time equivalent during the 12-month period immediately preceding the leave. This leave is separate and exclusive of the family and medical leave described in the preceding paragraphs but may be reduced by any period of paid parental, disability, personal, or medical, or sick leave, or accrued vacation provided by the employer so that the total leave does not exceed 12 weeks, unless agreed by the employer, or leave taken for the same purpose under the FMLA. The leave taken under this section shall begin at a time requested by the employee. An employee who plans to take leave under this section must give the employer reasonable notice of the date the leave shall commence and the estimated duration of the leave. For leave taken by a biological or adoptive parent in conjunction with the birth or adoption of a child, the leave must begin within 12 months of the birth or adoption; except that, in the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital.

C. Twenty-six-week Servicemember Family Military Leave

1. An eligible employee who is the spouse, son, daughter, parent, or next of

kin of a covered servicemember shall be entitled to a total of 26 work weeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall be available only during a single 12-month period. For purposes of this leave, the need to care for a servicemember includes both physical and psychological care.

2. During a single 12-month period, an employee shall be entitled to a combined total of 26 work weeks of leave under Paragraphs IV.A. and IV.C. above.
3. The 12-month period referred to in this section begins on the first day the eligible employee takes leave to care for a covered servicemember and ends 12 months after that date.
4. Eligible spouses employed by the school district are limited to an aggregate of 26 weeks of leave during any 12-month period if leave is taken for birth of the employee's child or to care for the child after birth; for placement of a child with the employee for adoption or foster care or to care for the child after placement; to care for the employee's parent with a serious health condition; or to care for a covered servicemember with a serious injury or illness.
5. The school district may request or require the employee to substitute accrued paid leave for any part of the 26-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave.
6. An employee will be required to submit sufficient medical certification issued by the health care provider of the covered servicemember and other information in support of requested leave and eligibility for such leave under this section within 15 days from the date of the request or as soon as practicable under the circumstances.
7. The provisions of Paragraphs IV.A.7., IV.A.10., IV.A.12., IV.A.13., and IV.A.14. above shall apply to leaves under this section.

V. SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES

- A. An instructional employee is one whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This includes, but is not limited to, teachers, coaches, driver's education instructors, and special education assistants.
- B. Instructional employees who request foreseeable medically necessary intermittent or reduced work schedule leave greater than 20 percent of the work days in the

leave period may be required to:

1. take leave for the entire period or periods of the planned medical treatment; or
 2. move to an available alternative position for which the employee is qualified, and which provides equivalent pay and benefits, but not necessarily equivalent duties.
- C. Instructional employees who request continuous leave near the end of a semester may be required to extend the leave through the end of the semester. The number of weeks remaining before the end of a semester does not include scheduled school breaks, such as summer, winter, or spring break.
1. If an instructional employee begins leave for any purpose more than five weeks before the end of a semester and it is likely the leave will last at least three weeks, the school district may require that the leave be continued until the end of the semester.
 2. If the employee begins leave for a purpose other than the employee's own serious health condition during the last five weeks of a semester, the school district may require that the leave be continued until the end of the semester if the leave will last more than two weeks or if the employee's return from leave would occur during the last two weeks of the semester.
 3. If the employee begins leave for a purpose other than the employee's own serious health condition during the last three weeks of the semester and the leave will last more than five working days, school district may require the employee to continue taking leave until the end of the semester.
- D. The entire period of leave taken under the special rules will be counted as leave. The school district will continue to fulfill the school district's leave responsibilities and obligations, including the obligation to continue the employee's health insurance and other benefits, if an instructional employee's leave entitlement ends before the involuntary leave period expires.

VI. OTHER

- A. The provisions of this policy are intended to comply with applicable law, including the FMLA and applicable regulations. Any terms used from the FMLA will have the same meaning as defined by the FMLA and/or applicable regulations. To the extent that this policy is ambiguous or contradicts applicable law, the language of the applicable law will prevail.
- B. The requirements stated in the collective bargaining agreement between employees in a certified collective bargaining unit and the school district regarding family and medical leaves (if any) shall be followed.

VII. DISSEMINATION OF POLICY

- A. This policy shall be conspicuously posted in each school district building in areas accessible to employees.
- B. This policy will be reviewed at least annually for compliance with state and federal law.

Legal References: Minn. Stat. §§ 181.940-181.944 (Parenting Leave)
10 U.S.C. § 101 *et seq.* (Armed Forces General Military Law)
29 U.S.C. § 2601 *et seq.* (Family and Medical Leave Act)
38 U.S.C. § 101 (Definitions)
29 C.F.R. Part 825 (Family and Medical Leave Act)

Cross References: MSBA Service Manual, Chapter 13, School Law Bulletin “M” (Statutory Provisions Which Grant Leaves to Licensed as well as Non-Licensed School District Employees – Family and Medical Leave Act Summary)

Original Policy Adopted: May 11, 1998 / Amended: February 11, 2002/ Amended: November 9, 2009

Reviewed: April 2015 / May 2016 / June 2017 / May 2018 / December 2019 / April 2021/ June 2022

Independent School District No. 110
Waconia, MN 55387

1.B.2.b. 413 Form: Harassment and Violence Report
Form

**INDEPENDENT SCHOOL DISTRICT NO. 110
HARASSMENT AND VIOLENCE REPORT FORM**

General Statement of Policy Prohibiting Harassment and Violence

Independent School District No. **110** maintains a firm policy prohibiting all forms of discrimination. **This policy strictly prohibits** harassment or violence against students or employees or groups of students or employees 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 and expression, or disability. **(Protected Class)**. All persons are to be treated with respect and dignity. 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 and expression, or disability~~ **Protected Class** by any pupil, teacher, administrator, or other school personnel, that creates an intimidating, hostile, or offensive environment will not be tolerated under any circumstances.

Complainant _____

Home Address _____

Work Address _____

Home/Cell Phone _____

Work Phone _____

Date of Alleged Incident(s) _____

Basis of Alleged Harassment/Violence - circle as appropriate: race \ color \ creed \ religion \ national origin \ sex \ age \ marital status \ familial status \ status with regard to public assistance \ sexual orientation, **including gender identity and expression** \ disability

Name of person you believe harassed or was violent toward you or another person or group.

If the alleged harassment or violence was toward another person or group, identify that person or group.

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (i.e., threats, requests, demands, etc.); what, if any, physical contact was involved; etc. (Attach additional pages if necessary.)

Where and when did the incident(s) occur? _____

List any witnesses who were present _____

This complaint is filed based on my honest belief that _____ has harassed or has been violent to me or to another person or group. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge and belief.

Complainant Signature

Date

Received by _____

Date

INDEPENDENT SCHOOL DISTRICT NO. 110
HARASSMENT AND VIOLENCE REPORT FORM

General Statement of Policy Prohibiting Harassment and Violence

Independent School District No. 110 maintains a firm policy prohibiting all forms of discrimination. Harassment or violence against students or employees or groups of students or employees 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 and expression, or disability is strictly prohibited. All persons are to be treated with respect and dignity. 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 and expression, or disability by any pupil, teacher, administrator, or other school personnel, which create an intimidating, hostile, or offensive environment will not be tolerated under any circumstances.

Complainant _____
Home Address _____
Work Address _____
Home Phone _____ Work Phone _____

Date of Alleged Incident(s) _____

Basis of Alleged Harassment/Violence - circle as appropriate: race \ color \ creed \ religion \ national origin \ sex \ age \ marital status \ familial status \ status with regard to public assistance \ sexual orientation, including gender identity and expression \ disability

Name of person you believe harassed or was violent toward you or another person or group.

If the alleged harassment or violence was toward another person or group, identify that person or group. _____

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used; any verbal statements (i.e., threats, requests, demands, etc.); what, if any, physical contact was involved; etc. (Attach additional pages if necessary.) _____

Where and when did the incident(s) occur? _____

List any witnesses that were present _____

This complaint is filed based on my honest belief that _____ has harassed or has been violent to me or to another person or group. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge and belief.

(Complainant Signature)

(Date)

Received by _____

(Date)

1.B.2.c. 415 Mandated Reporting of Maltreatment of
Vulnerable Adults

Adopted: _____

MSBA/MASA Model Policy 415

Orig. 1995

Revised: _____

Rev. 201522

415 MANDATED REPORTING OF MALTREATMENT OF VULNERABLE ADULTS

[Note: This policy reflects the mandatory law regarding reporting maltreatment of vulnerable adults and is not discretionary in nature.]

I. PURPOSE

The purpose of this policy is to make clear the statutory requirements of school personnel to report suspected maltreatment of vulnerable adults.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the school district is to ~~fully~~ comply fully with Minnesota Statutes section § 626.557 requiring school personnel to report suspected maltreatment of vulnerable adults.
- B. A violation of this policy occurs when any school personnel fails to report suspected maltreatment of vulnerable adults when the school personnel has reason to believe that a vulnerable adult is being or has been maltreated, or has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained.

III. DEFINITIONS

A. "Abuse" means:

1. An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of: (1) assault in the first through fifth degrees as defined in Minnesota Statutes sections 609.221 to 609.224; (2) the use of drugs to injure or facilitate crime as defined in Minnesota Statutes section 609.235; (3) the solicitation, inducement, and promotion of prostitution as defined in Minnesota Statutes section 609.322; and (4) criminal sexual conduct in the first through fifth degrees as defined in Minnesota Statutes sections 609.342 to 609.3451. A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.
2. Conduct which is not an accident or therapeutic conduct as defined in Minnesota Statutes section 626.5572 which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following: (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult; (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; (3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and (4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under Minnesota Statutes section 245.825.

3. Any sexual contact or penetration as defined in Minn. Stat. § 609.341 between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.

4. The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

Abuse does not include actions specifically excluded by Minnesota Statutes section 626.5572, Subd. 2.

B. "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

C. "Common entry point" means the entity responsible for receiving reports of alleged or suspected maltreatment of a vulnerable adult and designated by the Commissioner of the Minnesota Department of Human Services as the MN Adult Abuse Reporting Center (MAARC).

D. "Financial Exploitation" means a breach of a fiduciary duty by an actor's unauthorized expenditure of funds entrusted to the actor for the benefit of the vulnerable adult or by an actor's failure to provide food, clothing, shelter, health care, therapeutic conduct or supervision, the failure of which results or is likely to result in detriment to the vulnerable adult. Financial exploitation also includes: the willful use, withholding or disposal of funds or property of a vulnerable adult; the obtaining of services for wrongful profit or advantage which results in detriment to the vulnerable adult; the acquisition of a vulnerable adult's funds or property through undue influence, harassment, duress, deception or fraud; and the use of force, coercion, or enticement to cause a vulnerable adult to perform services against the vulnerable adult's will for the profit or advantage of another.

E. "Immediately" means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

F. "Mandated Reporters" means a professional or professional's delegate while engaged in education. any school personnel who has reason to believe that a vulnerable adult is being or has been maltreated.

G. "Maltreatment" means the neglect, abuse, or financial exploitation of a vulnerable adult.

H. "Neglect" means the failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is: (1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and (2) which is not the result of an accident or therapeutic conduct.

I. Neglect also means the absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult. Neglect does not include actions specifically excluded by Minn. Stat. § Minnesota Statutes section 626.5572, Subd. 17.

- J. "School personnel" means professional employees or their delegates of the school district engaged in providing health, educational, social, psychological, law enforcement, or other caretaking services of vulnerable adults.
- K. "Vulnerable Aadult" means any person 18 years of age or older who: (1) is a resident or inpatient of a facility; (2) receives services required to be licensed under Minn. Stat. Ch. Minnesota Statutes chapter 245A, except as excluded under Minn. Stat. §Minnesota Statutes section 626.5572, Subd. 21(a)(2); (3) receives services from a licensed home care provider or person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program; or (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to adequately provide adequately for the person's individual's own care without assistance or supervision and, because of the dysfunction or infirmity and need for care or services, has an impaired ability to protect the individual's self from maltreatment.

IV. REPORTING PROCEDURES

- A. A mandated reporter as defined herein shall immediately report the suspected maltreatment to the common entry point responsible for receiving reports.
- B. Whenever a mandated reporter, as defined herein, knows or has reason to believe that an individual made an error in the provision of therapeutic conduct to a vulnerable adult which results in injury or harm, which reasonably requires the care of a physician, such information shall be reported immediately to the designated county agency. The mandated reporter also may report a belief that the error did not constitute neglect and why the error does not constitute neglect.
- C. The reporter shall, to the extent possible, identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected abuse or neglect. A mandated reporter may disclose not public data, as defined under Minn. Stat. §Minnesota Statutes section 13.02, to the extent necessary to comply with the above reporting requirements.
- D. A person mandated to report suspected maltreatment of a vulnerable adult who negligently or intentionally fails to report is liable for damages caused by the failure. A negligent or intentional failure to report may result in discipline. A mandatory reporter who intentionally fails to make a report, who knowingly provides false or misleading information in reporting, or who intentionally fails to provide all the material circumstances surrounding the reported incident may be guilty of a misdemeanor.
- E. Retaliation against a person who makes a good faith report under Minnesota law and this policy, or against vulnerable adult who is named in a report is prohibited.
- F. Any person who intentionally makes a false report under the provisions of applicable Minnesota law or this policy shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury. The intentional making of a false report may result in discipline.

V. INVESTIGATION

The responsibility for investigating reports of suspected maltreatment of a vulnerable adult rests with the entity designated by the county for receiving reports.

VI. DISSEMINATION OF POLICY AND TRAINING

- A. This policy ~~shall~~should appear in school personnel handbooks ~~where~~as appropriate.
- B. The school district will develop a method of discussing this policy with employees ~~where~~as appropriate.
- C. This policy ~~shall~~should be reviewed at least annually for compliance with state law.

Legal References: Minn. Stat. § 13.02 ([Government Data Practices; Collection, Security, and Dissemination of Records; Definitions](#))
[Minn. Stat. Ch. 245A \(Human Services Licensing\)](#)
Minn. Stat. § 245.825 (Aversive and Deprivation Procedures; Licensed Facilities and Services)
Minn. Stat. §§ 609.221-609.224 (Assault)
Minn. Stat. § 609.232 ~~34~~ ([Crimes Against Vulnerable PersonsAdults; Definitions](#))
~~Crimes Against the Person~~)
Minn. Stat. § 609.235 (Use of Drugs to Injure or Facilitate Crime)
Minn. Stat. § 609.322 (Solicitation, Inducement, and Promotion of Prostitution; Sex Trafficking)
Minn. Stat. § 609.341 (Definitions)
Minn. Stat. §§ 609.342-609.3451 (Criminal Sexual Conduct)
Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)
Minn. Stat. § 626.5572 (Definitions)
In re Kleven, 736 N.W.2d 707 (Minn. App. 2007)

Cross References: MSBA/MASA Model Policy 103 (Complaints – Students, Employees, Parents, Other Persons)
MSBA/MASA Model Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee, or Student)
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 515 \(Protection and Privacy of Pupil Records\)](#)

415 MANDATED REPORTING OF MALTREATMENT OF VULNERABLE ADULTS

[Note: This policy reflects the mandatory law regarding reporting maltreatment of vulnerable adults and is not discretionary in nature.]

I. PURPOSE

The purpose of this policy is to make clear the statutory requirements of school personnel to report suspected maltreatment of vulnerable adults.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the school district is to fully comply with Minn. Stat. § 626.557 requiring school personnel to report suspected maltreatment of vulnerable adults.
- B. A violation of this policy occurs when any school personnel fails to report suspected maltreatment of vulnerable adults when the school personnel has reason to believe that a vulnerable adult is being or has been maltreated, or has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained.

III. DEFINITIONS

- A. “Mandated Reporters” means any school personnel who has reason to believe that a vulnerable adult is being or has been maltreated.
- B. “Maltreatment” means the neglect, abuse, or financial exploitation of a vulnerable adult.
- C. “Neglect” means the failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is: (1) reasonable and necessary to obtain or maintain the vulnerable adult’s physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and (2) which is not the result of an accident or therapeutic conduct. Neglect also includes the absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult’s health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult. Neglect does not include actions specifically excluded by Minn. Stat. § 626.5572, Subd. 17.
- D. “Abuse” means: (a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of: (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224; (2) the use of drugs to injure or facilitate crime as defined in section 609.235; (3) the solicitation,

inducement, and promotion of prostitution as defined in section 609.322; and (4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451. A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction. (b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following: (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult; (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; (3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and (4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825. (c) Any sexual contact or penetration as defined in section 609.341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility. (d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another. Abuse does not include actions specifically excluded by Minn. Stat. § 626.5572, Subd. 2.

- E. "Financial Exploitation" means a breach of a fiduciary duty by an actor's unauthorized expenditure of funds entrusted to the actor for the benefit of the vulnerable adult or by an actor's failure to provide food, clothing, shelter, health care, therapeutic conduct or supervision, the failure of which results or is likely to result in detriment to the vulnerable adult. Financial exploitation also includes: the willful use, withholding or disposal of funds or property of a vulnerable adult; the obtaining of services for wrongful profit or advantage which results in detriment to the vulnerable adult; the acquisition of a vulnerable adult's funds or property through undue influence, harassment, duress, deception or fraud; and the use of force, coercion, or enticement to cause a vulnerable adult to perform services against the vulnerable adult's will for the profit or advantage of another.
- F. "Vulnerable Adult" means any person 18 years of age or older who: (1) is a resident or inpatient of a facility; (2) receives services required to be licensed under Minn. Stat. Ch. 245A, except as excluded under Minn. Stat. § 626.5572, Subd. 21(a)(2); (3) receives services from a licensed home care provider or person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program; or (4) regardless of residence or type of service received possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to adequately provide the person's own care without assistance or supervision and, because of the dysfunction or infirmity and need for care or services, has an impaired ability to protect the individual's self from maltreatment.
- G. "Caregiver" means an individual or facility who has responsibility for the care of a

vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

- H. “School Personnel” means professional employees or their delegates of the school district engaged in providing health, educational, social, psychological, law enforcement, or other caretaking services of vulnerable adults.
- I. “Immediately” means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

IV. REPORTING PROCEDURES

- A. A mandated reporter as defined herein shall immediately report the suspected maltreatment to the common entry point responsible for receiving reports.
- B. Whenever a mandated reporter, as defined herein, knows or has reason to believe that an individual made an error in the provision of therapeutic conduct to a vulnerable adult which results in injury or harm, which reasonably requires the care of a physician, such information shall be reported immediately to the designated county agency. The mandated reporter also may report a belief that the error did not constitute neglect and why the error does not constitute neglect.
- C. The reporter shall to the extent possible identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected abuse or neglect. A mandated reporter may disclose *not public data* as defined under Minn. Stat. § 13.02 to the extent necessary to comply with the above reporting requirements.
- D. A person mandated to report suspected maltreatment of a vulnerable adult who negligently or intentionally fails to report is liable for damages caused by the failure. A negligent or intentional failure to report may result in discipline. A mandatory reporter who intentionally fails to make a report, who knowingly provides false or misleading information in reporting, or who intentionally fails to provide all the material circumstances surrounding the reported incident may be guilty of a misdemeanor.
- E. Retaliation against a person who makes a good faith report under Minnesota law and this policy, or against vulnerable adult who is named in a report is prohibited.
- F. Any person who intentionally makes a false report under the provisions of applicable Minnesota law or this policy shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury. The intentional making of a false report may result in discipline.

V. INVESTIGATION

The responsibility for investigating reports of suspected maltreatment of a vulnerable adult rests with the entity designated by the county for receiving reports.

VI. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall appear in school personnel handbooks where appropriate.
- B. The school district will develop a method of discussing this policy with employees where appropriate.
- C. This policy shall be reviewed at least annually for compliance with state law.

Legal References: Minn. Stat. § 13.02 (Collection, Security, and Dissemination of Records; Definitions)
Minn. Stat. § 245.825 (Aversive and Deprivation Procedures; Licensed Facilities and Services)
Minn. Stat. §§ 609.221-609.224 (Assault)
Minn. Stat. § 609.234 (Crimes Against the Person)
Minn. Stat. § 609.235 (Use of Drugs to Injure or Facilitate Crime)
Minn. Stat. § 609.322 (Solicitation, Inducement, and Promotion of Prostitution; Sex Trafficking)
Minn. Stat. § 609.341 (Definitions)
Minn. Stat. §§ 609.342-609.3451 (Criminal Sexual Conduct)
Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)
Minn. Stat. § 626.5572 (Definitions)
In re Kleven, 736 N.W.2d 707 (Minn. App. 2007)

Cross References: MSBA/MASA Model Policy 103 (Complaints – Students, Employees, Parents, Other Persons)
MSBA/MASA Model Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee, or Student)
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)

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Independent School District No. 110
Waconia, MN

1.B.2.d. 416 Drug and Alcohol Testing

Adopted: _____

MSBA/MASA Model Policy 416

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416 DRUG AND ALCOHOL TESTING

[Note: Drug and ~~a~~Alcohol ~~t~~Testing of school bus drivers and applicants is mandatory under federal law. The mandatory testing is described under Part III. of the policy. Testing of other employees or testing of school bus drivers beyond that mandated by federal law is optional ~~but~~and can be done under state law only if a policy containing provisions, such as the provisions of Part IV. of this policy, are adopted. To preserve the right to request or require school district employees who are not bus drivers and applicants to undergo drug and/or alcohol testing or to require bus drivers to submit to testing that is not federally mandated, a school district should adopt Part IV. as part of its drug and alcohol testing policy.]

I. PURPOSE

- A. The school board recognizes the significant problems created by drug and alcohol use in society in general, and the public schools in particular. The school board further recognizes the important contribution that the public schools have in shaping the youth of today into the adults of tomorrow.
- B. The school board believes that a work environment free of drug and alcohol use will be not only safer, healthier, and more productive but also more conducive to effective learning. ~~Therefore, t~~To provide such an environment, the purpose of this policy is to provide authority so that the school board may require all employees and/or job applicants to submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in federal law and [Minn. Stat. §§Minnesota Statutes, sections 181.950-181.957](#).

II. GENERAL STATEMENT OF POLICY

- A. All school district employees and job applicants whose positions require a commercial driver's license will be required to undergo drug and alcohol testing in accordance with federal law and the applicable provisions of this policy. The school district also may request or require that drivers submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in [Minn. Stat. §§Minnesota Statutes, sections 181.950-181.957](#).
- B. The school district may request or require that any school district employee or job applicant, other than an employee or applicant whose position requires a commercial driver's license, submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in [Minn. Stat. §§Minnesota Statutes, sections 181.950-181.957](#).
- C. The use, possession, sale, purchase, transfer, or dispensing of any drugs not medically prescribed, including medical cannabis, ~~regardless of whether or not~~ it has been prescribed for the employee, is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of drugs ~~which that~~ are not medically prescribed, including medical cannabis, ~~regardless of whether or not~~ it has been prescribed for the employee, is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district

property. Employees under the influence of drugs ~~which-that~~ are not medically prescribed are prohibited from entering or remaining on school district property.

- D. The use, possession, sale, purchase, transfer, or dispensing of alcohol is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of alcohol is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of alcohol are prohibited from entering or remaining on school district property.
- E. Any employee who violates this section shall be subject to discipline ~~which-that~~ includes, but is not limited to, immediate suspension without pay and immediate discharge.

III. FEDERALLY MANDATED DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

A. General Statement of Policy

All persons subject to commercial driver's license requirements shall be tested for alcohol, marijuana (including medical cannabis), cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP), pursuant to federal law. Drivers who test positive for alcohol or drugs shall be subject to disciplinary action, which may include termination of employment.

B. Definitions

1. "Actual Knowledge" means actual knowledge by the school district that a driver has used alcohol or controlled substances based on: (a) direct observation of the employee's use (not observation of behavior sufficient to warrant reasonable suspicion testing); (b) information provided by a previous employer; (c) a traffic citation; or (d) an employee's admission, except when made in connection with a qualified employee self-admission program.
2. "Alcohol Screening Device" (ASD) means a breath or saliva device, other than an Evidential Breath Testing Device (EBT), that is approved by the National Highway Traffic Safety Administration and placed on its Conforming Products List for such devices.
3. "Breath Alcohol Technician" (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates the EBT.
4. "Commercial Motor Vehicle" (CMV) includes a vehicle ~~which-that~~ is designed to transport 16 or more passengers, including the driver.
5. "Designated Employer Representative" (DER) means ~~an employee authorized by the school district a designated school district representative authorized~~ to take immediate action to remove employees from safety-sensitive duties, ~~or cause employees to be removed from these covered duties, and~~ to make required decisions in the testing and evaluation process, ~~and to~~ The DER receives test results and other communications for the school district.
6. "Department of Transportation" (DOT) means United States Department of Transportation.
7. "Direct Observation" means observation of alcohol or controlled substances use

and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing.

8. "Driver" is any person who operates a CMV, including full-time, regularly employed drivers, casual, intermittent, or occasional drivers, leased drivers, and independent owner-operator contractors.
9. "Evidential Breath Testing Device" (EBT) means a device approved by the National Highway Traffic Safety Administration for the evidentiary testing of breath for alcohol concentration and placed on its Conforming Products List for such devices.
10. "Licensed Medical Practitioner" means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.
11. "Medical Review Officer" (MRO) means a licensed physician responsible for receiving and reviewing laboratory results generated by the school district's drug testing program and for evaluating medical explanations for certain drug tests.
12. "Refusal to Submit" (to an alcohol or controlled substances test) means that a driver: (a) fails to appear for any test within a reasonable time, as determined by the school district, consistent with applicable DOT regulations, after being directed to do so; (b) fails to remain at the testing site until the testing process is complete; (c) fails to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test; (d) fails to permit the observation or monitoring of the driver's provision of a specimen in the case of a directly observed or monitored collection in a drug test; (e) fails to provide a sufficient breath specimen or sufficient amount of urine when directed and a determination has been made that no adequate medical explanation for the failure exists; (f) fails or declines to take an additional test as directed by the school district or the collector; (g) fails to undergo a medical examination or evaluation, as directed by the MRO or the DER; (h) fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector, fails to sign the certification on the forms); (i) fails to follow the observer's instructions, in an observed collection, to raise the driver's clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process; (j) possesses or wears a prosthetic or other device that could be used to interfere with the collection process; (k) admits to the collector or MRO that the driver adulterated or substituted the specimen; or (l) is reported by the MRO as having a verified adulterated or substituted test result. An applicant who fails to appear for a pre-employment test, who leaves the testing site before the pre-employment testing process commences, or who does not provide a urine specimen because he or she has left before it commences is not deemed to have refused to submit to testing.
13. "Safety-Sensitive Functions" are on-duty functions from the time the driver begins work or is required to be in readiness to work until relieved from work and all responsibility for performing work, and include such functions as driving, loading and unloading vehicles, or supervising or assisting in the loading or unloading of vehicles, servicing, repairing, obtaining assistance to repair, or

remaining in attendance during the repair of a disabled vehicle.

14. "Screening Test Technician" (STT) means anyone who instructs and assists individuals in the alcohol testing process and operates an ASD.
15. "Stand Down" means ~~the practice of~~ temporarily removing an employee from performing safety-sensitive functions ~~after based only upon~~ a laboratory reports ~~to the MRO of~~ a confirmed positive ~~test for a drug or drug metabolite~~, an adulterated ~~test~~, or a substituted test ~~result but~~ before the MRO completes the verification process.
16. "Substance Abuse Professional" (SAP) means a qualified person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

C. Policy and Educational Materials

[Note: ~~The f~~Federal regulations require that school districts provide materials to bus drivers explaining the school district's policies and procedures and the federal requirements with respect to the mandatory drug and alcohol testing of bus drivers. 49 Code of Federal Regulations section ~~C.F.R. § 382.601~~. ~~Almost all~~ ~~Most~~ of the required information is contained within this model policy. Additional materials to be provided to employees are described in Paragraph 2. of ~~this~~ Section C.]

1. The school district shall provide a copy of this policy and procedures to each driver prior to the start of its alcohol and drug testing program and to each driver subsequently hired or transferred into a position requiring driving of a CMV.
2. The school district shall provide to each driver information required under Title 49 of the Code of Federal Regulations, including information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or ~~drug-controlled substance~~ problem (the driver's or a coworker's); and available methods of intervening when an alcohol or ~~drug-controlled substance~~ problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.
3. The school district shall provide written notice to representatives of employee organizations that the information described above is available.
4. The school district shall require each driver to sign a statement certifying that ~~the driver~~ ~~he or she~~ ~~has~~ received a copy of the policy and materials. This statement should be in the form of Attachment A to this policy. The school district will maintain the original signed certificate and will provide a copy to the driver if the driver so requests.

[Note: The federal regulations require a school district to obtain a signed statement from each driver certifying that he or she ~~has~~ received a copy of these materials. 49 Code of Federal Regulations section ~~C.F.R. § 382.601(d)~~. The original signed certificate must be maintained by the school district and a copy may be provided to the driver.]

D. Alcohol and Controlled Substances Testing Program Manager

[Note: School districts are required by the federal regulations to designate a person to answer driver questions about the policy and the education materials described in Section C. above and to notify the drivers of the designation. 49 Code of Federal Regulations section C.F.R. § 382.601(b)(1).]

1. The program manager will coordinate the implementation, direction, and administration of the alcohol and controlled substances testing policy for bus drivers. The program manager is the principal contact for the collection site, the testing laboratory, the MRO, the BAT, the SAP, and the person submitting to the test. Employee questions concerning this policy shall be directed to the program manager.
2. The school district shall designate a program manager and provide written notice of the designation to each driver along with this policy.

E. Specific Prohibitions for Drivers

[Note: The specific prohibitions for drivers are contained, in large part, in 49 Code of Federal Regulations sections C.F.R. §§ 382.201-382.215.]

1. Alcohol Concentration. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers who test greater than 0.04 will be taken out of service and will be subject to evaluation by a professional and retesting at the driver's expense.
2. Alcohol Possession. No driver shall be on duty or operate a CMV while the driver possesses alcohol.
3. On-Duty Use. No driver shall use alcohol while performing safety-sensitive functions.
4. Pre-Duty Use. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol.
5. Use Following an Accident. No driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident, or until ~~the driver~~ he or she undergoes a post-accident alcohol test, whichever occurs first.
6. Refusal to Submit to a Required Test. No driver shall refuse to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements. A verified adulterated or substituted drug test shall be considered a refusal to test.
7. Use of Controlled Substances. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to instructions (which have been presented to the school district) from a licensed ~~physician~~ medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV. Controlled substance includes medical cannabis, regardless of whether the driver is enrolled in the state registry program.

8. Positive, Adulterated, or Substituted Test for Controlled Substance. No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive for controlled substances, including medical cannabis, or has adulterated or substituted a test specimen for controlled substances.
9. General Prohibition. Drivers are also subject to the general policies and procedures of the school district ~~which that~~ prohibit ~~the~~ possession, transfer, sale, exchange, reporting to work under the influence of drugs or alcohol, and consumption of drugs or alcohol while at work or while on school district premises or operating any school district vehicle, machinery, or equipment.

F. Other Alcohol-Related Conduct

[Note: Consequences for drivers engaging in alcohol-related conduct are described in the federal regulations. 49 Code of Federal Regulations section C.F.R. § 382.505.]

No driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions for at least twenty-four (24) hours following administration of the test. The school district will not take any action under this policy other than removal from safety-sensitive functions based solely on test results showing an alcohol concentration of less than 0.04 but may take action otherwise consistent with law and ~~the~~ policyies of the school district.

G. Prescription Drugs/Cannabinoid Products

A driver shall inform ~~the driver's~~ his or her supervisor if at any time the driver is using a controlled substance pursuant to a physician's prescription. The physician's instructions shall be presented to the school district upon request. Use of a prescription drug shall be allowed if the physician has advised the driver that the prescribed drug will not adversely affect the driver's ability to safely operate a CMV. Use of medical cannabis is prohibited notwithstanding the driver's enrollment in the patient registry. Use of nonintoxicating cannabinoids or edible cannabinoid products is not a legitimate medical explanation for a confirmed positive test result for marijuana. MROs will verify a drug test confirmed as positive, even if a driver claims to have only used nonintoxicating cannabinoids or edible cannabinoid product.

H. Testing Requirements

[Note: School districts must utilize the U.S. DOT Drug & Alcohol Clearinghouse ("Clearinghouse") to conduct pre-employment queries, annual queries, and reports regarding CDL holders who operate CMVs on public roads (including school bus drivers) and who are covered by the Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Testing Program. In addition to utilizing the Clearinghouse, school districts must continue to comply with the alcohol and controlled substance testing required under Title 49 of the Federal Regulations.]

1. Pre-Employment Testing

[Note: 49 Code of Federal Regulations section C.F.R. § 382.301 details the requirements for pre-employment testing.]

- a. A driver applicant shall undergo testing for [alcohol and] controlled substances, including medical cannabis, before the first time the driver

performs safety-sensitive functions for the school district.

[Note: A school district is permitted, but not required, to conduct pre-employment testing for the use of alcohol. If a school district elects to require pre-employment testing for alcohol, it should include the bracketed text in Subparagraph a., above, and test all applicants uniformly.]

- b. Tests shall be conducted only after the applicant has received a conditional offer of employment.
- c. ~~In order to~~ To be hired, the applicant must test negative and must sign an agreement in the form of Attachment B to this policy, authorizing former employers to release to the school district all information on the applicant's alcohol tests with results of blood alcohol concentration of 0.04 or higher, or verified positive results for controlled substances, including medical cannabis, or refusals to be tested (including verified adulterated or substituted drug test results), or any other violations of DOT agency drug and alcohol testing regulations, or, if the applicant violated the testing regulations, documentation of the applicant's successful completion of DOT return-to-duty requirements (including follow-up tests), within the preceding two (2) years.

[Note: ~~The~~ Federal regulations require school districts to inquire about, obtain, and review alcohol and controlled substances information from prior employers pursuant to a driver's written authorization, prior to the time a driver performs safety-sensitive functions, if feasible. 49 Code of Federal Regulations section C.F.R. § 382.413 and 49 Code of Federal Regulations section C.F.R. § 40.25. If not feasible, school districts must not permit the employee to perform safety-sensitive functions for more than thirty (30) days from the date a safety-sensitive function was performed unless the school districts make good faith efforts to obtain the information and to make a record of those efforts to be retained in the driver's qualification file.]

- d. The applicant also must be asked whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee, during the last two (2) years, applied for, but did not obtain, safety-sensitive transportation work covered by DOT testing rules.
- e. Before employing a driver subject to controlled substances and alcohol testing, the school district must conduct a full pre-employment query of the federal Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse ("Clearinghouse") to obtain information about whether the driver (1) has a verified positive, adulterated, or substituted controlled substances test result; (2) has an alcohol confirmation test with a concentration of 0.04 or higher; (3) has refused to submit to a test in violation of federal law; or (4) that an employer has reported actual knowledge that the driver used alcohol on duty, before duty, or following an accident in violation of federal law or used a controlled substance in violation of federal law. The applicant must give specific written or electronic consent for the school district to conduct the Clearinghouse full query. The school district shall retain the consent for three (3) years from the date of the query.

32. Post-Accident Testing

[Note: 49 [Code of Federal Regulations section C.F.R. § 382.303](#) governs post-accident testing of drivers.]

- a. As soon as practicable following an accident involving a CMV, the school district shall test the driver for alcohol and controlled substances, including medical cannabis, if the accident involved the loss of human life or if the driver receives a citation for a moving traffic violation arising from an accident which results in bodily injury or disabling damage to a motor vehicle.
- b. Drivers should be tested for alcohol use within two (2) hours and no later than eight (8) hours after the accident.
- c. Drivers should be tested for controlled substances, including medical cannabis, no later than thirty-two (32) hours after the accident.
- d. A driver subject to post-accident testing must remain available for testing, or shall be considered to have refused to submit to the test.
- e. If a post-accident alcohol test is not administered within two (2) hours following the accident, the school district shall prepare and maintain on file a record stating the reasons the test was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours.
- f. If a post-accident alcohol test is not administered within eight (8) hours following the accident or a post-accident controlled substances test is not administered within thirty-two (32) hours following the accident, the school district shall cease attempts to administer the test, and prepare and maintain on file a record stating the reasons for not administering the test.
- g. [The school district shall report drug and alcohol program violations to the Clearinghouse as required under federal law.](#)

43. Random Testing

[Note: 49 [Code of Federal Regulations section C.F.R. § 382.305](#) governs random testing of drivers.]

- a. The school district shall conduct tests on a random basis at unannounced times throughout the year, as required by the federal regulations.

[Note: The Federal Highway Administration (FHWA) ~~lowered~~ has set the random alcohol selection and testing rate ~~from at~~ 1025% of the average number of driver positions ~~to 10% in 1998~~ and evaluates this minimum percentage each year. School districts can elect to stay at the 1998 level of 25% (or a higher percentage) if they do not want to monitor the minimum annual percentage rate set by the FHWA. The random controlled substances selection and testing rate has remained at 50% each year and has not been lowered to 25% as is possible under

the regulations.]

- b. The school district shall test for alcohol at a minimum annual percentage rate of 10% of the average number of driver positions, and for controlled substances, including medical cannabis, at a minimum annual percentage of 50%.
- c. The school district shall adopt a scientifically valid method for selecting drivers for testing, such as random number table or a computer-based random number generator that is matched with identifying numbers of the drivers. Each driver shall have an equal chance of being tested each time selections are made. Each driver selected for testing shall be tested during the selection period.
- d. Random tests shall be unannounced. Dates for administering random tests shall be spread reasonably throughout the calendar year.
- e. Drivers shall proceed immediately to the collection site upon notification of selection; provided, however, that if the driver is performing a safety-sensitive function, other than driving, at the time of notification, the driver shall cease to perform the function and proceed to the collection site as soon as possible.

54. Reasonable Suspicion Testing

[Note: 49 Code of Federal Regulations section C.F.R. § 382.307 governs reasonable suspicion testing of drivers.]

- a. The school district shall require a driver to submit to an alcohol test and/or controlled substances, including medical cannabis, test when a supervisor or school district official, who has been trained in accordance with the regulations, has reasonable suspicion to believe that the driver has used alcohol and/or controlled substances, including medical cannabis, on duty ~~or~~ within four (4) hours before coming on duty, or just after the period of the work day. The test shall be done as soon as practicable following the observation of the behavior indicative of the use of controlled substances or alcohol.
- b. The reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. The required observations for reasonable suspicion of a controlled substances violation may include indications of the chronic and withdrawal effects of controlled substances.
- c. Alcohol testing shall be administered within two (2) hours following a determination of reasonable suspicion. If it is not done within two (2) hours, the school district shall prepare and maintain a record explaining why it was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours. If an alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the school district shall cease attempts to administer the test and state in the record the reasons for not administering the test.

- d. The supervisor or school district official who makes observations leading to a controlled substances reasonable suspicion test shall make and sign a written record of the observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

[Note: ~~49 Code of Federal Regulations sections C.F.R. §§ 382.309, 40.23(d), and 40.305 govern return-to-duty testing.]~~

65. Return-To-Duty Testing. A driver found to have violated this policy shall not return to work until an SAP has determined the employee has successfully complied with prescribed education and/or treatment and until undergoing return-to-duty tests indicating an alcohol concentration of less than 0.02 and a confirmed negative result for the use of controlled substances. The school district is not required to return a driver to safety-sensitive duties because the driver has met these conditions; this is a personnel decision subject to collective bargaining agreements or other legal requirements.

[Note: ~~49 Code of Federal Regulations sections C.F.R. §§ 382.311, 40.307, and 40.309 govern follow-up testing.]~~

76. Follow-Up Testing. When an SAP has determined that a driver is in need of assistance in resolving problems with alcohol and/or controlled substances, the driver shall be subject to unannounced follow-up testing as directed by the SAP for up to sixty (60) months after completing a treatment program.

87. Refusal to Submit and Attendant Consequences

[Note: ~~Consequences for refusals to submit to required drug and alcohol tests are addressed generally in 49 Code of Federal Regulations sections C.F.R. §§ 40.191, 40.261, and 382.211. They are more specifically addressed in 49 Code of Federal Regulations sections C.F.R. §§ 382.501-382.507 and in 49 United States Code section U.S.C. § 521(b).]~~

- a. A driver or driver applicant may refuse to submit to drug and alcohol testing.
- b. Refusal to submit to a required drug or alcohol test subjects the driver or driver applicant to the consequences specified in federal regulations as well as the civil and/or criminal penalty provisions of 49 United States Code section U.S.C. § 521(b). In addition, a refusal to submit to testing establishes a presumption that the driver or driver applicant would test positive if a test were conducted and makes the driver or driver applicant subject to discipline or disqualification under this policy.
- c. A driver applicant who refuses to submit to testing shall be disqualified from further consideration for the conditionally offered position.
- d. An employee who refuses to submit to testing shall not be permitted to perform safety-sensitive functions and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. If an employee is offered an opportunity to return to a DOT safety-sensitive duty, the employee will be evaluated by an SAP and must submit to a return-to-duty test prior to being considered for reassignment to safety-

sensitive functions.

- e. Drivers or driver applicants who refuse to submit to required testing will be required to sign Attachment C to this policy.

I. Testing Procedures

1. Drug Testing

[Note: The Federal Drug Testing Custody and Control Form (CCF) must be used to document every urine collection required by the DOT drug testing program. 49 Code of Federal Regulations section C.F.R. § 40.45.]

- a. Drug testing is conducted by analyzing a donor's urine specimen. Split urine samples will be collected in accordance with federal regulations. The donor will provide a urine sample at a designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled "primary" and "split," seal the specimen bottles, complete the chain of custody form, and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight of the donor.
- b. If the donor is unable to provide the appropriate quantity of urine, the collection site person shall instruct the individual to drink up to forty (40) ounces of fluid distributed reasonably through a period of up to three (3) hours to attempt to provide a sample. If the individual is still unable to provide a complete sample, the test shall be discontinued and the school district notified. The DER shall refer the donor for a medical evaluation to determine if the donor's inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the school district may elect to not have a referral made, and revoke the employment offer.
- c. Drug test results are reported directly to the MRO by the testing laboratory. The MRO reports the results to the DER. If the results are negative, the school district is informed and no further action is necessary. If the test result is confirmed positive, adulterated, substituted, or invalid, the MRO shall give the donor an opportunity to discuss the test result. The MRO will contact the donor directly, on a confidential basis, to determine whether the donor wishes to discuss the test result. The MRO shall notify each donor that the donor has seventy-two (72) hours from the time of notification in which to request a test of the split specimen at the donor's expense. No split specimen testing is done for an invalid result.
- d. If the donor requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a confirmed positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another Department of Health and Human Services – SAMHSA certified laboratory for analysis. If the donor has not contacted the MRO within seventy-two (72) hours, the donor may present the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the confirmed positive test, or other circumstances unavoidably prevented the donor from timely making contact. If the MRO concludes that a legitimate explanation for the

donor's failure to contact him/her within seventy-two (72) hours exists, the MRO shall direct the analysis of the split specimen. The MRO will review the confirmed positive test result to determine whether an acceptable medical reason for the positive result exists. The MRO shall confirm and report a positive test result to the DER and the employee when no legitimate medical reason for a positive test result as received from the testing laboratory exists.

- e. If, after making reasonable efforts and documenting those efforts, the MRO is unable to reach the donor directly, the MRO must contact the DER who will direct the donor to contact the MRO. If the DER is unable to contact the donor, the donor will be suspended from performing safety-sensitive functions.
- f. The MRO may confirm the test as a positive without having communicated directly with the donor about the test results under the following circumstances:
 - (1) The donor expressly declines the opportunity to discuss the test results;
 - (2) The donor has not contacted the MRO within seventy-two (72) hours of being instructed to do so by the DER; or
 - (3) The MRO and the DER, after making and documenting all reasonable efforts, have not been able to contact the donor within ten (10) days of the date the confirmed test result was received from the laboratory.

2. Alcohol Testing

[Note: The DOT Alcohol Testing Form (ATF) must be used for every DOT alcohol test. 49 Code of Federal Regulations section C.F.R. § 40.225.]

- a. The federal alcohol testing regulations require testing to be administered by a BAT using an EBT or an STT using an ASD. EBTs and ASDs can be used for screening tests but only EBTs can be used for confirmation tests.
- b. Any test result less than 0.02 alcohol concentration is considered a "negative" test.
- c. If the donor is unable to provide sufficient saliva for an ASD, the DER will immediately arrange to use an EBT. If the donor attempts and fails to provide an adequate amount of breath, the school district will direct the donor to obtain a written evaluation from a licensed physician to determine if the donor's inability to provide a breath sample is genuine or constitutes a refusal to test.
- d. If the screening test results show alcohol concentration of 0.02 or higher, a confirmatory test conducted on an EBT will be required to be performed between fifteen (15) and thirty (30) minutes after the completion of the screening test.

- e. Alcohol tests are reported directly to the DER.

J. Driver/Driver Applicant Rights

- 1. All drivers and driver applicants subject to the controlled substances testing provisions of this policy who receive a confirmed positive test result for the use of controlled substances have the right to request, at the driver's or driver applicant's expense, a confirming retest of the split urine sample. If the confirming retest is negative, no adverse action will be taken against the driver, and a driver applicant will be considered for employment.

[Note: The limitation on discharge in Paragraph 2., below, is contained solely in Minnesota law. State law is preempted by federal laws and regulations as it relates to drivers of commercial motor vehicles (such as bus drivers). See Minnesota Statutes section Minn. Stat. § 221.031, Subd. 10. Nevertheless, school districts may decide to comply with the state law requirements for various reasons (such as to treat all school district employees equally since employees subject to testing only under state law are accorded these additional rights). Consultation with the school district's legal counsel is recommended.]

- 2. The school district will not discharge a driver who, for the first time, receives a confirmed positive drug or alcohol test UNLESS:
 - a. The school district has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with the SAP; and
 - b. The employee refuses to participate in the recommended program, or fails to successfully complete the program as evidenced by withdrawal before its completion or by a positive test result on a confirmatory test after completion of the program.
 - c. This limitation on employee discharge does not bar discharge of an employee for reasons independent of the first confirmed positive test result.

K. Testing Laboratory

The testing laboratory for controlled substances will be [***name, address, telephone number***], which is a laboratory certified by the Department of Health and Human Services – SAMHSA to perform controlled substances testing pursuant to federal regulations.

L. Confidentiality of Test Results

All alcohol and controlled substances test results and required records of the drug and alcohol testing program are considered confidential information under federal law and private data on individuals as that phrase is defined in Minnesota Statutes, Chapter 13. Any information concerning the individual's test results and records shall not be released without written permission of the individual, except as provided for by regulation or law.

M. Recordkeeping Requirements and Retention of Records

1. The school district shall keep and maintain records in accordance with the federal regulations in a secure location with controlled access.

[Note: The federal recordkeeping requirements for school districts are detailed in the federal regulations, 49 Code of Federal Regulations sections C.F.R. §§ 382.401 et seq. and 40.331. The DOT publishes a guide to the recordkeeping requirements of mandatory drug and alcohol testing for persons with a commercial driver's license as part of its Alcohol & Drugs: DOT Compliance Manual.]

2. The required records shall be retained for the following minimum periods:

Basic records 5 years

"Basic records" includes records of: (a) alcohol test results with concentration of 0.02 or greater; (b) verified positive drug test results; (c) refusals to submit to required tests (including substituted or adulterated drug test results); (d) SAP reports; (e) all follow-up tests and schedules for follow-up tests; (f) calibration documentation; (g) administration of the testing programs; and (h) each annual calendar year summary.

Information obtained from previous employers 3 years

~~Collection records~~ Alcohol and controlled substance collection procedures 2 years

Negative and cancelled ~~drug~~ controlled substance tests 1 year

Alcohol tests with less than 0.02 concentration 1 year

Education and training records indefinite

"Education and training records" must be maintained while the individuals perform the functions which require training and for the two (2) years after ceasing to perform those functions.

3. Personal Information

Personal information about all individuals who undergo any required testing under this policy will be shared with the U.S. DOT Drug & Alcohol Clearinghouse ("Clearinghouse) as required under federal law, including:

a. The name of the person tested;

b. Any verified positive, adulterated, or substituted drug test result;

c. Any alcohol confirmation test with a BAC concentration of 0.04 or higher;

d. Any refusal to submit to any test required hereunder;

e. Any report by a supervisor of actual knowledge of use as follows

i. Any on-duty alcohol use;

ii. Any pre-duty alcohol use;

- iii. [Any alcohol use following an accident; and](#)
- iv. [Any controlled substance use.](#)

f. [Any report from a substance abuse professional certifying successful completion of the return-to-work process;](#)

g. [Any negative return-to-duty test; and](#)

h. [Any employer's report of completion of follow-up testing.](#)

N. Training

The school district shall ensure all persons designated to supervise drivers receive training. The designated employees shall receive at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substances use. The training shall include physical, behavioral, speech, and performance indicators of probable misuse of alcohol and use of controlled substances. The training will be used by the supervisors to make determinations of reasonable suspicion.

O. Consequences of Prohibited Conduct and Enforcement

1. Removal. The school district shall remove a driver who has engaged in prohibited conduct from safety-sensitive functions. A driver shall not be permitted to return to safety-sensitive functions until and unless the return-to-duty requirements of federal DOT regulations have been completed.

2. Referral, Evaluation, and Treatment

a. A driver or driver applicant who has engaged in prohibited conduct shall be provided a listing of SAPs readily available to the driver or applicant and acceptable to the school district.

[Note: Subparagraphs b. and c., below, are based on the provisions of 49 Code of Federal Regulations section C.F.R. § 40.289.]

b. If the school district offers a driver an opportunity to return to a DOT safety-sensitive duty following a violation, the driver must be evaluated by an SAP and the driver is required to successfully comply with the SAP's evaluation recommendations (education, treatment, follow-up evaluation(s), and/or ongoing services). The school district is not required to provide an SAP evaluation or any subsequent recommended education or treatment.

[Note: School districts are not required to comply with state law governing drug and alcohol testing when the individuals are subject to the federal laws and regulations (i.e., bus drivers). If a school district, after consultation with legal counsel, chooses to comply voluntarily with these requirements, Subparagraph b., above, can be modified as follows:

b. The school district will offer a driver an opportunity to return to a DOT safety-sensitive duty following an employee's first positive test result on a confirmatory

test if no reasons independent of the first test result for discharge exist. Otherwise, the school district may choose, but is not required, to provide an SAP evaluation or any subsequent recommended education or treatment.

- c. Drivers are responsible for payment for SAP evaluations and services unless a collective bargaining agreement or employee benefit plan provides otherwise.
- d. Drivers who engage in prohibited conduct also are required to comply with follow-up testing requirements.

3. Disciplinary Action

- a. Any driver who refuses to submit to post-accident, random, reasonable suspicion, or follow-up testing not only shall not perform or continue to perform safety-sensitive functions, but also may be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.
- b. Drivers who test positive with verification of a confirmatory test or are otherwise found to be in violation of this policy or the federal regulations shall be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.
- c. Nothing in this policy limits or restricts the right of the school district to discipline or discharge a driver for conduct which not only constitutes prohibited conduct under this policy but also violates the school district's other rules or policies.

P. Other Testing

The school district may request or require that drivers submit to drug and alcohol testing other than that required by federal law. For example, drivers may be requested or required to undergo drug and alcohol testing on an annual basis as part of a routine physical examination. Such additional testing of drivers will be conducted only in accordance with the provisions of this policy and as provided in ~~Minnesota Statutes, §§sections~~ 181.950-181.957. For purposes of such additional, non-mandatory testing, drivers fall within the definition of "other employees" covered by Section IV. of this policy.

[Note: When the testing of drivers complies with federal testing requirements and procedures, school districts clearly are exempt from the state drug and alcohol testing requirements in Minnesota Statutes, §§sections 181.950-181.957. See Minnesota Statutes sectionMinn. Stat. § 221.031, subdivisionSubd. 10. When testing beyond the federally mandated requirements, however, school districts still must comply with state law.

Q. Report to Clearinghouse

The school district shall promptly submit to the Clearinghouse any record generated of an individual who refuses to take an alcohol or controlled substance test required under Title 49, Code of Federal Regulations, tests positive for alcohol or a controlled substance in violation of federal regulations, or violates subpart B of Part 382 of Title 49, Code of

[Federal Regulations \(or any subsequent corresponding regulations\).](#)

[R. Annual Clearinghouse Query](#)

- [1.](#) [The school district must conduct a query of the Clearinghouse record at least once per year for information for all employees subject to controlled substance and alcohol testing related to CMV operation to determine whether information exists in the Clearinghouse about those employees. In lieu of a full query, the school district may obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement. The limited query will tell the employer whether there is information about the driver in the Clearinghouse but will not release that information to the employer. If the limited query shows that information exists in the Clearinghouse about the driver, the school district must conduct a full query within twenty-four \(24\) hours or must not allow the driver to continue to perform any safety-sensitive function until the employee conducts the full query and the results confirm the driver's Clearinghouse record contains no prohibitions showing the driver has a verified positive, adulterated or substitute controlled substance test, no alcohol confirmation test with a concentration of 0.04 or higher, refuses to submit to a test, or was reported to have used alcohol on duty, before duty, following an accident or otherwise used a controlled substance in violation of the regulations except where the driver completed the SAP evaluation, referral and education/treatment process as required by the regulations. The school district shall comply with the query requirements set forth in 49 Code of Federal Regulations§ 382.701.](#)
- [2.](#) [The school district may not access an individual's Clearinghouse record unless the school district \(1\) obtains the individual's prior written or electronic consent for access to the record; and \(2\) submits proof of the individual's consent to the Clearinghouse. The school district must retain the consent for three \(3\) years from the date of the last query. The school district shall retain for three \(3\) years a record of each request for records from the Clearinghouse and the information received pursuant to the request.](#)
- [3.](#) [The school district shall protect the individual's privacy and confidentiality of each Clearinghouse record it receives. The school district shall ensure that information contained in a Clearinghouse record is not divulged to a person or entity not directly involved in assessing and evaluating whether a prohibition applies with respect to the individual to operate a CMV for the school district.](#)
- [4.](#) [The school district may use an individual's Clearinghouse record only to assess and evaluate whether a prohibition applies with respect to the individual to operate a CMV for the school district.](#)

IV. DRUG AND ALCOHOL TESTING FOR OTHER EMPLOYEES

The school district may request or require drug and alcohol testing for other school district personnel, i.e., employees who are not school bus drivers, or job applicants for such positions. The school district does not have a legal duty to request or require any employee or job applicant to undergo drug and alcohol testing as authorized in this policy, except for school bus drivers and other drivers of CMVs who are subject to federally mandated testing. (See Section III. of this policy.) If a school bus driver is requested or required to submit to drug or alcohol testing beyond that mandated by federal law, the provisions of Section IV. of this policy will be applicable to such testing.

A. Circumstances Under Which Drug or Alcohol Testing May Be Requested or Required:

1. General Limitations

- a. The school district will not request or require an employee or job applicant whose position does not require a commercial driver's license to undergo drug or alcohol testing, unless the testing is done pursuant to this drug and alcohol testing policy; and is conducted by a testing laboratory ~~which participates in one of the programs that meets one of the criteria~~ listed in ~~Minnesota Statutes, section~~ 181.953, ~~Subdivision~~ 1.
- b. The school district will not request or require an employee or job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing on an arbitrary and capricious basis.

2. Job Applicant Testing

The school district may request or require any job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing, provided a job offer has been made to the applicant and the same test is requested or required of all job applicants conditionally offered employment for that position. If a job applicant has received a job offer ~~which that~~ is contingent on the applicant's passing drug and alcohol testing, the school district may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. In the event the job offer is subsequently withdrawn, the school district shall notify the job applicant of the reason for its action.

3. Random Testing

The school district may request or require employees to undergo drug and alcohol testing on a random selection basis only if they are employed in safety-sensitive positions.

4. Reasonable Suspicion Testing

The school district may request or require any employee to undergo drug and alcohol testing if the school district has a reasonable suspicion that the employee:

- a. is under the influence of drugs or alcohol;
- b. has violated the school district's written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the school district's premises or operating the school district's vehicles, machinery, or equipment;
- c. has sustained a personal injury, as that term is defined in ~~Minnesota Statutes, section~~ § 176.011, ~~Subdivision~~ 16, or has caused another employee to sustain a personal injury; or
- d. has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

5. Treatment Program Testing

The school district may request or require any employee to undergo drug and alcohol testing if the employee has been referred by the school district for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan, in which case the employee may be requested or required to undergo drug and alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two (2) years following completion of any prescribed chemical dependency treatment program.

6. Routine Physical Examination Testing

The school district may request or require any employee to undergo drug and alcohol testing as part of a routine physical examination provided the drug or alcohol test is requested or required no more than once annually and the employee has been given at least two weeks' written notice that a drug or alcohol test may be requested or required as part of the physical examination.

B. No Legal Duty to Test

The school district does not have a legal duty to request or require any employee or job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing.

C. Definitions

1. "Drug" means a controlled substance as defined in Minnesota Statutes, including medical cannabis, regardless of enrollment in the state registry program.
2. "Drug and Alcohol Testing," "Drug or Alcohol Testing," and "Drug or Alcohol Test" mean analysis of a body component sample ~~according to the standards established under one of the programs by a testing laboratory that meets one of the criteria~~ listed in ~~Minn.esota_ Statutes, -§ section~~ 181.953, ~~Ssubd. ivision~~ 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.
3. "Other Employees" means any persons, independent contractors, or persons working for an independent contractor who perform services for the school district for compensation, either full time or part time, in whatever form, except for persons whose positions require a commercial driver's license, and includes both professional and nonprofessional personnel. Persons whose positions require a commercial driver's license are primarily governed by the provisions of the school district's drug and alcohol testing policy relating to school bus drivers (Section III.). To the extent that the drug and alcohol testing of persons whose positions require a commercial driver's license is not mandated by federal law and regulations, such testing shall be governed by Section IV. of this policy and the drivers shall fall within this definition of "other employees."
4. "Job Applicant" means a person, independent contractor, or person working for an independent contractor who applies to become an employee of the school district in a position that does not require a commercial driver's license, and includes a person who has received a job offer made contingent on the person's passing drug or alcohol testing. Job applicants for positions requiring a

commercial driver's license are governed by the provisions of the school district's drug and alcohol testing policy relating to school bus drivers (Section III.).

5. "Positive ~~T~~est ~~R~~esult" means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in ~~Minnesota Statutes~~, ~~§~~section 181.953, ~~S~~ubdivision 1.
6. "Random ~~S~~election ~~B~~asis" means a mechanism for selection of employees that:
 - a. results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected; and
 - b. does not give the school district discretion to waive the selection of any employee selected under the mechanism.
7. "Reasonable ~~S~~suspicion" means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
8. "Safety-~~S~~sensitive ~~P~~osition" means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.

D. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing and Consequences of Such Refusal

1. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing

Any employee or job applicant whose position does not require a commercial driver's license has the right to refuse drug and alcohol testing subject to the provisions contained in Paragraphs 2. and 3. of ~~this~~ Section IV.D.

2. Consequences of an Employee's Refusal to Undergo Drug and Alcohol Testing

Any employee in a position that does not require a commercial driver's license who refuses to undergo drug and alcohol testing in the circumstances set out in the Random Testing, Reasonable Suspicion Testing, and Treatment Program Testing provisions of this policy may be subject to disciplinary action, up to and including immediate discharge.

3. Consequences of a Job Applicant's Refusal to Undergo Drug and Alcohol Testing

Any job applicant for a position which does not require a commercial driver's license who refuses to undergo drug and alcohol testing pursuant to the Job Applicant Testing provision of this policy shall not be employed.

E. Reliability and Fairness Safeguards

1. Pretest Notice

Before requesting an employee or job applicant whose position does not require a commercial driver's license to undergo drug or alcohol testing, the school district shall provide the employee or job applicant with a Pretest Notice in the

form of Attachment D to this policy on which to acknowledge that the employee or job applicant has received the school district's drug and alcohol testing policy.

2. Notice of Test Results

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing an employee or job applicant who has undergone drug or alcohol testing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test.

3. Notice of and Right to Test Result Report

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing, an employee or job applicant who has undergone drug or alcohol testing of the employee or job applicant's right to request and receive from the school district a copy of the test result report on any drug or alcohol test.

4. Notice of and Right to Explain Positive Test Result

a. If an employee or job applicant has a positive test result on a confirmatory test, the school district shall provide ~~him or her~~ the individual with notice of the test results and, at the same time, written notice of the right to explain the results and to submit additional information.

b. The school district may request that the employee or job applicant indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.

c. The employee may present verification of enrollment in the medical cannabis patient registry as part of the employee's explanation.

~~d.~~ Use of nonintoxicating cannabinoids or edible cannabinoid products is not a legitimate medical explanation for a confirmed positive test result for marijuana. MROs will verify a drug test confirmed as positive, even if an employee claims to have only used nonintoxicating cannabinoids or edible cannabinoid product.

~~e.~~ Within three (3) working days after notice of a positive test result on a confirmatory test, an employee or job applicant may submit information (in addition to any information already submitted) to the school district to explain that result.

5. Notice of and Right to Request Confirmatory Retests

a. If an employee or job applicant has a positive test result on a confirmatory test, the school district shall provide ~~him or her~~ the individual with notice of the test results and, at the same time, written notice of the right to request a confirmatory retest of the original sample at his or her expense.

- b. An employee or job applicant may request a confirmatory retest of the original sample at his or her own expense after notice of a positive test result on a confirmatory test. Within five (5) working days after notice of the confirmatory test result, the employee or job applicant shall notify the school district in writing of his or her intention to obtain a confirmatory retest. Within three (3) working days after receipt of the notice, the school district shall notify the original testing laboratory that the employee or job applicant has requested the laboratory to conduct the confirmatory retest or to transfer the sample to another laboratory licensed under Minnesota Statutes, §section 181.953, §sub-division 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that appropriate chain-of-custody procedures are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee or job applicant.
6. If an employee or job applicant has a positive test result on a confirmatory test, the school district, at the time of providing notice of the test results, shall also provide written notice to inform ~~him or her~~ the individual of other rights provided under Sections F. or G., below, whichever is applicable.

Attachments E and F to this policy provide the Notices described in Paragraphs 2. through 6. of this Section E.

F. Discharge and Discipline of Employees Whose Positions Do Not Require a Commercial Driver's License

1. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.
2. In the case of a positive test result on a confirmatory test, the employee shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge, pursuant to the provisions of this policy.
3. The school district may not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the school district, unless the following conditions have been met:
 - a. The school district has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with a certified chemical abuse counselor or a physician trained in the diagnosis and treatment of chemical dependency; and
 - b. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its

completion or by a positive test result on a confirmatory test after completion of the program.

4. Notwithstanding Paragraph 1., the school district may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the school district believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
5. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information or the employee's status as a patient enrolled in the medical cannabis registry program revealed to the school district, unless the employee was under an affirmative duty to provide the information before, upon, or after hire, or failing to do so would violate federal law or regulations or cause the school district to lose money or licensing-related benefit under federal law or regulations.
6. The school district may not discriminate against any employee in termination, discharge, or any term of condition of employment or otherwise penalize an employee based upon an employee registered patient's positive drug test for cannabis components or metabolites, unless the employee used, possessed, or was impaired by medical cannabis on school district property during the hours of employment.
7. An employee must be given access to information in ~~his or her~~the individual's personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.

G. Withdrawal of Job Offer for an Applicant for a Position That Does Not Require a Commercial Driver's License

If a job applicant has received a job offer made contingent on the applicant's passing drug and alcohol testing, the school district may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. In the case of a positive test result on a confirmatory test, the school district may withdraw the job offer.

H. Chain-of-Custody Procedures

The school district has established its own reliable chain-of-custody procedures to ensure proper record keeping, handling, labeling, and identification of the samples to be tested. The procedures require the following:

1. Possession of a sample must be traceable to the employee from whom the sample is collected, from the time the sample is collected through the time the sample is delivered to the laboratory;
2. The sample must always be in the possession of, must always be in view of, or must be placed in a secure area by a person authorized to handle the sample;

3. A sample must be accompanied by a written chain-of-custody record; and
4. Individuals relinquishing or accepting possession of the sample must record the time the possession of the sample was transferred and must sign and date the chain-of-custody record at the time of transfer.

I. Privacy, Confidentiality and Privilege Safeguards

1. Privacy Limitations

A laboratory may only disclose to the school district test result data regarding the presence or absence of drugs, alcohol or their metabolites in a sample tested.

2. Confidentiality Limitations

With respect to employees and job applicants, test result reports and other information acquired in the drug or alcohol testing process are private data on individuals as that phrase is defined in Minn-esota Stat-utes Ch-apter 13, and may not be disclosed by the school district or laboratory to another employer or to a third-party individual, governmental agency, or private organization without the written consent of the employee or job applicant tested.

3. Exceptions to Privacy and Confidentiality Disclosure Limitations

Notwithstanding Paragraphs 1. and 2., evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minn-esota Stat-utes, Ch-apter 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

4. Privilege

Positive test results from the school district drug or alcohol testing program may not be used as evidence in a criminal action against the employee or job applicant tested.

J. Notice of Testing Policy to Affected Employees

The school district shall provide written notice of this drug and alcohol testing policy to all affected employees upon adoption of the policy, to a previously non-affected employee upon transfer to an affected position under the policy, and to a job applicant upon hire and before any testing of the applicant if the job offer is made contingent on the applicant's passing drug and alcohol testing. Affected employees and applicants will acknowledge receipt of this written notice in the form of Attachment G to this policy.

V. POSTING

The school district shall post notice in an appropriate and conspicuous location on its premises that it has adopted a drug and alcohol testing policy and that copies of the policy are available

for inspection during regular business hours by its employees or job applicants in its personnel office or other suitable locations.

- Legal References:**
- Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
 - Minn. Stat. Ch. 43A (State Personnel Management)
 - [Minn. Stat. § 151.72 \(Sale of Certain Cannabinoid Products\)](#)
 - [Minn. Stat. § 152.01 \(Definitions\)](#)
 - Minn. Stat. § 152.22 (~~Definitions~~; Medical Cannabis; ~~Definitions~~)
 - Minn. Stat. § 152.23 (~~Limitations~~; Medical Cannabis; ~~Limitations~~)
 - Minn. Stat. § 152.32 (Protections for Registry Program Participation)
 - [Minn. Stat. § 176.011, subd. 16 \(Definitions; Personal Injury\)](#)
 - Minn. Stat. §§ 181.950-181.957 (Drug and Alcohol Testing in the Workplace)
 - Minn. Stat. § 221.031 (Motor Carrier Rules)
 - 49 U.S.C. § 31306 (Omnibus Transportation Employee Testing Act of 1991)
 - [49 U.S.C. 31306a \(National Clearinghouse for Controlled Substance and Alcohol Test Results of Commercial Motor Vehicle Operators\)](#)
 - 49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)
 - 49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)
- Cross-References:**
- 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 417 (Chemical Use and Abuse)
 - MSBA/MASA Model Policy 418 (Drug-Free Workplace/Drug-Free School)

416 DRUG AND ALCOHOL TESTING

[Note: Drug and Alcohol Testing of school bus drivers and applicants is mandatory under federal law. The mandatory testing is described under Part III. of the policy. Testing of other employees or testing of school bus drivers beyond that mandated by federal law is optional but can be done under state law only if a policy containing provisions such as the provisions of Part IV. of this policy are adopted. To preserve the right to request or require school district employees who are not bus drivers and applicants to undergo drug and/or alcohol testing or to require bus drivers to submit to testing that is not federally mandated, a school district should adopt Part IV. as part of its drug and alcohol testing policy.]

I. PURPOSE

- A. The school board recognizes the significant problems created by drug and alcohol use in society in general, and the public schools in particular. The school board further recognizes the important contribution that the public schools have in shaping the youth of today into the adults of tomorrow.
- B. The school board believes that a work environment free of drug and alcohol use will be not only safer, healthier, and more productive but also more conducive to effective learning. Therefore, to provide such an environment, the purpose of this policy is to provide authority so that the school board may require all employees and/or job applicants to submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in federal law and Minn. Stat. §§ 181.950-181.957.

II. GENERAL STATEMENT OF POLICY

- A. All school district employees and job applicants whose positions require a commercial driver's license will be required to undergo drug and alcohol testing in accordance with federal law and the applicable provisions of this policy. The school district also may request or require that drivers submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.
- B. The school district may request or require that any school district employee or job applicant, other than an employee or applicant whose position requires a commercial driver's license, submit to drug and alcohol testing in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957.
- C. The use, possession, sale, purchase, transfer, or dispensing of any drugs not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of drugs which are

not medically prescribed, including medical cannabis, regardless of whether it has been prescribed for the employee, is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of drugs which are not medically prescribed are prohibited from entering or remaining on school district property.

- D. The use, possession, sale, purchase, transfer, or dispensing of alcohol is prohibited on school district property (which includes school district vehicles), while operating school district vehicles or equipment, and at any school-sponsored program or event. Use of alcohol is also prohibited throughout the school or work day, including lunch or other breaks, whether or not the employee is on or off school district property. Employees under the influence of alcohol are prohibited from entering or remaining on school district property.
- E. Any employee who violates this section shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge.

III. FEDERALLY MANDATED DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

A. General Statement of Policy

All persons subject to commercial driver's license requirements shall be tested for alcohol, marijuana (including medical cannabis), cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP), pursuant to federal law. Drivers who test positive for alcohol or drugs shall be subject to disciplinary action, which may include termination of employment.

B. Definitions

1. "Actual Knowledge" means actual knowledge by the school district that a driver has used alcohol or controlled substances based on: (a) direct observation of the employee's use (not observation of behavior sufficient to warrant reasonable suspicion testing); (b) information provided by a previous employer; (c) a traffic citation; or (d) an employee's admission, except when made in connection with a qualified employee self-admission program.
2. "Alcohol Screening Device" (ASD) means a breath or saliva device, other than an Evidential Breath Testing Device (EBT), that is approved by the National Highway Traffic Safety Administration and placed on its Conforming Products List for such devices.
3. "Breath Alcohol Technician" (BAT) means an individual who instructs and assists individuals in the alcohol testing process and who operates the EBT.
4. "Commercial Motor Vehicle" (CMV) includes a vehicle which is designed

to transport 16 or more passengers, including the driver.

5. “Designated Employer Representative” (DER) means a designated school district representative authorized to take immediate action to remove employees from safety-sensitive duties, to make required decisions in the testing and evaluation process, and to receive test results and other communications for the school district.
6. “Department of Transportation” (DOT) means United States Department of Transportation.
7. “Driver” is any person who operates a CMV, including full-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers, and independent owner-operator contractors.
8. “Evidential Breath Testing Device” (EBT) means a device approved by the National Highway Traffic Safety Administration for the evidentiary testing of breath for alcohol concentration and placed on its Conforming Products List for such devices.
9. “Medical Review Officer” (MRO) means a licensed physician responsible for receiving and reviewing laboratory results generated by the school district’s drug testing program and for evaluating medical explanations for certain drug tests.
10. “Refusal to Submit” (to an alcohol or controlled substances test) means that a driver: (a) fails to appear for any test within a reasonable time, as determined by the school district, consistent with applicable DOT regulations, after being directed to do so; (b) fails to remain at the testing site until the testing process is complete; (c) fails to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test; (d) fails to permit the observation or monitoring of the driver’s provision of a specimen in the case of a directly observed or monitored collection in a drug test; (e) fails to provide a sufficient breath specimen or sufficient amount of urine when directed and a determination has been made that no adequate medical explanation for the failure exists; (f) fails or declines to take an additional test as directed; (g) fails to undergo a medical examination or evaluation, as directed by the MRO or the DER; (h) fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector, fails to sign the certification on the forms); (i) fails to follow the observer’s instructions, in an observed collection, to raise the driver’s clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process; (j) possesses or wears a prosthetic or other device that could be used to interfere with the collection process; (k) admits to the collector or

MRO that the driver adulterated or substituted the specimen; or (l) is reported by the MRO as having a verified adulterated or substituted test result. An applicant who fails to appear for a pre-employment test, who leaves the testing site before the pre-employment testing process commences, or who does not provide a urine specimen because he or she has left before it commences is not deemed to have refused to submit to testing.

11. “Safety-sensitive functions” are on-duty functions from the time the driver begins work or is required to be in readiness to work until relieved from work, and include such functions as driving, loading and unloading vehicles, or supervising or assisting in the loading or unloading of vehicles, servicing, repairing, obtaining assistance to repair, or remaining in attendance during the repair of a disabled vehicle.
12. “Screening Test Technician” (STT) means anyone who instructs and assists individuals in the alcohol testing process and operates an ASD.
13. “Stand Down” means to temporarily remove an employee from performing safety-sensitive functions after a laboratory reports a confirmed positive, an adulterated, or a substituted test result but before the MRO completes the verification process.
14. “Substance Abuse Professional” (SAP) means a qualified person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

C. Policy and Educational Materials

[Note: The federal regulations require that school districts provide materials to bus drivers explaining the school district’s policies and procedures and the federal requirements with respect to the mandatory drug and alcohol testing of bus drivers. 49 C.F.R. § 382.601. Almost all of the required information is contained within this model policy. Additional materials to be provided to employees are described in Paragraph 2. of this Section C.]

1. The school district shall provide a copy of this policy and procedures to each driver prior to the start of its alcohol and drug testing program and to each driver subsequently hired or transferred into a position requiring driving of a CMV.
2. The school district shall provide to each driver information concerning the effects of alcohol and controlled substances use on an individual’s health, work, and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management.

3. The school district shall provide written notice to representatives of employee organizations that the information described above is available.
4. The school district shall require each driver to sign a statement certifying that he or she has received a copy of the policy and materials. This statement should be in the form of Attachment A to this policy. The school district will maintain the original signed certificate and will provide a copy to the driver if the driver so requests.

[Note: The federal regulations require a school district to obtain a signed statement from each driver certifying that he or she has received a copy of these materials. 49 C.F.R. § 382.601(d). The original signed certificate must be maintained by the school district and a copy may be provided to the driver.]

D. Alcohol and Controlled Substances Testing Program Manager

[Note: School districts are required by the federal regulations to designate a person to answer driver questions about the policy and the education materials described in Section C. above and to notify the drivers of the designation. 49 C.F.R. § 382.601(b)(1).]

1. The program manager will coordinate the implementation, direction, and administration of the alcohol and controlled substances testing policy for bus drivers. The program manager is the principal contact for the collection site, the testing laboratory, the MRO, the BAT, the SAP, and the person submitting to the test. Employee questions concerning this policy shall be directed to the program manager.
2. The school district shall designate a program manager and provide written notice of the designation to each driver along with this policy.

E. Specific Prohibitions for Drivers

[Note: The specific prohibitions for drivers are contained, in large part, in 49 C.F.R. §§ 382.201-382.215.]

1. Alcohol Concentration. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers who test greater than 0.04 will be taken out of service and will be subject to evaluation by a professional and retesting at the driver's expense.
2. Alcohol Possession. No driver shall be on duty or operate a CMV while the driver possesses alcohol.
3. On-Duty Use. No driver shall use alcohol while performing safety-sensitive functions.

4. Pre-Duty Use. No driver shall perform safety-sensitive functions within four (4) hours after using alcohol.
5. Use Following an Accident. No driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.
6. Refusal to Submit to a Required Test. No driver shall refuse to submit to an alcohol or controlled substances test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements. A verified adulterated or substituted drug test shall be considered a refusal to test.
7. Use of Controlled Substances. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to instructions (which have been presented to the school district) from a licensed physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV. Controlled substance includes medical cannabis, regardless of whether the driver is enrolled in the state registry program.
8. Positive, Adulterated, or Substituted Test for Controlled Substance. No driver shall report for duty, remain on duty, or perform a safety-sensitive function if the driver tests positive for controlled substances, including medical cannabis, or has adulterated or substituted a test specimen for controlled substances.
9. General Prohibition. Drivers are also subject to the general policies and procedures of the school district which prohibit the possession, transfer, sale, exchange, reporting to work under the influence of drugs or alcohol, and consumption of drugs or alcohol while at work or while on school district premises or operating any school district vehicle, machinery, or equipment.

F. Other Alcohol-Related Conduct

[Note: Consequences for drivers engaging in alcohol-related conduct are described in the federal regulations. 49 C.F.R. § 382.505.]

No driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions for at least twenty-four (24) hours following administration of the test. The school district will not take any action under this policy other than removal from safety-sensitive functions based solely on test results showing an alcohol concentration of less than 0.04 but may take action otherwise consistent with law and policy of the school district.

G. Prescription Drugs

A driver shall inform his or her supervisor if at any time the driver is using a controlled substance pursuant to a physician's prescription. The physician's instructions shall be presented to the school district upon request. Use of a prescription drug shall be allowed if the physician has advised the driver that the prescribed drug will not adversely affect the driver's ability to safely operate a CMV. Use of medical cannabis is prohibited notwithstanding the driver's enrollment in the patient registry.

H. Testing Requirements

1. Pre-Employment Testing

[Note: 49 C.F.R. § 382.301 details the requirements for pre-employment testing.]

- a. A driver applicant shall undergo testing for [alcohol and] controlled substances, including medical cannabis, before the first time the driver performs safety-sensitive functions for the school district.

[Note: A school district is permitted, but not required, to conduct pre-employment testing for the use of alcohol. If a school district elects to require pre-employment testing for alcohol, it should include the bracketed text in Subparagraph a., above, and test all applicants uniformly.]

- b. Tests shall be conducted only after the applicant has received a conditional offer of employment.
- c. In order to be hired, the applicant must test negative and must sign an agreement in the form of Attachment B to this policy, authorizing former employers to release to the school district all information on the applicant's alcohol tests with results of blood alcohol concentration of 0.04 or higher, or verified positive results for controlled substances, including medical cannabis, or refusals to be tested (including verified adulterated or substituted drug test results), or any other violations of DOT agency drug and alcohol testing regulations, or, if the applicant violated the testing regulations, documentation of the applicant's successful completion of DOT return-to-duty requirements (including follow-up tests), within the preceding two (2) years.

[Note: The federal regulations require school districts to inquire about, obtain, and review alcohol and controlled substances information from prior employers pursuant to a driver's written authorization, prior to the time a driver performs safety-sensitive functions, if feasible. 49 C.F.R. § 382.413 and 49 C.F.R. § 40.25. If not feasible, school districts must not

permit the employee to perform safety-sensitive functions for more than thirty (30) days from the date a safety-sensitive function was performed unless the school districts make good faith efforts to obtain the information and to make a record of those efforts to be retained in the driver's qualification file.]

- d. The applicant also must be asked whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee, during the last two (2) years, applied for, but did not obtain, safety-sensitive transportation work covered by DOT testing rules.

2. Post-Accident Testing

[Note: 49 C.F.R. § 382.303 governs post-accident testing of drivers.]

- a. As soon as practicable following an accident involving a CMV, the school district shall test the driver for alcohol and controlled substances, including medical cannabis, if the accident involved the loss of human life or if the driver receives a citation for a moving traffic violation arising from an accident which results in bodily injury or disabling damage to a motor vehicle.
- b. Drivers should be tested for alcohol use within two (2) hours and no later than eight (8) hours after the accident.
- c. Drivers should be tested for controlled substances, including medical cannabis, no later than thirty-two (32) hours after the accident.
- d. A driver subject to post-accident testing must remain available for testing, or shall be considered to have refused to submit to the test.
- e. If a post-accident alcohol test is not administered within two (2) hours following the accident, the school district shall prepare and maintain on file a record stating the reasons the test was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours.
- f. If a post-accident alcohol test is not administered within eight (8) hours following the accident or a post-accident controlled substances test is not administered within thirty-two (32) hours following the accident, the school district shall cease attempts to administer the test, and prepare and maintain on file a record stating the reasons for not administering the test.

3. Random Testing

[Note: 49 C.F.R. § 382.305 governs random testing of drivers.]

- a. The school district shall conduct tests on a random basis at unannounced times throughout the year, as required by the federal regulations.

[Note: The Federal Highway Administration (FHWA) lowered the random alcohol selection and testing rate from 25% of the average number of driver positions to 10% in 1998 and evaluates this minimum percentage each year. School districts can elect to stay at 25% (or a higher percentage) if they do not want to monitor the minimum annual percentage rate set by the FHWA. The random controlled substances selection and testing rate has remained at 50% each year and has not been lowered to 25% as is possible under the regulations.]

- b. The school district shall test for alcohol at a minimum annual percentage rate of 10% of the average number of driver positions, and for controlled substances, including medical cannabis, at a minimum annual percentage of 50%.
- c. The school district shall adopt a scientifically valid method for selecting drivers for testing, such as random number table or a computer-based random number generator that is matched with identifying numbers of the drivers. Each driver shall have an equal chance of being tested each time selections are made.
- d. Random tests shall be unannounced. Dates for administering random tests shall be spread reasonably throughout the calendar year.
- e. Drivers shall proceed immediately to the collection site upon notification of selection; provided, however, that if the driver is performing a safety-sensitive function, other than driving, at the time of notification, the driver shall cease to perform the function and proceed to the collection site as soon as possible.

4. Reasonable Suspicion Testing

[Note: 49 C.F.R. § 382.307 governs reasonable suspicion testing of drivers.]

- a. The school district shall require a driver to submit to an alcohol test and/or controlled substances, including medical cannabis, test when a supervisor or school district official, who has been trained in accordance with the regulations, has reasonable suspicion to believe that the driver has used alcohol and/or controlled substances, including medical cannabis, on duty or within four (4) hours before coming on duty. The test shall be done as soon as practicable

following the observation of the behavior indicative of the use of controlled substances or alcohol.

- b. The reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. The required observations for reasonable suspicion of a controlled substances violation may include indications of the chronic and withdrawal effects of controlled substances.
- c. Alcohol testing shall be administered within two (2) hours following a determination of reasonable suspicion. If it is not done within two (2) hours, the school district shall prepare and maintain a record explaining why it was not promptly administered and continue to attempt to administer the alcohol test within eight (8) hours. If an alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the school district shall cease attempts to administer the test and state in the record the reasons for not administering the test.
- d. The supervisor or school district official who makes observations leading to a controlled substances reasonable suspicion test shall make and sign a written record of the observations within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

[Note: 49 C.F.R. §§ 382.309, 40.23(d), and 40.305 govern return-to-duty testing.]

- 5. Return-To-Duty Testing. A driver found to have violated this policy shall not return to work until an SAP has determined the employee has successfully complied with prescribed education and/or treatment and until undergoing return-to-duty tests indicating an alcohol concentration of less than 0.02 and a confirmed negative result for the use of controlled substances.

[Note: 49 C.F.R. §§ 382.311, 40.307, and 40.309 govern follow-up testing.]

- 6. Follow-Up Testing. When an SAP has determined that a driver is in need of assistance in resolving problems with alcohol and/or controlled substances, the driver shall be subject to unannounced follow-up testing as directed by the SAP for up to sixty (60) months after completing a treatment program.

- 7. Refusal to Submit and Attendant Consequences

[Note: Consequences for refusals to submit to required drug and alcohol

tests are addressed generally in 49 C.F.R. §§ 40.191, 40.261, and 382.211. They are more specifically addressed in 49 C.F.R. §§ 382.501-382.507 and in 49 U.S.C. § 521(b).]

- a. A driver or driver applicant may refuse to submit to drug and alcohol testing.
- b. Refusal to submit to a required drug or alcohol test subjects the driver or driver applicant to the consequences specified in federal regulations as well as the civil and/or criminal penalty provisions of 49 U.S.C. § 521(b). In addition, a refusal to submit to testing establishes a presumption that the driver or driver applicant would test positive if a test were conducted and makes the driver or driver applicant subject to discipline or disqualification under this policy.
- c. A driver applicant who refuses to submit to testing shall be disqualified from further consideration for the conditionally offered position.
- d. An employee who refuses to submit to testing shall not be permitted to perform safety-sensitive functions and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. If an employee is offered an opportunity to return to a DOT safety-sensitive duty, the employee will be evaluated by an SAP and must submit to a return-to-duty test prior to being considered for reassignment to safety-sensitive functions.
- e. Drivers or driver applicants who refuse to submit to required testing will be required to sign Attachment C to this policy.

I. Testing Procedures

1. Drug Testing

[Note: The Federal Drug Testing Custody and Control Form (CCF) must be used to document every urine collection required by the DOT drug testing program. 49 C.F.R. § 40.45.]

- a. Drug testing is conducted by analyzing a donor's urine specimen. Split urine samples will be collected in accordance with federal regulations. The donor will provide a urine sample at a designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled "primary" and "split," seal the specimen bottles, complete the chain of custody form, and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight of the donor.

- b. If the donor is unable to provide the appropriate quantity of urine, the collection site person shall instruct the individual to drink up to forty (40) ounces of fluid distributed reasonably through a period of up to three (3) hours to attempt to provide a sample. If the individual is still unable to provide a complete sample, the test shall be discontinued and the school district notified. The DER shall refer the donor for a medical evaluation to determine if the donor's inability to provide a specimen is genuine or constitutes a refusal to test. For pre-employment testing, the school district may elect to not have a referral made, and revoke the employment offer.
- c. Drug test results are reported directly to the MRO by the testing laboratory. The MRO reports the results to the DER. If the results are negative, the school district is informed and no further action is necessary. If the test result is confirmed positive, adulterated, substituted, or invalid, the MRO shall give the donor an opportunity to discuss the test result. The MRO will contact the donor directly, on a confidential basis, to determine whether the donor wishes to discuss the test result. The MRO shall notify each donor that the donor has seventy-two (72) hours from the time of notification in which to request a test of the split specimen at the donor's expense. No split specimen testing is done for an invalid result.
- d. If the donor requests an analysis of the split specimen within seventy-two (72) hours of having been informed of a confirmed positive test, the MRO shall direct, in writing, the laboratory to provide the split specimen to another Department of Health and Human Services – SAMHSA certified laboratory for analysis. If the donor has not contacted the MRO within seventy-two (72) hours, the donor may present the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the confirmed positive test, or other circumstances unavoidably prevented the donor from timely making contact. If the MRO concludes that a legitimate explanation for the donor's failure to contact him/her within seventy-two (72) hours exists, the MRO shall direct the analysis of the split specimen. The MRO will review the confirmed positive test result to determine whether an acceptable medical reason for the positive result exists. The MRO shall confirm and report a positive test result to the DER and the employee when no legitimate medical reason for a positive test result as received from the testing laboratory exists.
- e. If, after making reasonable efforts and documenting those efforts, the MRO is unable to reach the donor directly, the MRO must contact the DER who will direct the donor to contact the MRO. If the DER is unable to contact the donor, the donor will be suspended from performing safety-sensitive functions.

- f. The MRO may confirm the test as a positive without having communicated directly with the donor about the test results under the following circumstances:
 - (1) The donor expressly declines the opportunity to discuss the test results;
 - (2) The donor has not contacted the MRO within seventy-two (72) hours of being instructed to do so by the DER; or
 - (3) The MRO and the DER, after making and documenting all reasonable efforts, have not been able to contact the donor within ten (10) days of the date the confirmed test result was received from the laboratory.

2. Alcohol Testing

[Note: The DOT Alcohol Testing Form (ATF) must be used for every DOT alcohol test. 49 C.F.R. § 40.225]

- a. The federal alcohol testing regulations require testing to be administered by a BAT using an EBT or an STT using an ASD. EBTs and ASDs can be used for screening tests but only EBTs can be used for confirmation tests.
- b. Any test result less than 0.02 alcohol concentration is considered a “negative” test.
- c. If the donor is unable to provide sufficient saliva for an ASD, the DER will immediately arrange to use an EBT. If the donor attempts and fails to provide an adequate amount of breath, the school district will direct the donor to obtain a written evaluation from a licensed physician to determine if the donor’s inability to provide a breath sample is genuine or constitutes a refusal to test.
- d. If the screening test results show alcohol concentration of 0.02 or higher, a confirmatory test conducted on an EBT will be required to be performed between fifteen (15) and thirty (30) minutes after the completion of the screening test.
- e. Alcohol tests are reported directly to the DER.

J. Driver/Driver Applicant Rights

- 1. All drivers and driver applicants subject to the controlled substances testing provisions of this policy who receive a confirmed positive test result for the use of controlled substances have the right to request, at the driver’s or driver applicant’s expense, a confirming retest of the split urine sample. If

the confirming retest is negative, no adverse action will be taken against the driver, and a driver applicant will be considered for employment.

[Note: The limitation on discharge in Paragraph 2., below, is contained solely in Minnesota law. State law is preempted by federal laws and regulations as it relates to drivers of commercial motor vehicles (such as bus drivers). See Minn. Stat. § 221.031, Subd. 10. Nevertheless, school districts may decide to comply with the state law requirements for various reasons (such as to treat all school district employees equally since employees subject to testing only under state law are accorded these additional rights). Consultation with the school district's legal counsel is recommended.]

2. The school district will not discharge a driver who, for the first time, receives a confirmed positive drug or alcohol test UNLESS:
 - a. The school district has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with the SAP; and
 - b. The employee refuses to participate in the recommended program, or fails to successfully complete the program as evidenced by withdrawal before its completion or by a positive test result on a confirmatory test after completion of the program.
 - c. This limitation on employee discharge does not bar discharge of an employee for reasons independent of the first confirmed positive test result.

K. Testing Laboratory

The testing laboratory for controlled substances will be [*name, address, telephone number*], which is a laboratory certified by the Department of Health and Human Services – SAMHSA to perform controlled substances testing pursuant to federal regulations.

L. Confidentiality of Test Results

All alcohol and controlled substances test results and required records of the drug and alcohol testing program are considered confidential information under federal law and private data on individuals as that phrase is defined in Minn. Stat. Ch. 13. Any information concerning the individual's test results and records shall not be released without written permission of the individual, except as provided for by regulation or law.

M. Recordkeeping Requirements and Retention of Records

1. The school district shall keep and maintain records in accordance with the federal regulations in a secure location with controlled access.

[Note: The federal recordkeeping requirements for school districts are detailed in the federal regulations 49 C.F.R. §§ 382.401 et seq. and 40.331. The DOT publishes a guide to the recordkeeping requirements of mandatory drug and alcohol testing for persons with a commercial driver's license as part of its Alcohol & Drugs: DOT Compliance Manual.]

2. The required records shall be retained for the following minimum periods:

Basic records	5 years
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“Basic records” includes records of: (a) alcohol test results with concentration of 0.02 or greater; (b) verified positive drug test results; (c) refusals to submit to required tests (including substituted or adulterated drug test results); (d) SAP reports; (e) all follow-up tests and schedules for follow-up tests; (f) calibration documentation; (g) administration of the testing programs; and (h) each annual calendar year summary.

Information obtained from previous employers	3 years
Collection records	2 years
Negative and cancelled drug tests	1 year
Alcohol tests with less than 0.02 concentration	1 year
Education and training records	indefinite

“Education and training records” must be maintained while the individuals perform the functions which require training and for the two (2) years after ceasing to perform those functions.

N. Training

The school district shall ensure all persons designated to supervise drivers receive training. The designated employees shall receive at least sixty (60) minutes of training on alcohol misuse and at least sixty (60) minutes of training on controlled substances use. The training shall include physical, behavioral, speech, and performance indicators of probable misuse of alcohol and use of controlled substances. The training will be used by the supervisors to make determinations of reasonable suspicion.

O. Consequences of Prohibited Conduct and Enforcement

1. Removal. The school district shall remove a driver who has engaged in prohibited conduct from safety-sensitive functions. A driver shall not be permitted to return to safety-sensitive functions until and unless the return-

to-duty requirements of federal DOT regulations have been completed.

2. Referral, Evaluation, and Treatment

- a. A driver or driver applicant who has engaged in prohibited conduct shall be provided a listing of SAPs readily available to the driver or applicant and acceptable to the school district.

[Note: Subparagraphs b. and c., below, are based on the provisions of 49 C.F.R. § 40.289.]

- b. If the school district offers a driver an opportunity to return to a DOT safety-sensitive duty following a violation, the driver must be evaluated by an SAP and the driver is required to successfully comply with the SAP's evaluation recommendations (education, treatment, follow-up evaluation(s), and/or ongoing services). The school district is not required to provide an SAP evaluation or any subsequent recommended education or treatment.

[Note: School districts are not required to comply with state law governing drug and alcohol testing when the individuals are subject to the federal laws and regulations (i.e., bus drivers). If a school district, after consultation with legal counsel, chooses to comply voluntarily with these requirements, Subparagraph b., above, can be modified as follows:

b. The school district will offer a driver an opportunity to return to a DOT safety-sensitive duty following an employee's first positive test result on a confirmatory test if no reasons independent of the first test result for discharge exist. Otherwise, the school district may choose, but is not required, to provide an SAP evaluation or any subsequent recommended education or treatment.]

- c. Drivers are responsible for payment for SAP evaluations and services unless a collective bargaining agreement or employee benefit plan provides otherwise.
- d. Drivers who engage in prohibited conduct also are required to comply with follow-up testing requirements.

3. Disciplinary Action

- a. Any driver who refuses to submit to post-accident, random, reasonable suspicion, or follow-up testing not only shall not perform or continue to perform safety-sensitive functions, but also may be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.

- b. Drivers who test positive with verification of a confirmatory test or are otherwise found to be in violation of this policy or the federal regulations shall be subject to disciplinary action, which may include immediate suspension without pay and/or immediate discharge.
- c. Nothing in this policy limits or restricts the right of the school district to discipline or discharge a driver for conduct which not only constitutes prohibited conduct under this policy but also violates the school district's other rules or policies.

P. Other Testing

The school district may request or require that drivers submit to drug and alcohol testing other than that required by federal law. For example, drivers may be requested or required to undergo drug and alcohol testing on an annual basis as part of a routine physical examination. Such additional testing of drivers will be conducted only in accordance with the provisions of this policy and as provided in Minn. Stat. §§ 181.950-181.957. For purposes of such additional, non-mandatory testing, drivers fall within the definition of "other employees" covered by Section IV. of this policy.

[Note: When the testing of drivers complies with federal testing requirements and procedures, school districts clearly are exempt from the state drug and alcohol testing requirements in Minn. Stat. §§ 181.950-181.957. See Minn. Stat. § 221.031, Subd. 10. When testing beyond the federally mandated requirements, however, school districts still must comply with state law.]

IV. DRUG AND ALCOHOL TESTING FOR OTHER EMPLOYEES

The school district may request or require drug and alcohol testing for other school district personnel, i.e., employees who are not school bus drivers, or job applicants for such positions. The school district does not have a legal duty to request or require any employee or job applicant to undergo drug and alcohol testing as authorized in this policy, except for school bus drivers and other drivers of CMVs who are subject to federally mandated testing. (See Section III. of this policy.) If a school bus driver is requested or required to submit to drug or alcohol testing beyond that mandated by federal law, the provisions of Section IV. of this policy will be applicable to such testing.

A. Circumstances Under Which Drug or Alcohol Testing May Be Requested or Required:

1. General Limitations

- a. The school district will not request or require an employee or job applicant whose position does not require a commercial driver's license to undergo drug or alcohol testing, unless the testing is done

pursuant to this drug and alcohol testing policy; and is conducted by a testing laboratory which participates in one of the programs listed in Minn. Stat. § 181.953, Subd. 1.

- b. The school district will not request or require an employee or job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing on an arbitrary and capricious basis.

2. Job Applicant Testing

The school district may request or require any job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing, provided a job offer has been made to the applicant and the same test is requested or required of all job applicants conditionally offered employment for that position. If a job applicant has received a job offer which is contingent on the applicant's passing drug and alcohol testing, the school district may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. In the event the job offer is subsequently withdrawn, the school district shall notify the job applicant of the reason for its action.

3. Random Testing

The school district may request or require employees to undergo drug and alcohol testing on a random selection basis only if they are employed in safety-sensitive positions.

4. Reasonable Suspicion Testing

The school district may request or require any employee to undergo drug and alcohol testing if the school district has a reasonable suspicion that the employee:

- a. is under the influence of drugs or alcohol;
- b. has violated the school district's written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the school district's premises or operating the school district's vehicles, machinery, or equipment;
- c. has sustained a personal injury, as that term is defined in Minn. Stat. § 176.011, Subd. 16, or has caused another employee to sustain a personal injury; or
- d. has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-

related accident.

5. Treatment Program Testing

The school district may request or require any employee to undergo drug and alcohol testing if the employee has been referred by the school district for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan, in which case the employee may be requested or required to undergo drug and alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two (2) years following completion of any prescribed chemical dependency treatment program.

6. Routine Physical Examination Testing

The school district may request or require any employee to undergo drug and alcohol testing as part of a routine physical examination provided the drug or alcohol test is requested or required no more than once annually and the employee has been given at least two weeks' written notice that a drug or alcohol test may be requested or required as part of the physical examination.

B. No Legal Duty to Test

The school district does not have a legal duty to request or require any employee or job applicant whose position does not require a commercial driver's license to undergo drug and alcohol testing.

C. Definitions

1. "Drug" means a controlled substance as defined in Minnesota Statutes, including medical cannabis, regardless of enrollment in the state registry program.
2. "Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, Subd. 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.
3. "Other Employees" means any persons, independent contractors, or persons working for an independent contractor who perform services for the school district for compensation, either full time or part time, in whatever form, except for persons whose positions require a commercial driver's license, and includes both professional and nonprofessional personnel. Persons whose positions require a commercial driver's license are primarily governed by the provisions of the school district's drug and alcohol testing policy relating to school bus drivers (Section III.). To the extent that the

drug and alcohol testing of persons whose positions require a commercial driver's license is not mandated by federal law and regulations, such testing shall be governed by Section IV. of this policy and the drivers shall fall within this definition of "other employees."

4. "Job applicant" means a person, independent contractor, or person working for an independent contractor who applies to become an employee of the school district in a position that does not require a commercial driver's license, and includes a person who has received a job offer made contingent on the person's passing drug or alcohol testing. Job applicants for positions requiring a commercial driver's license are governed by the provisions of the school district's drug and alcohol testing policy relating to school bus drivers (Section III.).
5. "Positive test result" means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels contained in the standards of one of the programs listed in Minn. Stat. § 181.953, Subd. 1.
6. "Random selection basis" means a mechanism for selection of employees that:
 - a. results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected; and
 - b. does not give the school district discretion to waive the selection of any employee selected under the mechanism.
7. "Reasonable suspicion" means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
8. "Safety-sensitive position" means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.

D. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing and Consequences of Such Refusal

1. Right of Other Employee or Job Applicant to Refuse Drug and Alcohol Testing

Any employee or job applicant whose position does not require a commercial driver's license has the right to refuse drug and alcohol testing subject to the provisions contained in Paragraphs 2. and 3. of this Section D.

2. Consequences of an Employee's Refusal to Undergo Drug and Alcohol Testing

Any employee in a position that does not require a commercial driver's license who refuses to undergo drug and alcohol testing in the circumstances set out in the Random Testing, Reasonable Suspicion Testing, and Treatment Program Testing provisions of this policy may be subject to disciplinary action, up to and including immediate discharge.

3. Consequences of a Job Applicant's Refusal to Undergo Drug and Alcohol Testing

Any job applicant for a position which does not require a commercial driver's license who refuses to undergo drug and alcohol testing pursuant to the Job Applicant Testing provision of this policy shall not be employed.

E. Reliability and Fairness Safeguards

1. Pretest Notice

Before requesting an employee or job applicant whose position does not require a commercial driver's license to undergo drug or alcohol testing, the school district shall provide the employee or job applicant with a Pretest Notice in the form of Attachment D to this policy on which to acknowledge that the employee or job applicant has received the school district's drug and alcohol testing policy.

2. Notice of Test Results

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing an employee or job applicant who has undergone drug or alcohol testing of a negative test result on an initial screening test or of a negative or positive test result on a confirmatory test.

3. Notice of and Right to Test Result Report

Within three (3) working days after receipt of a test result report from the testing laboratory, the school district shall inform in writing, an employee or job applicant who has undergone drug or alcohol testing of the employee or job applicant's right to request and receive from the school district a copy of the test result report on any drug or alcohol test.

4. Notice of and Right to Explain Positive Test Result

a. If an employee or job applicant has a positive test result on a confirmatory test, the school district shall provide him or her with notice of the test results and, at the same time, written notice of the right to explain the results and to submit additional information.

- b. The school district may request that the employee or job applicant indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.
- c. The employee may present verification of enrollment in the medical cannabis patient registry as part of the employee's explanation.
- d. Within three (3) working days after notice of a positive test result on a confirmatory test, an employee or job applicant may submit information (in addition to any information already submitted) to the school district to explain that result.

5. Notice of and Right to Request Confirmatory Retests

- a. If an employee or job applicant has a positive test result on a confirmatory test, the school district shall provide him or her with notice of the test results and, at the same time, written notice of the right to request a confirmatory retest of the original sample at his or her expense.
- b. An employee or job applicant may request a confirmatory retest of the original sample at his or her own expense after notice of a positive test result on a confirmatory test. Within five (5) working days after notice of the confirmatory test result, the employee or job applicant shall notify the school district in writing of his or her intention to obtain a confirmatory retest. Within three (3) working days after receipt of the notice, the school district shall notify the original testing laboratory that the employee or job applicant has requested the laboratory to conduct the confirmatory retest or to transfer the sample to another laboratory licensed under Minn. Stat. § 181.953, Subd. 1 to conduct the confirmatory retest. The original testing laboratory shall ensure that appropriate chain-of-custody procedures are followed during transfer of the sample to the other laboratory. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the employee or job applicant.

6. If an employee or job applicant has a positive test result on a confirmatory test, the school district, at the time of providing notice of the test results, shall also provide written notice to inform him or her of other rights provided under Sections F. or G., below, whichever is applicable.

Attachments E and F to this policy provide the Notices described in

Paragraphs 2. through 6. of this Section E.

F. Discharge and Discipline of Employees Whose Positions Do Not Require a Commercial Driver's License

1. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.
2. In the case of a positive test result on a confirmatory test, the employee shall be subject to discipline which includes, but is not limited to, immediate suspension without pay and immediate discharge, pursuant to the provisions of this policy.
3. The school district may not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the school district, unless the following conditions have been met:
 - a. The school district has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with a certified chemical abuse counselor or a physician trained in the diagnosis and treatment of chemical dependency; and
 - b. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a positive test result on a confirmatory test after completion of the program.
4. Notwithstanding Paragraph 1., the school district may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory retest, provided the school district believes that it is reasonably necessary to protect the health or safety of the employee, co-employees or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
5. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information or the employee's status as a patient enrolled in the medical cannabis registry program revealed to the school district, unless the employee was under an affirmative duty to provide the information before,

upon, or after hire, or failing to do so would violate federal law or regulations or cause the school district to lose money or licensing-related benefit under federal law or regulations.

6. The school district may not discriminate against any employee in termination, discharge, or any term of condition of employment or otherwise penalize an employee based upon an employee registered patient's positive drug test for cannabis components or metabolites, unless the employee used, possessed, or was impaired by medical cannabis on school district property during the hours of employment.
7. An employee must be given access to information in his or her personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on the reports or other acquired information.

G. Withdrawal of Job Offer for an Applicant for a Position That Does Not Require a Commercial Driver's License

If a job applicant has received a job offer made contingent on the applicant's passing drug and alcohol testing, the school district may not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. In the case of a positive test result on a confirmatory test, the school district may withdraw the job offer.

H. Chain-of-Custody Procedures

The school district has established its own reliable chain-of-custody procedures to ensure proper record keeping, handling, labeling, and identification of the samples to be tested. The procedures require the following:

1. Possession of a sample must be traceable to the employee from whom the sample is collected, from the time the sample is collected through the time the sample is delivered to the laboratory;
2. The sample must always be in the possession of, must always be in view of, or must be placed in a secure area by a person authorized to handle the sample;
3. A sample must be accompanied by a written chain-of-custody record; and
4. Individuals relinquishing or accepting possession of the sample must record the time the possession of the sample was transferred and must sign and date the chain-of-custody record at the time of transfer.

I. Privacy, Confidentiality and Privilege Safeguards

1. Privacy Limitations

A laboratory may only disclose to the school district test result data regarding the presence or absence of drugs, alcohol or their metabolites in a sample tested.

2. Confidentiality Limitations

With respect to employees and job applicants, test result reports and other information acquired in the drug or alcohol testing process are private data on individuals as that phrase is defined in Minn. Stat. Ch. 13, and may not be disclosed by the school district or laboratory to another employer or to a third-party individual, governmental agency, or private organization without the written consent of the employee or job applicant tested.

3. Exceptions to Privacy and Confidentiality Disclosure Limitations

Notwithstanding Paragraphs 1. and 2., evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minn. Stat. Ch. 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

4. Privilege

Positive test results from the school district drug or alcohol testing program may not be used as evidence in a criminal action against the employee or job applicant tested.

J. Notice of Testing Policy to Affected Employees

The school district shall provide written notice of this drug and alcohol testing policy to all affected employees upon adoption of the policy, to a previously non-affected employee upon transfer to an affected position under the policy, and to a job applicant upon hire and before any testing of the applicant if the job offer is made contingent on the applicant's passing drug and alcohol testing. Affected employees and applicants will acknowledge receipt of this written notice in the form of Attachment G to this policy.

V. POSTING

The school district shall post notice in an appropriate and conspicuous location on its premises that it has adopted a drug and alcohol testing policy and that copies of the policy are available for inspection during regular business hours by its employees or job applicants

in its personnel office or other suitable locations.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. Ch. 43A (State Personnel Management)
Minn. Stat. § 152.22 (Medical Cannabis; Definitions)
Minn. Stat. § 152.23 (Medical Cannabis; Limitations)
Minn. Stat. § 152.32 (Protections for Registry Program Participation)
Minn. Stat. §§ 181.950-181.957 (Drug and Alcohol Testing in the Workplace)
Minn. Stat. § 221.031 (Motor Carrier Rules)
49 U.S.C. § 31306 (Omnibus Transportation Employee Testing Act of 1991)
49 U.S.C. § 521(b) (Civil and Criminal Penalties for Violations)
49 C.F.R. Parts 40 and 382 (Department of Transportation Rules Implementing Omnibus Transportation Employee Testing Act of 1991)

Cross-References: 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 417 (Chemical Use and Abuse)
MSBA/MASA Model Policy 418 (Drug-Free Workplace/Drug-Free School)

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Independent School District No. 110

Waconia, MN 55387

1.B.2.e. 417 Chemical Use and Abuse

Adopted: _____

MSBA/MASA Model Policy 417

Orig. 1995

Revised: _____

Rev. 2022~~15~~

417 CHEMICAL USE AND ABUSE

[Note: This policy reflects mandatory provisions of state and federal law and is not discretionary.]

I. PURPOSE

The school board recognizes that chemical use and abuse constitutes a grave threat to the physical and mental well-being of students and employees and significantly impedes the learning process. Chemical use and abuse also creates significant problems for society in general. The school board believes that the public school has a role in education, intervention, and prevention of chemical use and abuse. The purpose of this policy is to assist the school district in its goal to prevent chemical use and abuse by providing procedures for education and intervention.

II. GENERAL STATEMENT OF POLICY

- A. Use or possession of controlled substances, toxic substance, medical cannabis, ~~toxic substances~~, and alcohol before, during, or after school hours, at school or in any other school location, is prohibited in ~~the school setting in~~ accordance with school district policies with respect to a Drug-Free Workplace/Drug-Free School.
- B. The ~~policy of this~~ school district shall develop, implement, and evaluate comprehensive programs and activities that foster safe, healthy, supportive, and drug-free environments that support student academic achievement. ~~is to provide an instructional program in every elementary and secondary school in chemical abuse and the prevention of chemical dependency.~~
- C. ~~Every~~The school ~~district that participates in a school district chemical abuse program~~ shall establish and maintain in every school a chemical abuse preassessment team. The team is responsible for addressing reports of chemical abuse problems and making recommendations for appropriate responses to the individual reported cases.
- ~~D. The superintendent, with the advice of the school board, shall be responsible for establishing a school and community advisory team to address chemical abuse problems in the district.~~
- ED. The school district shall establish and maintain a drug-free awareness program to for educate and assist its employees, and may establish a students, and others in understanding this policy and the goals of achieving drug-free schools and workplaces.

[Note: School districts are required to establish a drug-free awareness program for school district employees pursuant to the Drug-Free Workplace Act. In addition, state law requires that the written districtwide school discipline policy must include procedures for detecting and addressing chemical abuse problems of a student while on the school premises. Further, school districts are required to develop, implement, and evaluate comprehensive programs and activities that foster safe, healthy, supportive, and drug-free environments that support student academic achievement if receiving funding under the federal Student Support and Academic Enrichment Grants law. Comprehensive drug prevention programs are required to be adopted and carried out by school districts pursuant to the Safe and Drug-Free Schools and Communities Act. In addition, school districts are required by the Drug-Free Workplace Act to establish drug-free awareness programs for school district employees. Further, state law authorizes school districts to provide instructional programs in chemical abuse and the prevention of chemical dependency.]

III. DEFINITIONS

- A. “Chemical abuse,” as applied to students, means use of any psychoactive or mood-altering chemical substance, without compelling medical reason, in a manner that induces mental, emotional, or physical impairment and causes socially dysfunctional or socially disordering behavior, to the extent that the minor’s student’s normal function in academic, school, or social activities is chronically impaired.
- ~~B. “Chemicals” includes, but is not limited to, alcohol, toxic substances, medical cannabis, and controlled substances as defined in the school district’s Drug-Free Workplace/Drug-Free School policy.~~
- ~~B. “Controlled substances,” as applied to the chemical abuse assessment of students, means a drug, substance, or immediate precursor in Schedules I through V of Minnesota Statutes section 152.02 and “marijuana” as defined in Minnesota Statutes section 152.01, subdivision 9; but not distilled spirits, wine, malt beverages, intoxicating liquors or tobacco. As otherwise defined in this policy, “controlled substances” include narcotic drugs, hallucinogenic drugs, amphetamines, barbiturates, marijuana, anabolic steroids, or any other controlled substance as defined in Schedules I through V of the Controlled Substances Act, 21 United States Code section 812, including analogues and look-alike drugs.~~
- ~~C. “Drug prevention” means prevention, early intervention, rehabilitation referral, recovery support services, or education related to the illegal use of drugs, such as raising awareness about the consequences of drug use that are evidence based.~~
- ~~C. “Use” includes to sell, buy, manufacture, distribute, dispense, use, or be under the influence of alcohol and/or controlled substances, whether or not for the purpose of receiving remuneration.~~
- ~~D. “School location” includes any school building or on any school premises; on any school-owned vehicle or in any other school-approved vehicle used to transport students to and from school or school activities; off-school property at any school-sponsored or school-approved activity, event, or function, such as a field trip or athletic event, where students are under the jurisdiction of the school district; or during any period of time such employee is supervising students on behalf of the school district or otherwise engaged in school district business.~~
- ~~D. “Teacher” means all persons employed in a public school or education district or by a service cooperative as members of the instructional, supervisory, and support staff including superintendents, principals, supervisors, secondary vocational and other classroom teachers, librarians, counselors, school psychologists, school nurses, school social workers, audio-visual directors and coordinators, recreation personnel, media generalists, media supervisors, and speech therapists.~~

IV. STUDENTS

A. Districtwide School Discipline Policy

Procedures for detecting and addressing chemical abuse problems of a student while on school premises are included in the districtwide school student discipline policy.

AB. Programs and Activities Instruction

14. EveryThe school district shall develop, implement, and evaluate comprehensive provide an instructional programs and activities that foster safe, healthy, supportive, and drug-free environments that support student academic achievements. The programs and activities may include, among other programs and activities, drug prevention activities and programs that may be evidence based, including programs to educate students against the use of alcohol, tobacco, marijuana, smokeless tobacco products, and electronic cigarettes, in chemical abuse and the prevention of chemical dependency. The school district may involve parents, students, health care professionals, state department staff,

and members of the community in developing the curriculum.

[Note: The Safe and Drug-Free Schools and Communities Act requires school districts to adopt and carry out a comprehensive drug and violence prevention program with funds received. Since a comprehensive drug prevention program is required and a school district is specifically authorized by state law to provide instructional programs in chemical abuse and the prevention of chemical dependency, this should be a component of each school district's mandatory program. In addition, the Safe and Drug-Free Schools and Communities Act specifies additional items which that may be included as part of the mandatory comprehensive drug prevention program. Some of the suggested items relating to instruction or training are detailed in Paragraphs 2. Through 6. Below and a school district may wish to adopt one or all of the listed components as part of its mandatory program.]

2. As part of its drug-free programs, the school district may implement the drug abuse resistance education program (DARE) that enables peace officers to undergo the training to teach a curriculum on drug abuse resistance in schools.

2. Each school shall have age-appropriate and developmentally based activities that:

a. address the consequences of violence and the illegal use of drugs, as appropriate;

b. promote a sense of individual responsibility;

c. teach students that most people do not illegally use drugs;

d. teach students to recognize social and peer pressure to use drugs illegally and the skills for resisting illegal drug use;

e. teach students about the dangers of emerging drugs;

f. engage students in the learning process; and

g. incorporate activities in secondary schools that reinforce prevention activities implemented in elementary schools.

3. Each school shall have activities that involve families, community sectors (which may include appropriately trained seniors), and a variety of drug and violence prevention providers in setting clear expectations against violence and illegal use of drugs and appropriate consequences for violence and illegal use of drugs.

4. Each school shall disseminate drug and violence prevention information within the school and to the community.

5. Each school shall have professional development and training for, and involvement of, school personnel, student services personnel, parents, and interested community members in prevention, education, early identification and intervention, mentoring, or rehabilitation referral, as related to drug and violence prevention.

6. Each school shall have drug and violence prevention activities that may include the following:

a. Community-wide planning and organizing activities to reduce violence and illegal drug use, which may include gang activity prevention.

b. The hiring and mandatory training, based on scientific research, of school security personnel who interact with students in support of youth drug and violence prevention activities under this policy that are implemented in the school.

c. Conflict resolution programs, including peer mediation programs that educate and train peer mediators and

~~a designated faculty supervisor, and youth anti-crime and anti-drug councils and activities.~~

~~d. ——— Counseling, mentoring, referral services, and other student assistance practices and programs, including assistance provided by qualified school-based mental health services providers and the training of teachers by school-based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs.~~

~~e. ——— Programs that encourage students to seek advice from, and to confide in, a trusted adult regarding concerns about violence and illegal drug use.~~

CB. Reports of Use, Possession, or Transfer of Alcohol or a Controlled Substance~~Chemical Use and Abuse~~

~~1. ——— In the event that a school district employee knows that a student is abusing, possessing, transferring, distributing, or selling chemicals in a school location:~~

~~a. ——— The employee shall immediately either take the student to an administrator or notify an appropriate administrator of the observation and continue to observe the student until the administrator arrives.~~

~~b. ——— The administrator will notify the student's parents. If there is a medical emergency, the administrator will notify the school nurse and/or outside medical personnel as appropriate.~~

~~c. ——— The administrator will notify law enforcement officials, the student's counselor, and the chemical preassessment team.~~

~~d. ——— The administrator and/or law enforcement officials will confiscate the chemicals and/or conduct a search of the student's person, effects, locker, vehicle, or areas within the student's control. Searches by school district officials shall be in accordance with school board policies regarding search and seizure.~~

~~e. ——— The school district will take appropriate disciplinary action in compliance with the student discipline code. Such discipline may include immediate suspension, initiation of expulsion proceedings, and/or referral to a detoxification center or medical center.~~

~~2. ——— If a school district employee has reason to believe that a student is abusing, possessing, transferring, distributing, or selling chemicals:~~

~~a. ——— The employee shall notify the building administrator or a member of the preassessment team and shall describe the basis for the suspicion. The building administrator and/or team will determine what action should be taken. Action may include conducting an investigation, gathering data, scheduling a conference with the student or parents, or providing a meeting between a single member of the team and the student to discuss the behaviors that have been reported and attempting to ascertain facts regarding chemical abuse.~~

~~b. ——— The team may determine there is no chemical abuse. If the team determines there is chemical abuse, the team will select an appropriate course of action, which may include referral to a school counselor; referral to a treatment program; referral for screening, assessment, and treatment planning; participation in support groups; or other appropriate measures.~~

- ~~1. 1. ——— A teacher in a nonpublic school participating in a school district chemical use program, or a public school teacher, who knows or has reason to believe that a student is using, possessing, or transferring alcohol or a controlled substance while on the school premises or involved in school-related activities, shall immediately notify the school's chemical abuse preassessment team, or staff member assigned duties similar to those of such a team, of this information.~~

[Note: School districts are not required to participate in a chemical abuse program

or establish a chemical abuse preassessment team pursuant to state law. Schools are required to have procedures for detecting student chemical abuse and can obtain federal funding if they establish drug prevention, detection, intervention, and recovery support services. Thus, it is recommended that schools establish these programs and activities. For those schools that do not establish a chemical abuse preassessment team, those obligations could be assigned to a specified staff member such a school counselor or administrator.]

32. Students involved in the abuse, possession, transfer, distribution, or sale of chemicals ~~shall~~ may be suspended and proposed for expulsion in compliance with the student discipline policy and the Pupil Fair Dismissal Act, Minnesota Statutes section ~~§~~ 121A.40-121A.56, and proposed for expulsion.
43. Searches by school district officials in connection with the ~~abuse, possession, or transfer, distribution, or sale~~ of alcohol or a controlled substance chemicals will be conducted in accordance with school board policies related to search and seizure.
4. Nothing in paragraph IV.B.1. prevents a teacher or any other school employee from reporting to a law enforcement agency any violation of law occurring on school premises or at school sponsored events.

DC. Preassessment Team

1. Every school that participates in a school district chemical abuse program shall ~~establish~~ have a chemical abuse preassessment team designated by the superintendent or designee. The team ~~must~~ will be composed of classroom teachers, administrators, and to the extent they exist in the school, school nurse, school counselor or psychologist, social worker, chemical abuse specialist, and other appropriate professional staff ~~to the extent they exist in each school, such as the school nurse, school counselor or psychologist, social worker, chemical abuse specialist, or others.~~ For schools that do not have a chemical abuse program and team, the superintendent or designee will assign these duties to a designated school district employee.
2. The team is responsible for addressing reports of chemical abuse problems and making recommendations for appropriate responses to the individual reported cases.
3. Within forty-five (45) days after receiving an individual reported case, the team shall make a determination whether to provide the student and, in the case of a minor, the student's parents with information about school and community services in connection with chemical abuse.

ED. Data Practices

1. Student data may be disclosed without consent in health and safety emergencies pursuant to Minnesota Statutes section § 13.32 and applicable federal law and regulations.
2. Destruction of Records
 - a. If the preassessment team decides not to provide a student and, in the case of a minor, the student's parents with information about school or community services in connection with chemical abuse, records created or maintained by the team about the student shall be destroyed not later than six (6) months after the determination is made.

- b. If the team decides to provide the student and, in the case of a minor or a dependent student, the student's parents with ~~such~~ information about school or community services in connection with chemical abuse, records created or maintained by the team about the student shall be destroyed not later than six (6) months after the student is no longer enrolled in the district.
- c. ~~This section shall govern~~ Destruction of records identifying individual students shall be governed by paragraph IV.E.2. notwithstanding ~~provisions of the Records Management Act, Minnesota Statutes section~~ § 138.163 (Preservation and Disposal of Public Records).

FE. Consent

Any minor may give effective consent for medical, mental, and other health services to determine the presence of or to treat conditions associated with alcohol and other drug abuse, and the consent of no other person is required.

[Note: State law permits schools to provide these services to minor students without the consent of a parent. If, however, a school district provides these or other services pursuant to a grant received under the Student Support and Academic Enrichment Grants law, this funding could be jeopardized if the requirements of federal law, to obtain prior written, informed consent from the parent of each child who is under 18 years of age is not obtained.]

F. School and Community Advisory Team

1. ~~The superintendent, with the advice of the school board, shall establish a school and community advisory team to address chemical abuse problems. The advisory team will be composed of representatives from the school preassessment teams to the extent possible, law enforcement agencies, county attorney's office, social service agencies, chemical abuse treatment programs, parents, and the business community.~~

2. ~~The advisory team shall:~~

a. ~~build awareness of the problem within the community, identify available treatment and counseling programs for students, and develop good working relationships and enhance communication between the schools and other community agencies; and~~

b. ~~develop a written procedure clarifying the notification process to be used by the chemical abuse preassessment team when a student is believed to be in possession of or under the influence of alcohol or a controlled substance. The procedure must include contact with the student and the student's parents or guardian in the case of a minor student.~~

V. EMPLOYEES

A. ~~The school district shall establish~~ superintendent or designee shall undertake and maintain a drug-free awareness ~~and prevention~~ program to inform employees, ~~students, and others~~ about:

- 1. The dangers ~~and health risks of chemical~~ of drug abuse in the workplace/school.
- 2. The school district's ~~drug-free workplace/drug-free school~~ policy of maintaining a drug-free workplace.
- 3. ~~Any available drug or alcohol counseling, treatment, rehabilitation, re-entry, and/or employee assistance programs available to employees and/or students.~~

4. The penalties that may be imposed on employees for drug abuse violations.

- B. The ~~school district superintendent or designee~~ shall notify ~~any~~ federal granting agency required to be notified under the Drug-Free Workplace Act within ten (10) days after receiving notice ~~from the employee or otherwise receiving actual notice~~ of ~~any criminal drug statute~~ conviction ~~of an employee for a criminal drug statute violation~~ occurring in the workplace. ~~To facilitate the giving of such notice, any employee aware of such a conviction shall report the same to the superintendent.~~

~~[Note: Notification to the federal granting agency within ten (10) days is required by the Drug-Free Workplace Act. 41 U.S.C. § 8103.]~~

Legal References:

Minn. Stat. § 13.32 (Educational Data)
Minn. Stat. § 121A.25-121A.29 (Chemical Abuse)
Minn. Stat. § 121A.40-121A.56 (Pupil Fair Dismissal Act)
[Minn. Stat. § 121A.61 \(Discipline and Removal of Students from Class\)](#)
[Minn. Stat. § 124D.695 \(Approved Recovery Program Funding\)](#)
[Minn. Stat. § 126C.44 \(Safe Schools Levy\)](#)
Minn. Stat. § 138.163 ([Preservation and Disposal of Public Records](#)) ~~Records Management Act~~
Minn. Stat. § 144.343 (Pregnancy, Venereal Disease, Alcohol or Drug Abuse, Abortion)
[Minn. Stat. § 152.01 \(Definitions\)](#)
[Minn. Stat. § 152.02 \(Schedules of Controlled Substances; Administration of Chapter\)](#)
Minn. Stat. § 152.22 (~~Medical Cannabis~~; Definitions; [Medical Cannabis](#))
Minn. Stat. § 152.23 (~~Medical Cannabis~~; Limitations; [Medical Cannabis](#))
[Minn. Stat. § 299A.33 \(DARE Program\)](#)
[Minn. Stat. § 466.07, subd. 1 \(Indemnification Required\)](#)
[Minn. Stat. § 609.101, subd. 3\(e\) \(Controlled Substance Offenses; Minimum Fines\)](#)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
20 U.S.C. §§ 7101-716522 ([Student Support and Academic Enrichment Grants](#))~~Safe and Drug-Free Schools and Communities Act~~
[20 U.S.C. § 5812 \(National Education Goals\)](#)
[20 U.S.C. § 7175 \(Local Activities\)](#)
41 U.S.C. §§ 8101-8106 (Drug-Free Workplace Act)
34 C.F.R. Part 84 (Government-~~w~~[W](#)ide Requirements for Drug-Free Workplace)

Cross References:

MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 416 (Drug and Alcohol Testing)
MSBA/MASA Model Policy 418 (Drug-Free Workplace/Drug Free School)
[MSBA/MASA Model Policy 419 \(Tobacco-Free Environment; Possession and Use of Tobacco, Tobacco-Related Devices, and Electronic Delivery Devices; Vaping Awareness and Prevention Instruction\)](#)
MSBA/MASA Model Policy 502 (Search of Student Lockers, Desks, Personal Possessions, and Student's Person)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 527 (Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches)

417 CHEMICAL USE AND ABUSE

[Note: This policy reflects mandatory provisions of state and federal law and is not discretionary.]

I. PURPOSE

The school board recognizes that chemical use and abuse constitutes a grave threat to the physical and mental well-being of students and employees and significantly impedes the learning process. Chemical use and abuse also creates significant problems for society in general. The school board believes that the public school has a role in education, intervention, and prevention of chemical use and abuse. The purpose of this policy is to assist the school district in its goal to prevent chemical use and abuse by providing procedures for education and intervention.

II. GENERAL STATEMENT OF POLICY

- A. Use of controlled substances, medical cannabis, toxic substances, and alcohol is prohibited in the school setting in accordance with school district policies with respect to a Drug-Free Workplace/Drug-Free School.
- B. The policy of this school district is to provide an instructional program in every elementary and secondary school in chemical abuse and the prevention of chemical dependency.
- C. The school district shall establish and maintain in every school a chemical abuse preassessment team. The team is responsible for addressing reports of chemical abuse problems and making recommendations for appropriate responses to the individual reported cases.
- D. The superintendent, with the advice of the school board, shall be responsible for establishing a school and community advisory team to address chemical abuse problems in the district.
- E. The school district shall establish and maintain a program to educate and assist employees, students and others in understanding this policy and the goals of achieving drug-free schools and workplaces.

[Note: Comprehensive drug prevention programs are required to be adopted and carried out by school districts pursuant to the Safe and Drug-Free Schools and Communities Act. In addition, school districts are required by the Drug-Free Workplace Act to establish drug-free awareness programs for school district employees. Further, state law authorizes school districts to provide instructional programs in chemical abuse and the prevention of chemical dependency.]

III. DEFINITIONS

- A. “Chemical abuse” means use of any psychoactive or mood-altering chemical

substance, without compelling medical reason, in a manner that induces mental, emotional, or physical impairment and causes socially dysfunctional or socially disordering behavior, to the extent that the student's normal function in academic, school, or social activities is chronically impaired.

- B. "Chemicals" includes, but is not limited to, alcohol, toxic substances, medical cannabis, and controlled substances as defined in the school district's Drug-Free Workplace/Drug-Free School policy.
- C. "Use" includes to sell, buy, manufacture, distribute, dispense, use, or be under the influence of alcohol and/or controlled substances, whether or not for the purpose of receiving remuneration.
- D. "School location" includes any school building or on any school premises; on any school-owned vehicle or in any other school-approved vehicle used to transport students to and from school or school activities; off-school property at any school-sponsored or school-approved activity, event, or function, such as a field trip or athletic event, where students are under the jurisdiction of the school district; or during any period of time such employee is supervising students on behalf of the school district or otherwise engaged in school district business.

IV. STUDENTS

A. Instruction

- 1. Every school shall provide an instructional program in chemical abuse and the prevention of chemical dependency. The school district may involve parents, students, health care professionals, state department staff, and members of the community in developing the curriculum.

[Note: The Safe and Drug-Free Schools and Communities Act requires school districts to adopt and carry out a comprehensive drug and violence prevention program with funds received. Since a comprehensive drug prevention program is required and a school district is specifically authorized by state law to provide instructional programs in chemical abuse and the prevention of chemical dependency, this should be a component of each school district's mandatory program. In addition, the Safe and Drug-Free Schools and Communities Act specifies additional items which may be included as part of the mandatory comprehensive drug prevention program. Some of the suggested items relating to instruction or training are detailed in Paragraphs 2. through 6. below and a school district may wish to adopt one or all of the listed components as part of its mandatory program.]

- 2. Each school shall have age-appropriate and developmentally based activities that:
 - a. address the consequences of violence and the illegal use of drugs, as

- appropriate;
- b. promote a sense of individual responsibility;
 - c. teach students that most people do not illegally use drugs;
 - d. teach students to recognize social and peer pressure to use drugs illegally and the skills for resisting illegal drug use;
 - e. teach students about the dangers of emerging drugs;
 - f. engage students in the learning process; and
 - g. incorporate activities in secondary schools that reinforce prevention activities implemented in elementary schools.
3. Each school shall have activities that involve families, community sectors (which may include appropriately trained seniors), and a variety of drug and violence prevention providers in setting clear expectations against violence and illegal use of drugs and appropriate consequences for violence and illegal use of drugs.
 4. Each school shall disseminate drug and violence prevention information within the school and to the community.
 5. Each school shall have professional development and training for, and involvement of, school personnel, student services personnel, parents, and interested community members in prevention, education, early identification and intervention, mentoring, or rehabilitation referral, as related to drug and violence prevention.
 6. Each school shall have drug and violence prevention activities that may include the following:
 - a. Community-wide planning and organizing activities to reduce violence and illegal drug use, which may include gang activity prevention.
 - b. The hiring and mandatory training, based on scientific research, of school security personnel who interact with students in support of youth drug and violence prevention activities under this policy that are implemented in the school.
 - c. Conflict resolution programs, including peer mediation programs that educate and train peer mediators and a designated faculty supervisor, and youth anti-crime and anti-drug councils and activities.

- d. Counseling, mentoring, referral services, and other student assistance practices and programs, including assistance provided by qualified school-based mental health services providers and the training of teachers by school-based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs.
- e. Programs that encourage students to seek advice from, and to confide in, a trusted adult regarding concerns about violence and illegal drug use.

B. Reports of Chemical Use and Abuse

- 1. In the event that a school district employee knows that a student is abusing, possessing, transferring, distributing, or selling chemicals in a school location:
 - a. The employee shall immediately either take the student to an administrator or notify an appropriate administrator of the observation and continue to observe the student until the administrator arrives.
 - b. The administrator will notify the student's parents. If there is a medical emergency, the administrator will notify the school nurse and/or outside medical personnel as appropriate.
 - c. The administrator will notify law enforcement officials, the student's counselor, and the chemical preassessment team.
 - d. The administrator and/or law enforcement officials will confiscate the chemicals and/or conduct a search of the student's person, effects, locker, vehicle, or areas within the student's control. Searches by school district officials shall be in accordance with school board policies regarding search and seizure.
 - e. The school district will take appropriate disciplinary action in compliance with the student discipline code. Such discipline may include immediate suspension, initiation of expulsion proceedings, and/or referral to a detoxification center or medical center.
- 2. If a school district employee has reason to believe that a student is abusing, possessing, transferring, distributing, or selling chemicals:
 - a. The employee shall notify the building administrator or a member of the preassessment team and shall describe the basis for the suspicion. The building administrator and/or team will determine what action should be taken. Action may include conducting an investigation, gathering data, scheduling a conference with the

student or parents, or providing a meeting between a single member of the team and the student to discuss the behaviors that have been reported and attempting to ascertain facts regarding chemical abuse.

- b. The team may determine there is no chemical abuse. If the team determines there is chemical abuse, the team will select an appropriate course of action, which may include referral to a school counselor; referral to a treatment program; referral for screening, assessment, and treatment planning; participation in support groups; or other appropriate measures.
3. Students involved in the abuse, possession, transfer, distribution, or sale of chemicals shall be suspended in compliance with the student discipline policy and the Pupil Fair Dismissal Act, Minn. Stat. § 121A.40-121A.56, and proposed for expulsion.
4. Searches by school district officials in connection with the abuse, possession, transfer, distribution, or sale of chemicals will be conducted in accordance with school board policies related to search and seizure.

C. Preassessment Team

1. Every school shall have a chemical abuse preassessment team designated by the superintendent or designee. The team will be composed of classroom teachers, administrators, and other appropriate professional staff to the extent they exist in each school, such as the school nurse, school counselor or psychologist, social worker, chemical abuse specialist, or others.
2. The team is responsible for addressing reports of chemical abuse problems and making recommendations for appropriate responses to the individual reported cases.
3. Within forty-five (45) days after receiving an individual reported case, the team shall make a determination whether to provide the student and, in the case of a minor, the student's parents with information about school and community services in connection with chemical abuse.

D. Data Practices

1. Student data may be disclosed without consent in health and safety emergencies pursuant to Minn. Stat. § 13.32 and applicable federal law and regulations.
2. Destruction of Records
 - a. If the preassessment team decides not to provide a student and, in the case of a minor, the student's parents with information about school or community services in connection with chemical abuse,

records created or maintained by the team about the student shall be destroyed not later than six (6) months after the determination is made.

- b. If the team decides to provide the student and, in the case of a minor or a dependent student, the student's parents with such information, records created or maintained by the team about the student shall be destroyed not later than six (6) months after the student is no longer enrolled in the district.
- c. This section shall govern destruction of records notwithstanding provisions of the Records Management Act, Minn. Stat. § 138.163.

E. Consent

Any minor may give effective consent for medical, mental, and other health services to determine the presence of or to treat conditions associated with alcohol and other drug abuse, and the consent of no other person is required.

F. School and Community Advisory Team

- 1. The superintendent, with the advice of the school board, shall establish a school and community advisory team to address chemical abuse problems. The advisory team will be composed of representatives from the school preassessment teams to the extent possible, law enforcement agencies, county attorney's office, social service agencies, chemical abuse treatment programs, parents, and the business community.
- 2. The advisory team shall:
 - a. build awareness of the problem within the community, identify available treatment and counseling programs for students, and develop good working relationships and enhance communication between the schools and other community agencies; and
 - b. develop a written procedure clarifying the notification process to be used by the chemical abuse preassessment team when a student is believed to be in possession of or under the influence of alcohol or a controlled substance. The procedure must include contact with the student and the student's parents or guardian in the case of a minor student.

V. EMPLOYEES

- A. The superintendent or designee shall undertake and maintain a drug-free awareness and prevention program to inform employees, students, and others about:
 - 1. The dangers and health risks of chemical abuse in the workplace/school.

2. The school district's drug-free workplace/drug-free school policy.
 3. Any available drug or alcohol counseling, treatment, rehabilitation, re-entry, and/or assistance programs available to employees and/or students.
 4. The penalties that may be imposed on employees for drug abuse violations.
- B. The superintendent or designee shall notify any federal granting agency required to be notified under the Drug-Free Workplace Act within ten (10) days after receiving notice of a conviction of an employee for a criminal drug statute violation occurring in the workplace. To facilitate the giving of such notice, any employee aware of such a conviction shall report the same to the superintendent.

[Note: Notification to the federal granting agency within ten (10) days is required by the Drug Free Workplace Act. 41 U.S.C. § 8103.]

Legal References: Minn. Stat. § 13.32 (Educational Data)
Minn. Stat. § 121A.25-121A.29 (Chemical Abuse)
Minn. Stat. § 121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. § 138.163 (Records Management Act)
Minn. Stat. § 144.343 (Pregnancy, Venereal Disease, Alcohol or Drug Abuse, Abortion)
Minn. Stat. § 152.22 (Medical Cannabis; Definitions)
Minn. Stat. § 152.23 (Medical Cannabis; Limitations)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
20 U.S.C. §§ 7101-7165 (Safe and Drug-Free Schools and Communities Act)
41 U.S.C. §§ 8101-8106 (Drug-Free Workplace Act)
34 C.F.R. Part 84 (Government-wide Requirements for Drug-Free Workplace)

Cross References: MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 416 (Drug and Alcohol Testing)
MSBA/MASA Model Policy 418 (Drug-Free Workplace/Drug Free School)
MSBA/MASA Model Policy 502 (Search of Student Lockers, Desks, Personal Possessions, and Student's Person)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 527 (Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches)

Policy Adopted: April 14, 1980 / Amended November 14, 1988 / Amended: December 9, 1996 / June 8, 1998 / February 11, 2002 / May 12, 2008 / Oct. 2016 / Reviewed: December 9, 2019

Independent School District No. 110
Waconia, MN

1.B.2.f. 422 Policies Incorporated by Reference

Adopted: _____

MSBA/MASA Model Policy 422

Orig. 1995

Revised: _____

Rev. 202220

422 POLICIES INCORPORATED BY REFERENCE

PURPOSE

Certain policies as contained in this policy reference manual are applicable to employees as well as to students. ~~In order to~~To avoid undue duplication, the school district provides notice by this section of the application and incorporation by reference of the following policies ~~which that~~ also apply to employees:

Model Policy 102	Equal Educational Opportunity
Model Policy 103	Complaints – Students, Employees, Parents, Other Persons
Model Policy 206	Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations
Model Policy 211	Criminal or Civil Action Against School District, School Board Member, Employee, or Student
Model Policy 305	Policy Implementation
Model Policy 505	Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees
Model Policy 507	Corporal Punishment
Model Policy 510	Student Activities
Model Policy 511	Student Fundraising
Model Policy 517	Student Recruiting
Model Policy 518	DNR-DNI Orders
Model Policy 519	Interviews of Students by Outside Agencies
Model Policy 522	Title IX Sex Nondiscrimination Policy, Grievance Procedure and Process
Model Policy 524	Internet Acceptable Use and Safety Policy
Model Policy 525	Violence Prevention
Model Policy 535	Service Animals in Schools
Model Policy 610	Field Trips
Model Policy 710	Extracurricular Transportation
Model Policy 711	Video Recording on School Buses
Model Policy 712	Video Surveillance Other Than on Buses
Model Policy 802	Disposition of Obsolete Equipment and Material

Employees are charged with notice that the above cited policies are also applicable to employees; however, employees are also on notice that the provisions of the various policies speak for themselves and may be applicable although not specifically listed above.

Legal References: None

Cross References: None

422 POLICIES INCORPORATED BY REFERENCE

PURPOSE

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Model Policy 305	Policy Implementation
Model Policy 505	Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees
Model Policy 507	Corporal Punishment
Model Policy 510	Student Activities
Model Policy 511	Student Fundraising
Model Policy 517	Student Recruiting
Model Policy 518	DNR-DNI Orders
Model Policy 519	Interviews of Students by Outside Agencies
Model Policy 522	Title IX Sex Nondiscrimination Policy, Grievance Procedures and Process
Model Policy 524	Internet Acceptable Use and Safety Policy
Model Policy 525	Violence Prevention
Model Policy 610	Field Trips
Model Policy 710	Extracurricular Transportation
Model Policy 711	Video Recording on School Buses
Model Policy 712	Video Surveillance Other Than on Buses
Model Policy 802	Disposition of Obsolete Equipment and Material

Employees are charged with notice that the above cited policies are also applicable to employees; however, employees are also on notice that the provisions of the various policies speak for themselves and may be applicable although not specifically listed above.

Legal References:

Cross References:

Policy Adopted: June 8, 1998 / February 11, 2002 / May 12, 2008/January 2014

Revised: June 2021

Independent School District No. 110

Waconia, Minnesota