



**ROCK RIDGE PUBLIC SCHOOLS
1405 PROGRESS PARKWAY
VIRGINIA MN 55792**

**Policy Committee
Monday, December 18, 2023 at 2:00 PM
Rock Ridge Administration Building, 1405 Progress Parkway,
Virginia, MN 55792**

AGENDA

Although no decisions will be made at the meeting, a quorum of the school board may be present at the meeting.

1. Policy updates.
 1. 410 Family and Medical Leave. 2
 2. 413 Harassment and Violence. 12
 3. 416 Drug, Alcohol, and Cannabis Testing. 23
 4. 506 Student Discipline and Sample Discipline Complaint Procedure and Form. 67
 5. 507 Corporal Punishment and Prone Restraint. 95
 6. 515 Protection and Privacy of Public Records Form. 97
 7. 620 Credit For Learning. 104
2. New policy.
 1. 606.5 Library Materials and Formal Reconsideration Form. 111
3. Instructional Curriculum.
4. MN Statue 120B.20 Parental Curriculum Review.



Rock Ridge Public Schools

1405 Progress Parkway

Adopted: July 27, 2020

Reviewed: January 10, 2022

Revised: November 14, 2022

Revised: _____

410 FAMILY AND MEDICAL LEAVE POLICY

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 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; (2) 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 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 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 to by the school 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 school district so that the total leave does not exceed 12 weeks, unless agreed to by the school 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 school 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 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 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.
4. 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. 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.

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)~~ None



Rock Ridge Public Schools

1405 Progress Parkway

Adopted: July 27, 2020

Revised: January 10, 2022

Revised: _____

413 HARASSMENT AND VIOLENCE

I. PURPOSE

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

II. GENERAL STATEMENT OF POLICY

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

III. DEFINITIONS

- A. "Assault" is:

1. an act done with intent to cause fear in another of immediate bodily harm or death;
 2. the intentional infliction of or attempt to inflict bodily harm upon another; or
 3. the threat to do bodily harm to another with present ability to carry out the threat.
- B. “Harassment” prohibited by this policy consists of physical or verbal conduct, including, but not limited to, electronic communications, relating to an individual’s or group of individuals’ race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression, or disability when the conduct:
1. has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
 2. has the purpose or effect of substantially or unreasonably interfering with an individual’s work or academic performance; or
 3. otherwise adversely affects an individual’s employment or academic opportunities.

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

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

D. Protected Classifications; Definitions

1. “Disability” means, with respect to an individual who
 - a. a physical sensory or mental impairment that materially limits one or more major life activities of such individual;
 - b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.
2. “Familial status” means the condition of one or more minors being domiciled with:
 - a. their parent or parents or the minor’s legal guardian; or

- b. the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against harassment or discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.
- 3. “Marital status” means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment or discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
- 4. “National origin” means the place of birth of an individual or of any of the individual’s lineal ancestors.
- 5. “Sex” includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
- 6. “Sexual orientation” means ~~having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness. “Sexual orientation” does not include a physical or sexual attachment to children by an adult. to whom someone is, or is perceived of as being, emotionally, physically, or sexually attracted to based on sex or gender identity. A person may be attracted to men, women, both, neither, or to people who are genderqueer, androgynous, or have other gender identities.~~
- [Note: In 2023, the Minnesota legislature revised the definition of 'sexual orientation' in the Minnesota Human Rights Act to read as provided here.]***
- 7. “Status with regard to public assistance” means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.
- E. “Remedial response” means a measure to stop and correct acts of harassment or violence, prevent acts of harassment or violence from recurring, and protect, support, and intervene on behalf of a student who is the target or victim of acts of harassment or violence.
- F. Sexual Harassment; Definition

1. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or an education; or
 - b. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
 - c. that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment.

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

G. Sexual Violence; Definition

1. Sexual violence is a physical act of aggression or force or the threat thereof that involves the touching of another's intimate parts or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minnesota

Statutes section 609.341, includes the primary genital area, groin, inner thigh, buttocks, or breast, as well as the clothing covering these areas.

2. Sexual violence may include, but is not limited to:
 - a. touching, patting, grabbing, or pinching another person's intimate parts;
 - b. coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
 - c. coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another; or
 - d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

H. Violence; Definition

Violence prohibited by this policy is a physical act of aggression or assault upon another or group of individuals because of, or in a manner reasonably related to, an individual's Protected Class.

IV. REPORTING PROCEDURES

- A. Any person who believes he or she has been the target or victim of harassment or violence on the basis of Protected Class by a student, teacher, administrator, or other school district personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student, teacher, administrator, or other school district personnel or group of students, teachers, administrators, or other school district personnel should report the alleged acts immediately to an appropriate school district official designated by this policy. A person may report conduct that may constitute harassment or violence anonymously. However, the school district may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. The school district encourages the reporting party or complainant to use the report form available from the principal or building supervisor of each building or available from the school district office, but oral reports shall be considered complaints as well.
- C. Nothing in this policy shall prevent any person from reporting harassment or violence directly to a school district human rights officer or to the superintendent. If the complaint involves the building report taker, the complaint shall be made or filed directly with the superintendent or the school district human rights officer by the reporting party or complainant.

- D. In Each School Building. The building principal, the principal’s designee, or the building supervisor (hereinafter the “building report taker”) is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy at the building level. Any adult school district personnel who receives a report of harassment or violence prohibited by this policy shall inform the building report taker immediately. If the complaint involves the building report taker, the complaint shall be made or filed directly with the superintendent or the school district human rights officer by the reporting party or complainant. The building report taker shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as a primary contact on policy and procedural matters.
- E. A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include acts of harassment or violence. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence shall make reasonable efforts to address and resolve the harassment or violence and shall inform the building report taker immediately. School district personnel who fail to inform the building report taker of conduct that may constitute harassment or violence or who fail to make reasonable efforts to address and resolve the harassment or violence in a timely manner may be subject to disciplinary action.
- F. Upon receipt of a report, the building report taker must notify the school district human rights officer immediately, without screening or investigating the report. The building report taker may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the building report taker to the human rights officer. If the report was given verbally, the building report taker shall personally reduce it to written form within 24 hours and forward it to the human rights officer. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action against the building report taker.
- G. In the District. The school board hereby designates the school district human rights officer(s) to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves a human rights officer, the complaint shall be filed directly with the superintendent.
- H. The school district shall conspicuously post the name of the human rights officer(s), including mailing addresses and telephone numbers.
- I. Submission of a good faith complaint or report of harassment or violence prohibited by this policy will not affect the complainant or reporter’s future employment, grades, work assignments, or educational or work environment.

- J. Use of formal reporting forms is not mandatory.
- K. Reports of harassment or violence prohibited by this policy are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law.
- L. The school district will respect the privacy of the complainant(s), the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the school district's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.
- M. Retaliation against a victim, good faith reporter, or a witness of violence or harassment is prohibited.
- N. False accusations or reports of violence or harassment against another person are prohibited.
- O. A person who engages in an act of violence or harassment, reprisal, retaliation, or false reporting of violence or harassment, or permits, condones, or tolerates violence or harassment shall be subject to discipline or other remedial responses for that act in accordance with the school district's policies and procedures.

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

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

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

V. INVESTIGATION

- A. By authority of the school district, the human rights officer, within three (3) days of the receipt of a report or complaint alleging harassment or violence prohibited by this policy, shall undertake or authorize an investigation. The investigation may be conducted by school district officials or by a third party designated by the school district.
- B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have

knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

- C. In determining whether alleged conduct constitutes a violation of this policy, the school district should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.
- D. In addition, the school district may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, teachers, administrators, or other school district personnel pending completion of an investigation of alleged harassment or violence prohibited by this policy.
- E. The alleged perpetrator of the act(s) of harassment or violence shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.
- F. The investigation will be completed as soon as practicable. The school district human rights officer shall make a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, the report may be filed directly with the school board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

VI. SCHOOL DISTRICT ACTION

- A. Upon completion of an investigation that determines a violation of this policy has occurred, the school district will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and applicable school district policies and regulations.
- B. The school district is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student or employee of the school district. School officials will notify the targets or victims and alleged perpetrators of harassment or violence, the parent(s) or guardian(s) of targets or victims of harassment or violence and the parent(s) or guardian(s) of alleged perpetrators of harassment or violence who have been involved in a reported and

confirmed harassment or violence incident of the remedial or disciplinary action taken, to the extent permitted by law.

- C. In order to prevent or respond to acts of harassment or violence committed by or directed against a child with a disability, the school district shall, where determined appropriate by the child's individualized education program (IEP) or Section 504 team, allow the child's IEP or Section 504 plan to be drafted to address the skills and proficiencies the child needs as a result of the child's disability to allow the child to respond to or not to engage in acts of harassment or violence.

VII. RETALIATION OR REPRISAL

The school district will discipline or take appropriate action against any student, teacher, administrator, or other school district personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy, who testifies, assists, or participates in an investigation of retaliation or alleged harassment or violence, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment, or intentional disparate treatment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the harassment or violence. Remedial responses to the harassment or violence shall be tailored to the particular incident and nature of the conduct.

VIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Minnesota Department of Human Rights or another state or federal agency, initiating civil action, or seeking redress under state criminal statutes and/or federal law.

IX. HARASSMENT OR VIOLENCE AS ABUSE

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

X. DISSEMINATION OF POLICY AND TRAINING

- A. This policy shall be conspicuously posted throughout each school building in areas accessible to students and staff members.

- B. This policy shall be given to each school district employee and independent contractor who regularly interacts with students at the time of initial employment with the school district.
- C. This policy shall appear in the student handbook.
- D. The school district will develop a method of discussing this policy with students and employees.
- E. The school district may implement violence prevention and character development education programs to prevent and reduce policy violations. Such programs may offer instruction on character education including, but not limited to, character qualities such as attentiveness, truthfulness, respect for authority, diligence, gratefulness, self-discipline, patience, forgiveness, respect for others, peacemaking, resourcefulness, and/or sexual abuse prevention.
- F. This policy shall be reviewed at least annually for compliance with state and federal law.

Legal References: Minn. Stat. § 120B.232 (Character Development Education)
Minn. Stat. § 120B.234 (Child Sexual Abuse Prevention Education)
Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious, and Racial Harassment and Violence Policy)
Minn. Stat. § 121A.031 (School Student Bullying Policy)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 609.341 (Definitions)
Minn. Stat. Ch. 260E (Reporting of Maltreatment of Minors)
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)
29 U.S.C. § 621 *et seq.* (Age Discrimination in Employment Act)
29 U.S.C. § 794 (Section 504 of the Rehabilitation Act of 1973, § 504)
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)
42 U.S.C. § 2000d *et seq.* (Title VI of the Civil Rights Act of 1964)
42 U.S.C. § 2000e *et seq.* (Title VII of the Civil Rights Act)
42 U.S.C. § 12101 *et seq.* (Americans with Disabilities Act)

Cross References: Policy 102 (Equal Educational Opportunity)
Policy 401 (Equal Employment Opportunity)
Policy 402 (Disability Nondiscrimination Policy)
Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
Policy 406 (Public and Private Personnel Data)
Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)
Policy 506 (Student Discipline)

Policy 514 (Bullying Prohibition Policy)
Policy 515 (Protection and Privacy of Pupil Records)
Policy 521 (Student Disability Nondiscrimination)
Policy 522 (Title IX Sex Nondiscrimination, Grievance Procedures and
Process)
Policy 524 (Internet Acceptable Use and Safety Policy)
Policy 525 (Violence Prevention)
Policy 526 (Hazing Prohibition)
Policy 528 (Student Parental, Family, and Marital Status
Nondiscrimination)



Rock Ridge Public Schools

1405 Progress Parkway

Adopted: September 28, 2020

Revised: November 9, 2020

Revised: November 14, 2022

Revised: _____

416 **DRUG, ~~AND~~ ALCOHOL, AND CANNABIS TESTING**

[Note: ~~Drug, and alcohol, and cannabis~~ testing of school bus drivers and applicants is mandatory under federal law. The mandatory testing is described under Part III. of the policy. Drug and alcohol testing of other employees or drug and alcohol testing of school bus drivers beyond that mandated by federal law is optional and can be done under state law only if a policy containing provisions, such as the provisions of Part IV. of this policy, is adopted. Cannabis testing of school employees and school bus drivers shall conform to federal and Minnesota law. To preserve the right to request or require school district employees who are not bus drivers and applicants to undergo cannabis testing or 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, and cannabis 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, and cannabis use will be not only safer, healthier, and more productive but also more conducive to effective learning. 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, and cannabis testing in accordance with the provisions of this policy and as provided in federal law and 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 and cannabis 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 and cannabis testing in accordance with the provisions of this policy and as provided in 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 and cannabis testing in accordance with the provisions of this policy and as provided in 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, 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 that are not medically prescribed, including medical cannabis, 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 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 or cannabis 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 or cannabis 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 or cannabis are prohibited from entering or remaining on school district property.
- E. Any employee who violates this section shall be subject to discipline that includes, but is not limited to, immediate suspension without pay and immediate discharge.
- F. The school district may discipline, discharge, or take other adverse personnel action against an employee for cannabis flower, cannabis product, lower-potency hemp edible, or hemp-derived consumer product use, possession, impairment, sale, or transfer while an employee is working, on school district premises, or operating a school district vehicle, machinery, or equipment as follows:
 - 1. if, as the result of consuming cannabis flower, a cannabis product, a lower-potency hemp edible, or a hemp-derived consumer product, the employee does not possess that clearness of intellect and control of self that the employee otherwise would have;
 - 2. if cannabis testing verifies the presence of cannabis flower, a cannabis product, a lower-potency hemp edible, or a hemp-derived consumer product following a confirmatory test;
 - 3. as provided in the school district's written work rules for cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products and cannabis testing, provided that the rules are in writing and in a written policy that contains the minimum information required by section 181.952; or
 - 4. as otherwise authorized or required under state or federal law or regulations, or if a failure to do so would cause the school district to lose a monetary or licensing-related benefit under federal law or regulations.

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 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 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. 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 based only upon a laboratory report 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

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 controlled substance problem (the driver’s or a coworker’s); 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 the driver 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.

D. Alcohol and Controlled Substances Testing Program Manager

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

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 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 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 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

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 policies of the school district.

G. Prescription Drugs/Cannabinoid Products

A driver shall inform the driver's 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 cannabis**. 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

1. Pre-Employment Testing

- a. A driver applicant shall undergo testing for controlled substances, including medical cannabis, before the first time the driver performs safety-sensitive functions for the school district.
- b. Tests shall be conducted only after the applicant has received a conditional offer of employment.
- c. 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.
- 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 ([see Attachment C to this policy](#)). The school district shall retain the consent for three (3) years from the date of the query.

2. Post-Accident Testing

- 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.

3. Random Testing

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

4. Reasonable Suspicion Testing

- 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, 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.
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. 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.
 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
 - 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 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

- 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

- 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.
- 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 Essentia Health – Virginia, Minnesota, 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.

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
--	---------

Alcohol and controlled substance collection procedures	2 years
--	---------

Negative and cancelled 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.
- 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.
- 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 cannabis testing or drug and alcohol testing other than that required by federal law. For example, drivers may be requested or required to undergo cannabis testing or 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.

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. **CANNABIS TESTING OR DRUG AND ALCOHOL TESTING FOR OTHER EMPLOYEES**

The school district may request or require drug and alcohol testing or cannabis 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 or cannabis 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. Definitions

1. "Cannabis testing" means the analysis of a body component sample according to the standards established under one of the programs listed in Minnesota Statutes, section 181.953, subdivision 1, for the purpose of measuring the presence or absence of cannabis flower, as defined in Minnesota Statutes, section 342.01, subdivision 16, cannabis products, as defined in section 342.01, subdivision 20, lower-potency hemp edibles as defined in section 342.01, subdivision 50, hemp-derived consumer products as defined in section 342.01, subdivision 37, or cannabis metabolites in the sample tested. The definitions in this section apply to cannabis testing unless stated otherwise.
2. "Confirmatory test" and "confirmatory retest" mean a drug or alcohol test that uses a method of analysis allowed under one of the programs listed in Minnesota Statutes, section 181.953, subdivision 1.
3. "Drug" means a controlled substance as defined in Minnesota Statutes, section 152.01, subdivision 4, but does not include marijuana, tetrahydrocannabinols, cannabis flower as defined in section 342.01, subdivision 16, cannabis products as defined in section 342.01, subdivision 20, lower-potency hemp edibles as defined in section 342.01, subdivision 50, and hemp-derived consumer products as defined in section 342.01, subdivision 37.
4. "Drug and Alcohol Testing," "Drug or Alcohol Testing," and "Drug or Alcohol Test" mean analysis of a body component sample by a testing laboratory that meets one of the criteria listed in Minnesota Statutes, section 181.953,

subdivision 1, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested. "Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" do not include cannabis or cannabis testing, unless stated otherwise.

5. "Employee" means a person, independent contractor, or person working for an independent contractor who performs services for compensation, in whatever form, for an employer.
6. "Initial screening test" means a drug or alcohol test or cannabis test which uses a method of analysis under one of the programs listed in Minnesota Statutes, section 181.953, subdivision 1.
7. "Job Applicant" means a person, independent contractor, or person working for an independent contractor who applies to become an employee of the charter school 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 charter school's drug and alcohol testing policy relating to school bus drivers (Section III.).
8. "Other Employees" means any persons, independent contractors, or persons working for an independent contractor who perform services for the charter school 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 charter school'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."
9. "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 Minnesota Statutes, section 181.953, subdivision 1.
10. "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 charter school discretion to waive the selection of any employee selected under the mechanism.
11. "Reasonable Suspicion" means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
12. "Safety-Sensitive Position" means a job, including any supervisory or management position, in which an impairment caused by drug, alcohol, or cannabis usage would threaten the health or safety of any person.

AB. Circumstances Under Which Cannabis Testing or Drug or Alcohol Testing May Be Requested or Required; Exceptions:

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 or cannabis testing, unless the testing is done pursuant to this ~~drug and alcohol testing~~ policy; and is conducted by a testing laboratory that meets one of the criteria listed in Minnesota Statutes, section 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 or cannabis testing on an arbitrary and capricious basis.

2. Cannabis Testing Exceptions

For the following positions, cannabis and its metabolites are considered a drug and subject to the drug and alcohol testing provisions in Minnesota Statutes, sections 181.950 to 181.957:

- a. a safety-sensitive position, as defined in Minnesota Statutes, section 181.950, subdivision 13;
- b. a position requiring face-to-face care, training, education, supervision, counseling, consultation, or medical assistance to children;
- c. a position requiring a commercial driver's license or requiring an employee to operate a motor vehicle for which state or federal law requires drug or alcohol testing of a job applicant or an employee;
- d. a position of employment funded by a federal grant; or
- e. any other position for which state or federal law requires testing of a job applicant or an employee for cannabis.

23. 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 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.

- a. The school district must not request or require a job applicant to undergo cannabis testing solely for the purpose of determining the presence or absence of cannabis as a condition of employment unless otherwise required by state or federal law.
- b. Unless otherwise required by state or federal law, the school district must not refuse to hire a job applicant solely because the job applicant submits to a cannabis test or a drug and alcohol test authorized by Minnesota law and the results of the test indicate the presence of cannabis.
- c. The school district must not request or require an employee or job applicant to undergo cannabis testing on an arbitrary or capricious basis.
- d. Cannabis testing authorized under paragraph (d) must comply with the safeguards for testing employees provided in Minnesota Statutes, sections 181.953 and 181.954.

4. Random Testing

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

5. Reasonable Suspicion Testing

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

- a. is under the influence of cannabis, drugs, or alcohol;
- b. has violated the school district’s written work rules prohibiting the use, possession, sale, or transfer of drugs or alcohol, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products 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, Subd. 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.

6. Treatment Program Testing

The school district may request or require any employee to undergo cannabis testing and 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 cannabis testing and 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.

7. 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 by a testing laboratory that meets one of the criteria listed in Minnesota Statutes, section 181.953, subdivision 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 Minnesota Statutes, section 181.953, subdivision 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 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 or requesting cannabis 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 or cannabis 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 or cannabis 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 or cannabis 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 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 (see Attachment G to this policy).
- 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 or of enrollment in a Tribal medical cannabis program 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 cannabis. 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 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, subdivision 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,~~ or cannabis 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 the individual of other rights provided under Sections F. or G., below, whichever is applicable.

Attachments E F and F G 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 or cannabis 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,~~ or cannabis 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 the individual's personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process **or cannabis 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 Minnesota Statutes Chapter 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

Minnesota Statutes, chapter 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, and cannabis 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 H 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)
Minn. Stat. § 152.23 (Limitations; Medical Cannabis)
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)
[49 C.F.R. Part 382 \(Controlled Substances and Alcohol Use and Testing\)](#)

Cross-References: Policy 403 (Discipline, Suspension, and Dismissal of School District
Employees)
Policy 406 (Public and Private Personnel Data)
Policy 417 (Chemical Use and Abuse)
Policy 418 (Drug-Free Workplace/Drug-Free School)

ATTACHMENTS TO DRUG, ALCOHOL, AND CANNABIS TESTING POLICY

Attachments A through C are to be used in conjunction with the drug and alcohol testing of school bus drivers and driver applicants.

- Attachment A is a "**Driver Acknowledgment–Drug and Alcohol Testing Policy Materials**" form that should be used to document receipt of the policy and other materials by drivers and driver applicants. It is referred to in Article III., Section C., Paragraph 4. of the policy.
- Attachment B is a "**Bus Driver or Driver Applicant–Authorization to Release Information**" form. It is referred to in Article III., Section H., Paragraph 1. of the policy
- Attachment C is a "**Consent to Clearinghouse Full Query**" form. It is referred to in Article III, Section H, Paragraph e of the policy.
- Attachment D is a "**Bus Driver or Driver Applicant–Refusal to Submit to Testing**" form. It is referred to in Article III., Section H., Paragraph 8. of the policy.

Attachments E through H are to be used in conjunction with drug, cannabis, and alcohol testing of non-bus drivers and applicants.

- Attachment E is a "**Pretest Notice**" that must be provided to non-school bus driver employees or job applicants before requesting that the employee or job applicant undergo drug or alcohol testing. It is referred to in Article IV., Section E., Paragraph 1. of the policy.
- Attachment F is a "**Notice of Test Results and Various Rights**" which should be used by the District when notifying non-school bus driver employees or job applicants of test results and other rights. It is referred to in Article IV., Section E., Paragraph 6. of the policy.
- Attachment G is an "**Explanation of Positive Test Result**" form which should be used by the school district to request that the employee or job applicant submit information to the school district relevant to the reliability of, or explanation for, a positive test result. It is referred to in Article IV., Section E., Paragraph 4. of the policy.
- Finally, the District may wish to use Attachment H, entitled "**Acknowledgment–Drug Alcohol, and Cannabis Testing Policy,**" to document that written notice of the policy was given to all affected employees. It is referred to in Article IV., Section J. of the policy.

ATTACHMENT A

(D R A F T)

[TO BE PLACED ON SCHOOL DISTRICT LETTERHEAD]

— DRIVER ACKNOWLEDGMENT —
DRUG AND ALCOHOL TESTING POLICY AND MATERIALS

I have received a copy of the Drug, Alcohol, and Cannabis Testing Policy of Independent School District No. _____, _____, Minnesota and have read it in its entirety. I understand that I am subject to the provisions of Article III of the policy, entitled Federally Mandated Drug and Alcohol Testing for School Bus Drivers, because the position involves operating a commercial motor vehicle and requires a commercial driver's license.

The District's policy was provided to me:

- Upon adoption of the policy (employee).
- Upon my hire (job applicant/new employee).
- After receipt of my conditional job offer, before any testing if my job offer is contingent upon my passing of drug and alcohol testing (job applicant).

I also received materials 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 controlled substance problem; and available methods of intervening when an alcohol or drug problem is suspected.

I have been advised that the Alcohol and Controlled Substances Testing Program Manager is _____ and that any questions I may have concerning the Policy should be directed to the Program Manager.

Dated: _____

Signature of Employee/Applicant

Typed or Printed Name

ATTACHMENT B

(D R A F T)

[TO BE PLACED ON SCHOOL DISTRICT LETTERHEAD]

— BUS DRIVER OR DRIVER APPLICANT —
AUTHORIZATION TO RELEASE INFORMATION

Section I. To be completed by the school district, signed by the bus driver, or driver applicant, and transmitted to the previous employer:

Employee Printed or Typed Name: _____

Employee SS or ID Number: _____

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in Section I-B, to the employer listed in Section I-A. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in Section II-A by my previous employer, is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. Documentation, if any, of completion of the return-to-duty process following a rule violation.

Employee Signature: _____ Date: _____

Section I-A.

School District Name: _____

Address: _____

Phone #: _____ Fax #: _____

Designated Employer Representative: _____

Section I-B.

Previous Employer Name: _____

Address: _____

Phone #: _____

Designated Employer Representative (if known): _____

Section II. To be completed by the previous employer and transmitted by mail or fax to the new employer:

Section II-A. In the two years prior to the date of the employee's signature (in Section I), for DOT-regulated testing:

1. Did the employee have alcohol tests with a result of 0.04 or higher? YES ___ NO ___
2. Did the employee have verified positive drug tests? YES ___ NO ___
3. Did the employee refuse to be tested? YES ___ NO ___
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? YES ___ NO ___
5. Did a previous employer report a drug and alcohol rule violation to you? YES ___ NO ___
6. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process? N/A ___ YES ___ NO ___

NOTE: If you answered "yes" to item 5, you must provide the previous employer's report. If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

Section II-B.

Name of person providing information in Section II-A: _____

Title: _____

Phone #: _____

Date: _____

ATTACHMENT C

(D R A F T)

[TO BE PLACED ON SCHOOL DISTRICT LETTERHEAD]

**— BUS DRIVER OR DRIVER APPLICANT —
CONSENT TO SCHOOL DISTRICT CONDUCT
OF CLEARINGHOUSE FULL QUERY**

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.

I consent to the school district’s conduct of a Clearinghouse full query.

Dated: _____

Signature of Applicant

Typed or Printed Name

ATTACHMENT D

(D R A F T)

[TO BE PLACED ON SCHOOL DISTRICT LETTERHEAD]

**— BUS DRIVER OR DRIVER APPLICANT —
REFUSAL TO SUBMIT TO TESTING**

I hereby refuse to submit to drug/alcohol testing by doing the following:

- Failing 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;
- Failing to remain at the testing site until the testing process is complete;
- Failing to provide a urine specimen or an adequate amount of saliva or breath for any DOT drug or alcohol test;
- Failing to permit the observation or monitoring of any provision of a specimen in the case of a directly observed or monitored collection in a drug test;
- Failing to provide a sufficient breath specimen or sufficient amount of urine when directed and it has been determined that there was no adequate medical explanation for the failure;
- Failing or declining to take a second test as directed;
- Failing to undergo a medical examination or evaluation, as directed by the Medical Review Officer (MRO) or the Designated Employer Representative (DER);
- Failing to cooperate with any part of the testing process (e.g., refusing to empty pockets when so directed by the collector, behaving in a confrontational way that disrupts the collection process, failing to wash hands after being directed to do so by the collector, failing to sign the certification on the form);
- Failing 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;
- Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process;
- Admitting to the collector or MRO that the driver adulterated or substituted the specimen; or
- Having a verified adulterated or substituted test as reported by the MRO.

[An applicant who fails to appear for a preemployment test, who leaves the testing site before the preemployment testing process commences, or who does not provide a urine specimen because he or she left before it commences, is not deemed to have refused to submit to testing.]

I recognize that my refusal subjects me to the consequences specified in federal law and regulations. It also constitutes a presumption of a positive result. I further recognize that if I am an applicant, I will be disqualified from consideration for the conditionally-offered position. If I am an employee, I will not be permitted to perform safety-sensitive functions, and will be considered insubordinate and subject to disciplinary action, up to and including dismissal. If the school district offers me an opportunity to return to a DOT safety-sensitive function, I understand I will be evaluated by a substance abuse professional, and will be required to submit to a return-to-duty test prior to being considered for reassignment to safety-sensitive functions.

Date: _____

Time: _____

Signature of Employee/Applicant

Supervisor: _____

Supervisor's Signature

Comments: _____

Employee refusal to sign

Supervisor's Initials: _____

ATTACHMENT E

(D R A F T)

[TO BE PLACED ON SCHOOL DISTRICT LETTERHEAD]

— PRETEST NOTICE —

I, the undersigned employee/job applicant of Independent School District No. _____, _____, Minnesota ("School District") do hereby acknowledge that I have been provided a copy of the School District's Drug, Alcohol, and Cannabis Testing Policy.

Date: _____

Signature of Employee/Job Applicant

Typed or Printed Name

ATTACHMENT F

(D R A F T)

[TO BE PLACED ON SCHOOL DISTRICT LETTERHEAD]

[Employee Name]
[Employee Address]

RE: Drug, Alcohol, and/or Cannabis Test
[Date of Testing]

NOTICE OF TEST RESULTS AND VARIOUS RIGHTS

Test Results:

Independent School District No. _____, Minnesota has received the test result report from the testing laboratory:

- G Your initial screening test result was negative.
- G Your confirmatory test result was negative.
- G Your confirmatory test result was positive.

Test Result Report:

You have the right to request and receive from the school district a copy of the test result on any drug or alcohol test or cannabis test.

Right to Explain Positive Test Result:

In the case of a positive test result on a confirmatory test, you have the right to explain the results. You may, within three (3) working days after notice of a positive test result on a confirmatory test, submit information to the school district, in addition to any information already submitted, to explain that result. Attached to this Notice is a document entitled "Explanation of Positive Test Result" for this purpose.

Right to Request Confirmatory Retests:

In the case of a positive test result on a confirmatory test, you have the right to request a confirmatory retest of the original sample at your own expense.

Within five (5) working days after notice of the confirmatory test result, you must notify the school district in writing of your 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 you have 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, alcohol, or cannabis 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 you.

Other Rights:

In the case of a positive test result on a confirmatory test, you may have other rights provided under the sections detailed below.

A. Employee Discharge and Discipline

1. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee whose position does not require a commercial driver's license on the basis of 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 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.

2. The school district may not discharge an employee whose position does not require a commercial driver's license 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 or cannabis counseling or rehabilitation program, whichever is more appropriate, as determined by the school district after consultation with a certified chemical use 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.
3. 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.
4. The school district may not discharge, discipline, discriminate against, request, or require rehabilitation of an employee on the basis of medical history information revealed to the school district, unless the employee was under an affirmative duty to provide the information before, upon, or after hire.
5. An employee must be given access to information in the employee's personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing or cannabis testing process and conclusions drawn from and actions taken based on the reports or other acquired information.

B. Withdrawal of Applicant's Job Offer

If a job applicant for a position that does not require a commercial driver's license has received a job offer made contingent on the applicant passing drug, alcohol, and/or cannabis 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.

ATTACHMENT G

(D R A F T)

[TO BE PLACED ON SCHOOL DISTRICT LETTERHEAD]

EXPLANATION OF POSITIVE TEST RESULT

I, the undersigned employee/job applicant of Independent School District No. _____, _____, Minnesota acknowledge receipt of a Notice of Test Results and Various Rights. This includes my right to explain the positive test result on a confirmatory test.

I am currently taking or have recently taken:

- no over-the-counter or prescription medications; or
- the following over-the-counter or prescription medications:

I also offer the following information relevant to the reliability of, or explanation for, a positive test result:

Date: _____

Signature of Employee/Job Applicant

Typed or Printed Name

ATTACHMENT H

(D R A F T)

[TO BE PLACED ON SCHOOL DISTRICT LETTERHEAD]

— ACKNOWLEDGMENT —

DRUG, ALCOHOL, AND CANNABIS TESTING POLICY

I have received a copy of the Drug, Alcohol, and Cannabis Testing Policy of Independent School District No. _____, _____, Minnesota and have read it in its entirety.

The District's policy was provided to me:

- Upon adoption of the policy (employee)
- Upon my hire (job applicant/new employee)
- After receipt of my conditional job offer, before any testing if my job offer is contingent upon my passing of drug, alcohol, and cannabis testing as applicable. (job applicant)

Dated: _____

Signature of Employee/Applicant

Typed or Printed Name



Rock Ridge Public Schools

1405 Progress Parkway

Adopted: July 27, 2020

Revised: January 25, 2021

Reviewed: January 10, 2022

Revised: October 10, 2022

Revised: September 25, 2023

506 STUDENT DISCIPLINE

I. PURPOSE

The purpose of this policy is to ensure that students are aware of and comply with the school district's expectations for student conduct. Such compliance will enhance the school district's ability to maintain discipline and ensure that there is no interference with the educational process. The school district will take appropriate disciplinary action when students fail to adhere to the Code of Student Conduct established by this policy.

II. GENERAL STATEMENT OF POLICY

The school board recognizes that individual responsibility and mutual respect are essential components of the educational process. The school board further recognizes that nurturing the maturity of each student is of primary importance and is closely linked with the balance that must be maintained between authority and self-discipline as the individual progresses from a child's dependence on authority to the more mature behavior of self-control.

All students are entitled to learn and develop in a setting which promotes respect of self, others, and property. Proper positive discipline can only result from an environment which provides options and stresses student self-direction, decision-making, and responsibility. Schools can function effectively only with internal discipline based on mutual understanding of rights and responsibilities.

Students must conduct themselves in an appropriate manner that maintains a climate in which learning can take place. Overall decorum affects student attitudes and influences student behavior. Proper student conduct is necessary to facilitate the education process and to create an atmosphere conducive to high student achievement.

Although this policy emphasizes the development of self-discipline, it is recognized that there are instances when it will be necessary to administer disciplinary measures. The position of the school district is that a fair and equitable district-wide student discipline policy will contribute to the quality of the student's educational experience. This discipline policy is adopted in accordance with and subject to the Minnesota Pupil Fair Dismissal Act, Minnesota Statutes sections 121A.40-121A.56.

In view of the foregoing and in accordance with Minnesota Statutes section 121A.55, the school board, with the participation of school district administrators, teachers, employees, students, parents, community members, and such other individuals and organizations as

appropriate, has developed this policy which governs student conduct and applies to all students of the school district.

III. DEFINITIONS

- A. "Nonexclusionary disciplinary policies and practices" means policies and practices that are alternatives to dismissing a pupil from school, including but not limited to evidence-based positive behavior interventions and supports, social and emotional services, school-linked mental health services, counseling services, social work services, academic screening for Title 1 services or reading interventions, and alternative education services. Nonexclusionary disciplinary policies and practices include but are not limited to the policies and practices under sections 120B.12; 121A.575, clauses (1) and (2); 121A.031, subdivision 4, paragraph (a), clause (1); 121A.61, subdivision 3, paragraph (r); and 122A.627, clause (3).
- B. "Pupil withdrawal agreement" means a verbal or written agreement between a school administrator or district administrator and a pupil's parent to withdraw a student from the school district to avoid expulsion or exclusion dismissal proceedings. The duration of the withdrawal agreement cannot be for more than a 12-month period.

IV. POLICY

- A. The school board must establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of the Minnesota Pupil Fair Dismissal Act. The policies must include nonexclusionary disciplinary policies and practices consistent with Minnesota Statutes, section 121A.41, subdivision 12, and must emphasize preventing dismissals through early detection of problems. The policies must be designed to address students' inappropriate behavior from recurring.
- B. The policies must recognize the continuing responsibility of the school for the education of the pupil during the dismissal period.
- C. The school is responsible for ensuring that alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress toward meeting the graduation standards adopted under Minnesota Statutes, section 120B.02 and help prepare the pupil for readmission in accordance with section Minnesota Statutes, section 121A.46, subdivision 5.
- D. For expulsion and exclusion dismissals and pupil withdrawal agreements as defined in Minnesota Statutes, section 121A.41, subdivision 13:
 - 1. for a pupil who remains enrolled in the school district or is awaiting enrollment in a new district, the school district's continuing responsibility includes reviewing the pupil's schoolwork and grades on a quarterly basis to ensure the pupil is on track for readmission with the pupil's peers. The

school district must communicate on a regular basis with the pupil's parent or guardian to ensure that the pupil is completing the work assigned through the alternative educational services as defined in Minnesota Statutes, section 121A.41, subdivision 11. These services are required until the pupil enrolls in another school or returns to the same school;

2. a pupil receiving school-based or school-linked mental health services in the school district under Minnesota Statutes, section 245.4889 continues to be eligible for those services until the pupil is enrolled in a new district; and
3. the school district must provide to the pupil's parent or guardian information on accessing mental health services, including any free or sliding fee providers in the community. The information must also be posted on the school district website.

V. AREAS OF RESPONSIBILITY

- A. The School Board. The school board holds all school personnel responsible for the maintenance of order within the school district and supports all personnel acting within the framework of this discipline policy.
- B. Superintendent. The superintendent shall establish guidelines and directives to carry out this policy, hold all school personnel, students, and parents responsible for conforming to this policy, and support all school personnel performing their duties within the framework of this policy. The superintendent shall also establish guidelines and directives for using the services of appropriate agencies for assisting students and parents. Any guidelines or directives established to implement this policy shall be submitted to the school board for approval and shall be attached as an addendum to this policy.
- C. Principal. The school principal is given the responsibility and authority to formulate building rules and regulations necessary to enforce this policy, subject to final school board approval. The principal shall give direction and support to all school personnel performing their duties within the framework of this policy. The principal shall consult with parents of students conducting themselves in a manner contrary to the policy. The principal shall also involve other professional employees in the disposition of behavior referrals and shall make use of those agencies appropriate for assisting students and parents. A principal, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student to prevent imminent bodily harm or death to the student or another.
- D. Teachers. All teachers shall be responsible for providing a well-planned teaching/learning environment and shall have primary responsibility for student conduct, with appropriate assistance from the administration. All teachers shall enforce the Code of Student Conduct. In exercising the teacher's lawful authority,

a teacher may use reasonable force when it is necessary under the circumstances to restrain a student to prevent imminent bodily harm or death to the student or another.

- E. Other School District Personnel. All school district personnel shall be responsible for contributing to the atmosphere of mutual respect within the school. Their responsibilities relating to student behavior shall be as authorized and directed by the superintendent. A school employee, school bus driver, or other agent of a school district, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student to prevent imminent bodily harm or death to the student or another.
- F. Parents or Legal Guardians. Parents and guardians shall be held responsible for the behavior of their children as determined by law and community practice. They are expected to cooperate with school authorities and to participate regarding the behavior of their children.
- G. Students. All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy.
- H. Community Members. Members of the community are expected to contribute to the establishment of an atmosphere in which rights and duties are effectively acknowledged and fulfilled.
- I. Reasonable Force Reports
 - 1. The school district must report data on its use of any reasonable force used on a student with a disability to correct or restrain the student to prevent imminent bodily harm or death to the student or another that is consistent with the definition of physical holding under Minnesota Statutes, section 125A.0941, paragraph (c), as outlined in section 125A.0942, subdivision 3, paragraph (b).
 - 2. Beginning with the 2024-2025 school year, the school district must report annually by July 15, in a form and manner determined by the MDE Commissioner, data from the prior school year about any reasonable force used on a general education student to correct or restrain the student to prevent imminent bodily harm or death to the student or another that is consistent with the definition of physical holding under Minnesota Statutes, section 125A.0941, paragraph (c).
 - 3. Any reasonable force used under Minnesota Statutes, sections 121A.582; 609.06, subdivision 1; and 609.379 which intends to hold a child immobile or limit a child's movement where body contact is the only source of physical restraint or confines a child alone in a room from which egress is barred shall be reported to the Minnesota Department of Education as a

restrictive procedure, including physical holding or seclusion used by an unauthorized or untrained staff person.

VI. STUDENT RIGHTS

All students have the right to an education and the right to learn.

VII. STUDENT RESPONSIBILITIES

All students have the responsibility:

- A. For their behavior and for knowing and obeying all school rules, regulations, policies, and procedures;
- B. To attend school daily, except when excused, and to be on time to all classes and other school functions;
- C. To pursue and attempt to complete the courses of study prescribed by the state and local school authorities;
- D. To make necessary arrangements for making up work when absent from school;
- E. To assist the school staff in maintaining a safe school for all students;
- F. To be aware of all school rules, regulations, policies, and procedures, including those in this policy, and to conduct themselves in accord with them;
- G. To assume that until a rule or policy is waived, altered, or repealed, it is in full force and effect;
- H. To be aware of and comply with federal, state, and local laws;
- I. To volunteer information in disciplinary cases should they have any knowledge relating to such cases and to cooperate with school staff as appropriate;
- J. To respect and maintain the school's property and the property of others;
- K. To dress and groom in a manner which meets standards of safety and health and common standards of decency and which is consistent with applicable school district policy;
- L. To avoid inaccuracies in student newspapers or publications and refrain from indecent or obscene language;
- M. To conduct themselves in an appropriate physical or verbal manner; and

- N. To recognize and respect the rights of others.

VIII. CODE OF STUDENT CONDUCT

- A. The following are examples of unacceptable behavior subject to disciplinary action by the school district. These examples are not intended to be an exclusive list. Any student who engages in any of these activities shall be disciplined in accordance with this policy. This policy applies to all school buildings, school grounds, and school property or property immediately adjacent to school grounds; school-sponsored activities or trips; school bus stops; school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school district purposes; the area of entrance or departure from school premises or events; and all school-related functions, school-sponsored activities, events, or trips. School district property also may mean a student's walking route to or from school for purposes of attending school or school-related functions, activities, or events. While prohibiting unacceptable behavior subject to disciplinary action at these locations and events, the school district does not represent that it will provide supervision or assume liability at these locations and events. This policy also applies to any student whose conduct at any time or in any place interferes with or obstructs the mission or operations of the school district or the safety or welfare of the student, other students, or employees.
 - 1. Violations against property including, but not limited to, damage to or destruction of school property or the property of others, failure to compensate for damage or destruction of such property, arson, breaking and entering, theft, robbery, possession of stolen property, extortion, trespassing, unauthorized usage, or vandalism;
 - 2. The use of profanity or obscene language, or the possession of obscene materials;
 - 3. Gambling, including, but not limited to, playing a game of chance for stakes;
 - 4. Violation of the school district's Hazing Prohibition Policy;
 - 5. Attendance problems including, but not limited to, truancy, absenteeism, tardiness, skipping classes, or leaving school grounds without permission;
 - 6. Violation of the school district's Student Attendance Policy;
 - 7. Opposition to authority using physical force or violence;
 - 8. Using, possessing, or distributing tobacco, tobacco-related devices, electronic cigarettes, or tobacco paraphernalia in violation of the school

district's Tobacco-Free Environment; Possession and Use of Tobacco, Tobacco-Related Devices, and Electronic Delivery Devices Policy;

9. Using, possessing, distributing, intending to distribute, making a request to another person for (solicitation), or being under the influence of alcohol or other intoxicating substances or look-alike substances;
10. Using, possessing, distributing, intending to distribute, making a request to another person for (solicitation), or being under the influence of narcotics, drugs, or other controlled substances (except as prescribed by a physician), or look-alike substances (these prohibitions include medical marijuana or medical cannabis, even when prescribed by a physician, and one student sharing prescription medication with another student);
11. Using, possessing, or distributing items or articles that are illegal or harmful to persons or property including, but not limited to, drug paraphernalia;
12. Using, possessing, or distributing weapons, or look-alike weapons or other dangerous objects;
13. Violation of the school district's Weapons Policy;
14. Violation of the school district's Violence Prevention Policy;
15. Possession of ammunition including, but not limited to, bullets or other projectiles designed to be used in or as a weapon;
16. Possession, use, or distribution of explosives or any compound or mixture, the primary or common purpose or intended use of which is to function as an explosive;
17. Possession, use, or distribution of fireworks or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation;
18. Using an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is a risk of fire, except where the device is used in a manner authorized by the school;
19. Violation of any local, state, or federal law as appropriate;
20. Acts disruptive of the educational process, including, but not limited to, disobedience, disruptive or disrespectful behavior, defiance of authority,

cheating, insolence, insubordination, failure to identify oneself, improper activation of fire alarms, or bomb threats;

21. Violation of the school district's Internet Acceptable Use and Safety Policy;
22. Use of a cell phone in violation of the school district's Internet Acceptable Use and Safety Policy;
23. Violation of school bus or transportation rules or the school district's Student Transportation Safety Policy;
24. Violation of parking or school traffic rules and regulations, including, but not limited to, driving on school property in such a manner as to endanger persons or property;
25. Violation of directives or guidelines relating to lockers or improperly gaining access to a school locker;
26. Violation of the school district's Search of Student Lockers, Desks, Personal Possessions, and Student's Person Policy;
27. Violation of the school district's Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches Policy;
28. Possession or distribution of slanderous, libelous, or pornographic materials;
29. Violation of the school district' Bullying Prohibition Policy;
30. Student attire or personal grooming which creates a danger to health or safety or creates a disruption to the educational process, including clothing which bears a message which is lewd, vulgar, or obscene, apparel promoting products or activities that are illegal for use by minors, or clothing containing objectionable emblems, signs, words, objects, or pictures communicating a message that is racist, sexist, or otherwise derogatory to a protected minority group or which connotes gang membership;
31. Criminal activity;
32. Falsification of any records, documents, notes, or signatures;
33. Tampering with, changing, or altering records or documents of the school district by any method including, but not limited to, computer access or other electronic means;

34. Scholastic dishonesty which includes, but is not limited to, cheating on a school assignment or test, plagiarism, or collusion, including the use of picture phones or other technology to accomplish this end;
35. Impertinent or disrespectful words, symbols, acronyms, or language, whether oral or written, related to teachers or other school district personnel;
36. Violation of the school district's Harassment and Violence Policy;
37. Actions, including fighting or any other assaultive behavior, which causes or could cause injury to the student or other persons or which otherwise endangers the health, safety, or welfare of teachers, students, other school district personnel, or other persons;
38. Committing an act which inflicts great bodily harm upon another person, even though accidental or a result of poor judgment;
39. Violations against persons, including, but not limited to, assault or threatened assault, fighting, harassment, interference or obstruction, attack with a weapon, or look-alike weapon, sexual assault, illegal or inappropriate sexual conduct, or indecent exposure;
40. Verbal assaults or verbally abusive behavior including, but not limited to, use of words, symbols, acronyms, or language, whether oral or written, that are discriminatory, abusive, obscene, threatening, intimidating, degrading to other people, or threatening to school property;
41. Physical or verbal threats including, but not limited to, the staging or reporting of dangerous or hazardous situations that do not exist;
42. Inappropriate, abusive, threatening, or demeaning actions based on race, color, creed, religion, sex, marital status, status with regard to public assistance, disability, national origin, or sexual orientation;
43. Violation of the school district's Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees Policy;
44. Violation of the school district's one-to-one device rules and regulations;
45. Violation of school rules, regulations, policies, or procedures, including, but not limited to, those policies specifically enumerated in this policy;
46. Other acts, as determined by the school district, which are disruptive of the educational process or dangerous or detrimental to the student or other students, school district personnel or surrounding persons, or which violate the rights of others or which damage or endanger the property of the school,

or which otherwise interferes with or obstruct the mission or operations of the school district or the safety or welfare of students or employees.

IX. RECESS AND OTHER BREAKS

- A. "Recess detention" means excluding or excessively delaying a student from participating in a scheduled recess period as a consequence for student behavior. Recess detention does not include, among other things, providing alternative recess at the student's choice.
- B. The school district is encouraged to ensure student access to structured breaks from the demands of school and to support teachers, principals, and other school staff in their efforts to use evidence-based approaches to reduce exclusionary forms of discipline.
- C. The school district must not use recess detention unless:
 - 1. a student causes or is likely to cause serious physical harm to other students or staff;
 - 2. the student's parent or guardian specifically consents to the use of recess detention; or
 - 3. for students receiving special education services, the student's individualized education program team has determined that withholding recess is appropriate based on the individualized needs of the student.
- D. The school district must not withhold recess from a student based on incomplete schoolwork.
- E. The school district must require school staff to make a reasonable attempt to notify a parent or guardian within 24 hours of using recess detention.
- F. The school district must compile information on each recess detention at the end of each school year, including the student's age, grade, gender, race or ethnicity, and special education status. This information must be available to the public upon request. The school district is encouraged to use the data in professional development promoting the use of nonexclusionary discipline.
- G. The school district must not withhold or excessively delay a student's participation in scheduled mealtimes. This section does not alter a district or school's existing responsibilities under Minnesota Statutes, section 124D.111 or other state or federal law.

X. DISCIPLINARY ACTION OPTIONS

The general policy of the school district is to utilize progressive discipline to the extent reasonable and appropriate based upon the specific facts and circumstances of student misconduct. The specific form of discipline chosen in a particular case is solely within the discretion of the school district. At a minimum, violation of school district code of conduct, rules, regulations, policies, or procedures will result in discussion of the violation and a verbal warning. The school district shall, however, impose more severe disciplinary sanctions for any violation, including exclusion or expulsion, if warranted by the student's misconduct, as determined by the school district. Disciplinary action may include, but is not limited to, one or more of the following:

- A. Student conference with teacher, principal, counselor, or other school district personnel, and verbal warning;
- B. Confiscation by school district personnel and/or by law enforcement of any item, article, object, or thing, prohibited by, or used in the violation of, any school district policy, rule, regulation, procedure, or state or federal law. If confiscated by the school district, the confiscated item, article, object, or thing will be released only to the parent/guardian following the completion of any investigation or disciplinary action instituted or taken related to the violation.
- C. Parent contact;
- D. Parent conference;
- E. Removal from class;
- F. In-school suspension;
- G. Suspension from extracurricular activities;
- H. Detention or restriction of privileges;
- I. Loss of school privileges;
- J. In-school monitoring or revised class schedule;
- K. Referral to in-school support services;
- L. Referral to community resources or outside agency services;
- M. Financial restitution;
- N. Referral to police, other law enforcement agencies, or other appropriate authorities;
- O. A request for a petition to be filed in district court for juvenile delinquency adjudication;

- P. Out-of-school suspension under the Pupil Fair Dismissal Act;
- Q. Preparation of an admission or readmission plan;
- R. Saturday school;
- S. Expulsion under the Pupil Fair Dismissal Act;
- T. Exclusion under the Pupil Fair Dismissal Act; and/or
- U. Other disciplinary action as deemed appropriate by the school district.

XI. REMOVAL OF STUDENTS FROM CLASS

- A. The teacher of record shall have the general control and government of the classroom. Teachers have the responsibility of attempting to modify disruptive student behavior by such means as conferring with the student, using positive reinforcement, assigning detention or other consequences, or contacting the student’s parents. When such measures fail, or when the teacher determines it is otherwise appropriate based upon the student’s conduct, the teacher shall have the authority to remove the student from class pursuant to the procedures established by this discipline policy. “Removal from class” and “removal” mean any actions taken by a teacher, principal, or other school district employee to prohibit a student from attending a class or activity period for a period of time not to exceed five (5) days, pursuant to this discipline policy.

Grounds for removal from class shall include any of the following:

1. Willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher’s ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
2. Willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school;
3. Willful violation of any school rules, regulations, policies or procedures, including the Code of Student Conduct in this policy; or
4. Other conduct, which in the discretion of the teacher or administration, requires removal of the student from class.

Such removal shall be for at least one (1) activity period or class period of instruction for a given course of study and shall not exceed five (5) such periods.

A student must be removed from class immediately if the student engages in assault or violent behavior. "Assault" is an act done with intent to cause fear in another of immediate bodily harm or death; or the intentional infliction of, or attempt to inflict, bodily harm upon another. The removal from class shall be for a period of time deemed appropriate by the principal, in consultation with the teacher.

- B. If a student is removed from class an excessive number of times in a school year, the school district shall notify the parent or guardian of the student's removal from class and make reasonable attempts to convene a meeting with the student's parent or guardian to discuss the problem that is causing the student to be removed from class.

C. **Procedures for removal of a student from a class:**

There are many reasons that a student may be removed from class. They include but are not limited to rules violations or the potential of a dangerous situation.

When a student is removed the **first time**, it will be documented by the teacher and the parent will be notified by the teacher. The student may also receive additional disciplinary action.

If a **second** removal occurs, the parent will be notified and a meeting will be held within 48 hours with the student, teacher, parent, and administration. During this meeting the teacher will explain his/her expectations for behavior. The student and parent will have the opportunity to ask any questions they may have with the goal being a solution to the behavioral problem.

If a **third** removal takes place, the student may be removed from the class, assigned study hall, and lose credit. Other solutions may be a class change or alternative programming for the student. A parent meeting may also be held at the request of the teacher when removals have not occurred.

If a student receiving special education services is removed from a class, the above procedures will apply. In addition, the IEP team may need to meet to consider the adequacy of the IEP.

Students serving administratively determined consequences in the school suspension / intervention room / or other disciplinary locations will be ineligible from participating in after school activities, practices, and athletic contests.

- D. All students suspected of using/abusing chemicals will be referred to the building chemical abuse assessment team or appropriate team.

- E. The building team will create procedures for early interventions tied to violations of the code of student conduct. These interventions will include parent involvement, where appropriate.

IX. DISMISSAL

- A. “Dismissal” means the denial of the current educational program to any student, including exclusion, expulsion and suspension. Dismissal does not include removal from class.

The school district shall not deny due process or equal protection of the law to any student involved in a dismissal proceeding which may result in suspension, exclusion or expulsion.

The school district shall not dismiss any student without attempting to use nonexclusionary disciplinary policies and procedures before dismissal proceedings or pupil withdrawal agreements, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property.

The use of exclusionary practices for early learners as defined in Minnesota Statutes, section 121A.425 is prohibited. The use of exclusionary practices to address attendance and truancy issues is prohibited.

- B. Violations leading to suspension, based upon severity, may also be grounds for actions leading to expulsion, and/or exclusion. A student may be dismissed on any of the following grounds:

1. Willful violation of any reasonable school board regulation, including those found in this policy;
2. Willful conduct that significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or
3. Willful conduct that endangers the student or other students, or surrounding persons, including school district employees, or property of the school.

- C. Disciplinary Dismissals Prohibited

1. A pupil enrolled in the following is not subject to dismissals under the Pupil Fair Dismissal Act:
 - a. a preschool or prekindergarten program, including an early childhood family education, school readiness, school readiness plus, voluntary prekindergarten, Head Start, or other school-based preschool or prekindergarten program; or

- b. kindergarten through Grade 3.
2. This section does not apply to a dismissal from school for less than one school day, except as provided under Minnesota Statutes, chapter 125A and federal law for a student receiving special education services.
3. Notwithstanding this section, expulsions and exclusions may be used only after resources outlined under Nonexclusionary discipline have been exhausted, and only in circumstances where there is an ongoing serious safety threat to the child or others.

D. Suspension Procedures

1. “Suspension” means an action by the school administration, under rules promulgated by the School Board, prohibiting a student from attending school for a period of no more than ten (10) school days; provided, however, if a suspension is longer than five (5) school days, the suspending administrator shall provide the superintendent with a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) school day or less where a student with a disability does not receive regular or special education instruction during that dismissal period.
2. School administration must allow a suspended pupil the opportunity to complete all school work assigned during the period of the pupil's suspension and to receive full credit for satisfactorily completing the assignments. The school principal or other person having administrative control of the school building or program is encouraged to designate a district or school employee as a liaison to work with the pupil's teachers to allow the suspended pupil to (1) receive timely course materials and other information, and (2) complete daily and weekly assignments and receive teachers' feedback.
3. If a student's total days of removal from school exceed ten (10) cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the student and the student's parent or guardian before subsequently removing the student from school and, with the permission of the parent or guardian, arrange for a mental health screening for the student at the parent or guardian's expense. The purpose of this meeting is to attempt to determine the student's need for assessment or other services or whether the parent or guardian should have the student assessed or diagnosed to determine whether the student needs treatment for a mental health disorder.
4. The definition of suspension under Minnesota Statutes, section 121A.41, subdivision 10, does not apply to a student's dismissal from school for ~~one school day or~~ less than one day, except as provided under federal law for a

student with a disability. Each suspension action may include a readmission plan. The plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission which must not be used to extend the current suspension. A readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. School administration must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening, or examination of the student as a ground, by itself, to prohibit the student from attending class or participating in a school-related activity, or as a basis of a charge of child abuse, child neglect, or medical or educational neglect. The school administration may not impose consecutive suspensions against the same student for the same course of conduct, or incident of misconduct, except where the student will create an immediate and substantial danger to self or to surrounding persons or property or where the school district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of fifteen (15) days.

5. A child with a disability may be suspended. When a child with a disability has been suspended for more than five (5) consecutive days or ten (10) cumulative school days in the same year, and that suspension does not involve a recommendation for expulsion or exclusion or other change in placement under federal law, relevant members of the child's IEP team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's IEP. That meeting must occur as soon as possible, but no more than ten (10) days after the sixth (6th) consecutive day of suspension or the tenth (10th) cumulative day of suspension has elapsed.
6. Alternative education services must be provided to a pupil who is suspended for more than five (5) consecutive school days. Alternative educational services may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessments, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center under Minnesota Statutes section 123A.05 selected to allow the student to progress toward meeting graduation standards under Minnesota Statutes section 120B.02, although in a different setting.
7. The school administration shall not suspend a student from school without an informal administrative conference with the student. The informal administrative conference shall take place before the suspension, except

where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension. At the informal administrative conference, a school administrator shall notify the student of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the student may present the student's version of the facts. A separate administrative conference is required for each period of suspension.

8. After school administration notifies a student of the grounds for suspension, school administration may, instead of imposing the suspension, do one or more of the following:
 - a. strongly encourage a parent or guardian of the student to attend school with the student for one day;
 - b. assign the student to attend school on Saturday as supervised by the principal or the principal's designee; and
 - c. petition the juvenile court that the student is in need of services under Minnesota Statutes chapter 260C.
9. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of the Minnesota Pupil Fair Dismissal Act, Minnesota Statutes sections 121A.40-121A.56, shall be personally served upon the student at or before the time the suspension is to take effect, and upon the student's parent or guardian by mail within forty-eight (48) hours of the conference. (See attached sample Notice of Suspension.)
10. The school administration shall make reasonable efforts to notify the student's parent or guardian of the suspension by telephone as soon as possible following suspension.
11. In the event a student is suspended without an informal administrative conference on the grounds that the student will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the student and the student's parent or guardian within forty-eight (48) hours of the suspension. Service by mail shall be complete upon mailing.
12. Notwithstanding the foregoing provisions, the student may be suspended pending the school board's decision in an expulsion or exclusion proceeding, provided that alternative educational services are implemented to the extent that suspension exceeds five (5) consecutive school days.

E. Expulsion and Exclusion Procedures

1. “Expulsion” means a school board action to prohibit an enrolled student from further attendance for up to twelve (12) months from the date the student is expelled. The authority to expel rests with the school board.
2. “Exclusion” means an action taken by the school board to prevent enrollment or re-enrollment of a student for a period that shall not extend beyond the school year. The authority to exclude rests with the school board.
3. All expulsion and exclusion proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minnesota Statutes sections 121A.40-121A.56.
4. No expulsion or exclusion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the student and parent or guardian.
5. The student and parent or guardian shall be provided written notice of the school district’s intent to initiate expulsion or exclusion proceedings. This notice shall be served upon the student and his or her parent or guardian personally or by mail, and shall contain a complete statement of the facts; a list of the witnesses and a description of their testimony; state the date, time and place of hearing; be accompanied by a copy of the Pupil Fair Dismissal Act, Minnesota Statutes sections 121A.40-121A.56; describe the nonexclusionary disciplinary practices accorded the student in an attempt to avoid the expulsion proceedings; and inform the student and parent or guardian of their right to: (1) have a representative of the student’s own choosing, including legal counsel at the hearing; (2) examine the student’s records before the hearing; (3) present evidence; and (4) confront and cross-examine witnesses. The school district must advise the student’s parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Minnesota Department of Education (MDE) and is posted on its website.
6. The hearing shall be scheduled within ten (10) days of the service of the written notice unless an extension, not to exceed five (5) days, is requested for good cause by the school district, student, parent, or guardian.
7. All hearings shall be held at a time and place reasonably convenient to the student, parent, or guardian and shall be closed, unless the student, parent, or guardian requests an open hearing.
8. The school district shall record the hearing proceedings at district expense, and a party may obtain a transcript at its own expense.

9. The student shall have a right to a representative of the student's own choosing, including legal counsel, at the student's sole expense. The school district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from MDE. The school board may appoint an attorney to represent the school district in any proceeding.
10. If the student designates a representative other than the parent or guardian, the representative must have a written authorization from the student and the parent or guardian providing them with access to and/or copies of the student's records.
11. All expulsion or exclusion hearings shall take place before and be conducted by an independent hearing officer designated by the school district. The hearing shall be conducted in a fair and impartial manner. Testimony shall be given under oath and the hearing officer shall have the power to issue subpoenas and administer oaths.
12. At a reasonable time prior to the hearing, the student, parent or guardian, or authorized representative shall be given access to all school district records pertaining to the student, including any tests or reports upon which the proposed dismissal action may be based.
13. The student, parent or guardian, or authorized representative, shall have the right to compel the presence of any school district employee or agent or any other person who may have evidence upon which the proposed dismissal action may be based, and to confront and cross-examine any witnesses testifying for the school district.
14. The student, parent or guardian, or authorized representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.
15. The student cannot be compelled to testify in the dismissal proceedings.
16. The hearing officer shall prepare findings and a recommendation based solely upon substantial evidence presented at the hearing, which must be made to the school board and served upon the parties within two (2) days after the close of the hearing.
17. The school board shall base its decision upon the findings and recommendation of the hearing officer and shall render its decision at a meeting held within five (5) days after receiving the findings and recommendation. The school board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's findings and recommendation provided that neither party presents any

evidence not admitted at the hearing. The decision by the school board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the Commissioner of Education (Commissioner) of the basis and reason for the decision.

18. A party to an expulsion or exclusion decision made by the school board may appeal the decision to the Commissioner within twenty-one (21) calendar days of school board action pursuant to Minnesota Statutes section 121A.49. The decision of the school board shall be implemented during the appeal to the Commissioner.
19. The school district shall report any suspension, expulsion or exclusion action taken to the appropriate public service agency, when the student is under the supervision of such agency.
20. The school district must report, through the MDE electronic reporting system, each expulsion or exclusion within thirty (30) days of the effective date of the action to the Commissioner. This report must include a statement of alternative educational services given the student and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status. The dismissal report must include state student identification numbers of affected students.
21. Whenever a student fails to return to school within ten (10) school days of the termination of dismissal, a school administrator shall inform the student and his/her parent or guardian by mail of the student's right to attend and to be reinstated in the school district.

XIII. ADMISSION OR READMISSION PLAN

A school administrator must prepare and enforce an admission or readmission plan for any student who is excluded or expelled from school. The plan must include measures to improve the student's behavior, which may include completing a character education program consistent with Minnesota Statutes section 120B.232, subdivision 1, social and emotional learning, counseling, social work services, mental health services, referrals for special education or 504 evaluation, and evidence-based academic interventions. The plan must include reasonable attempts to obtain parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving the student's behavior. The readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

XIV. NOTIFICATION OF POLICY VIOLATIONS

Notification of any violation of this policy and resulting disciplinary action shall be as provided herein, or as otherwise provided by the Pupil Fair Dismissal Act or other applicable law. The teacher, principal or other school district official may provide additional notification as deemed appropriate.

In addition, the school district must report, through the MDE electronic reporting system, each exclusion or expulsion, each physical assault of a school district employee by a pupil, and each pupil withdrawal agreement within thirty (30) days of the effective date of the dismissal action, pupil withdrawal, or assault, to the MDE Commissioner. This report must include a statement of the nonexclusionary disciplinary practices, or other sanction, intervention, or resolution in response to the assault given to the pupil in response to the assault and the reason for, the effective date, and the duration of the exclusion or expulsion or other sanction, intervention, or resolution. The report must also include the pupil's age, grade, gender, race, and special education status.

XV. STUDENT DISCIPLINE RECORDS

The policy of the school district is that complete and accurate student discipline records be maintained. The collection, dissemination, and maintenance of student discipline records shall be consistent with applicable school district policies and federal and state law, including the Minnesota Government Data Practices Act, Minnesota Statutes chapter 13.

XVI. STUDENTS WITH DISABILITIES

Students who are currently identified as eligible under the IDEA or Section 504 will be subject to the provisions of this policy, unless the student's IEP or 504 plan specifies a necessary modification.

Before initiating an expulsion or exclusion of a student with a disability, relevant members of the child's IEP team and the child's parent shall, consistent with federal law, conduct a manifestation determination and determine whether the child's behavior was (i) caused by or had a direct and substantial relationship to the child's disability and (ii) whether the child's conduct was a direct result of a failure to implement the child's IEP. If the student's educational program is appropriate and the behavior is not a manifestation of the student's disability, the school district will proceed with discipline – up to and including expulsion – as if the student did not have a disability, unless the student's educational program provides otherwise. If the team determines that the behavior subject to discipline is a manifestation of the student's disability, the team shall conduct a functional behavioral assessment and implement a behavioral intervention plan for such student provided that the school district had not conducted such assessment prior to the manifestation determination before the behavior that resulted in a change of placement. Where a behavioral intervention plan previously has been developed, the team will review the behavioral intervention plan and modify it as necessary to address the behavior.

When a student who has an IEP is excluded or expelled for misbehavior that is not a manifestation of the student's disability, the school district shall continue to provide special education and related services during the period of expulsion or exclusion.

XVII. OPEN ENROLLED STUDENTS

The school district may terminate the enrollment of a nonresident student enrolled under an Enrollment Option Program (Minnesota Statutes section 124D.03) or Enrollment in Nonresident District (Minnesota Statutes section 124D.08) at the end of a school year if the student meets the definition of a habitual truant, the student has been provided appropriate services for truancy (Minn. Stat. Ch. 260A), and the student's case has been referred to juvenile court. The school district may also terminate the enrollment of a nonresident student over the age of seventeen (17) enrolled under an Enrollment Options Program if the student is absent without lawful excuse for one or more periods on fifteen (15) school days and has not lawfully withdrawn from school.

XVIII. DISCIPLINE COMPLAINT PROCEDURE

Students, parents and other guardians, and school staff may file a complaint and seek corrective action when the requirements of the Minnesota Pupil Fair Dismissal Act, including the implementation of the local behavior and discipline policies, are not being implemented appropriately or are being discriminately applied.

The Discipline Complaint Procedure must, at a minimum:

1. provide procedures for communicating this policy including the ability for a parent to appeal a decision under Minnesota Statutes, section 121A.49 that contains explicit instructions for filing the complaint;
2. provide an opportunity for involved parties to submit additional information related to the complaint;
3. provide a procedure to begin to investigate complaints within three school days of receipt, and identify personnel who will manage the investigation and any resulting record and are responsible for keeping and regulating access to any record;
4. provide procedures for issuing a written determination to the complainant that addresses each allegation and contains findings and conclusions;
5. if the investigation finds the requirements of Minnesota Statutes, sections 121A.40 to 121A.61, including any local policies that were not implemented appropriately, contain procedures that require a corrective action plan to correct a student's record and provide relevant staff with training, coaching, or other accountability practices to ensure appropriate compliance with policies in the future; and

6. prohibit reprisals or retaliation against any person who asserts, alleges, or reports a complaint, and provide procedures for applying appropriate consequences for a person who engages in reprisal or retaliation.

XIX. DISTRIBUTION OF POLICY

The school district will notify students and parents of the existence and contents of this policy in such manner as it deems appropriate. Copies of this discipline policy shall be made available to all students and parents at the commencement of each school year and to all new students and parents upon enrollment. This policy shall also be available upon request in each principal's office.

XX. REVIEW OF POLICY

The principal and representatives of parents, students and staff in each school building shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced. Any recommended changes shall be submitted to the superintendent for consideration by the school board, which shall conduct an annual review of this policy.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 120B.02 (Educational Expectations and Graduation Requirements for Minnesota Students)
Minn. Stat. § 120B.232 (Character Development Education)
Minn. Stat. § 121A.26 (School Preassessment Teams)
Minn. Stat. § 121A.29 (Reporting; Chemical Abuse)
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. § 121A.575 (Alternatives to Pupil Suspension)
Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)
Minn. Stat. § 121A.60 (Definitions)
Minn. Stat. § 121A.61 (Discipline and Removal of Student from Class)
Minn. Stat. § 122A.42 (General Control of Schools)
Minn. Stat. § 123A.05 (State-Approved Alternative Program Organization)
Minn. Stat. § 124D.03 (Enrollment Options Program)
Minn. Stat. § 124D.08 (School Boards' Approval to Enroll in Nonresident District; Exceptions)
Minn. Stat. Ch.125A (Special Education and Special Programs)
Minn. Stat. § 152.22, Subd. 6 (Definitions)
Minn. Stat. § 152.23 (Limitations)
Minn. Stat. Ch. 260A (Truancy)
Minn. Stat. Ch. 260C (Juvenile Safety and Placement)
20 U.S.C. §§ 1400-1487 (Individuals with Disabilities Education Act)
29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)
34 C.F.R. § 300.530(e)(1) (Manifestation Determination)

Cross References: Policy 413 (Harassment and Violence)
Policy 419 (Tobacco-Free Environment; Possession and Use of Tobacco, Tobacco-Related Devices, and Electronic Delivery Devices)
Policy 501 (School Weapons)
Policy 502 (Search of Student Lockers, Desks, Personal Possessions, and Student's Person)
Policy 503 (Student Attendance)
Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)
Policy 514 (Bullying Prohibition Policy)
Policy 524 (Internet Acceptable Use and Safety Policy)
Policy 525 (Violence Prevention)
Policy 526 (Hazing Prohibition)
Policy 527 (Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches)
Policy 610 (Field Trips)
Policy 709 (Student Transportation Safety Policy)
Policy 711 (Video Recording on School Buses)
Policy 712 (Video Surveillance Other Than on Buses)

Sample Discipline Complaint Procedure

Students, parents and other guardians, and school staff (Complainant) may file a complaint and seek corrective action when the requirements of the Minnesota Pupil Fair Dismissal Act, including the implementation of the behavior and discipline policies are not being implemented appropriately or are being discriminately applied.

The discipline complaint process is initiated when a Complainant completes and submits a Discipline Complaint Form to the school district superintendent or the superintendent's designee.

A Discipline Complaint Form is available on the school district website and in administrative offices.

Investigation of the complaint will commence within three school days of receipt of the complaint. The superintendent will direct the investigation and will designate and identify the school district personnel who will manage the investigation and who are responsible for keeping and regulating access to any resulting record. The school district may use outside counsel as it sees fit.

Upon completion of the investigation, a Written Determination addressing each allegation and containing findings and conclusions will be issued to the Complainant in a manner consistent with the Minnesota Government Data Practices Act.

If the investigation finds the requirements of the Minnesota Pupil Fair Dismissal Act (Minnesota Statutes, sections 121A.40 to 121A.61), including any local policies that were not implemented appropriately, contain procedures that require a corrective action plan to correct a student's record and provide relevant school district staff with training, coaching, or other accountability practices to ensure appropriate compliance with policies in the future, the superintendent or the superintendent's designee will take necessary measures.

Reprisal or retaliation against any person who asserts, alleges, or reports a complaint is prohibited. The school district will take appropriate action consistent with Minnesota law and school district policies in the event that an individual or individuals are found to have engaged in reprisal or retaliation.

Discipline Complaint Form

Date of Complaint: _____

Name of Person Completing Form: _____

Email Address _____ Cell Phone _____

Student Name _____ Grade _____

Applicable Governing Discipline Documents

- Minnesota Pupil Fair Dismissal Act
- School District Student Discipline Policy

Describe your complaint(s) and/or allegation(s) regarding improper implementation of the Minnesota Pupil Fair Dismissal Act and/or the school district student discipline policy or how the procedures in these two documents are being discriminately applied.

Provide additional information you request the school district to consider:

Involved persons may submit additional information related to this complaint.

A Complainant may appeal the school district’s Written Decision by submitting a written notice of appeal to the superintendent or the superintendent’s designee within three (3) school days of the date that the Written Decision is provide to the Complainant. The notice shall set forth the grounds upon which the Complainant appeals the Written Decision.

Signature: _____ Date: _____

For Administrative Use (Notes):

Date Received: _____

Assignment of Investigator: _____

Date Investigation Complete: _____

Written Decision Sent to Complainant: _____

Corrective Action Required: _____

Corrective Action Taken: _____

Notice of Right to Appeal: _____

Matter Closed: _____

Data Practices Act Compliance Conducted: _____

This sample document is for informational use only and is not to be construed as legal advice. If legal advice is needed, legal counsel should be contacted.

(Sample Form)
NOTICE OF SUSPENSION
(Date)

(Name of Parent or Guardian)
(Address)
(City, State, Zip)

Dear (Parent or Guardian)

(Name of Student) has been suspended from (name of school) for (number of days) commencing on (date).

The grounds for suspension are:

Briefly, the facts that have been determined are:

The testimony received was:

An administrative conference to determine the above was conducted before

_____, at _____ on _____
(Name of Administrator) (Time) (Date)

pursuant to Minn. Stat. §§ 121A.40-121A.56, a copy of which is enclosed.

The plan of readmission is:

Alternative educational services in the form of homework will be available to be picked up at the school after _____ [date] _____.

While suspended, the student may not come on any school campus except with you for the purpose of discussing conduct.

If you have any questions, please call.

Sincerely,

Administrator

Enc: Minn. Stat. §§ 121A.40-121A.56



Rock Ridge Public Schools

1405 Progress Parkway

Adopted: September 28, 2020

Revised: January 10, 2022

Revised: September 25, 2023

Revised: _____

507 CORPORAL PUNISHMENT AND PRONE RESTRAINT

I. PURPOSE

The purpose of this policy is to describe limitations on use of corporal punishment and prone restraint upon a of students except as provided below.

II. GENERAL STATEMENT OF POLICY

No employee or agent of the school district shall inflict corporal punishment or use prone restraint upon a student.

III. DEFINITIONS

1. "Corporal punishment" means conduct involving:
 - a. hitting or spanking a person with or without an object; or
 - b. unreasonable physical force that causes bodily harm or substantial emotional harm.
2. "Prone restraint" means placing a child in a face-down position.

IV. PROHIBITIONS

1. An employee or agent of a district shall not inflict corporal punishment or cause corporal punishment to be inflicted upon a pupil to reform unacceptable conduct or as a penalty for unacceptable conduct.
2. An employee or agent of a district, including a school resource officer, security personnel, or police officer contracted with a district, shall not use prone or compressive restraint except that the restrictions on prone and compressive restraints do not apply under the circumstances enumerated in Minnesota Statutes, section 609.06, subdivision 1(1). All peace officers, including those who are school resource officers or otherwise agents of a school district, may use force as reasonably necessary to carry out official duties, including, but not limited to, making arrests and enforcing orders of the court.

3. An employee or agent of a district, including a school resource officer, security personnel, or police officer contracted with a district, shall not inflict any form of physical holding that restricts or impairs a pupil's ability to breathe; restricts or impairs a pupil's ability to communicate distress; places pressure or weight on a pupil's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen; or results in straddling a pupil's torso.
4. Conduct that violates this Article is not a crime under Minnesota Statutes, section 645.241, but may be a crime under Minnesota Statutes, chapter 609 if the conduct violates a provision of Minnesota Statutes, chapter 609. Conduct that violates IV.1 above is not per se corporal punishment under the statute. Nothing in this Minnesota Statutes, section 121A.58 or 125A.0941 precludes the use of reasonable force under Minnesota Statutes, section 121A.582.

V. EXCEPTIONS

A teacher, ~~or~~ school principal, **and other school staff** may use reasonable force under the conditions set forth in Policy 506 (Student Discipline).

IV. VIOLATION

Employees who violate the provisions of this policy shall be subject to disciplinary action as appropriate. Any such disciplinary action shall be made pursuant to and in accordance with applicable statutory authority, collective bargaining agreements and school district policies. Violation of this policy may also result in civil or criminal liability for the employee.

Legal References: Minn. Stat. § 121A.58 (Corporal Punishment)
 Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)
 Minn. Stat. § 123B.25 (Actions Against Districts and Teachers)
 Minn. Stat. § 609.06 Subd. 1 (6)(7) (Authorized Use of Force)
[Op. Atty. Gen. 169f \(August 22, 2023\) \(School Pupils: Discipline\)](#)
[Op. Atty. Gen. 169f Supp. \(September 20, 2023\) \(School Pupils: Discipline\)](#)

Cross References: Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
 Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
 Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)
 Policy 506 (Student Discipline)



1405 PROGRESS PARKWAY, VIRGINIA, MN 55792 | 218.742.3901 | FAX: 218.744.4381 | WWW.RRPS.ORG

PUBLIC NOTICE

Independent School District No. 2909 gives notice to parents of students currently in attendance in the District, and eligible students currently in attendance in the District, of their rights regarding pupil records.

1. Parents and eligible students are hereby informed that they have the following rights:
 - a. That a parent or eligible student has a right to inspect and review the student's education records within 45 days after the day the request for access is received by the school district. A parent or eligible student should submit to the school district a written request to inspect education records which identify as precisely as possible the record or records he or she wishes to inspect. The parent or eligible student will be notified of the time and place where the records may be inspected;
 - b. That the parent or eligible student has a right to seek amendment of the student's education records to ensure that those records are not inaccurate, misleading, or otherwise in violation of the student's privacy rights. A parent or eligible student may ask the school district to amend a record that they believe is inaccurate or misleading. The request shall be in writing, identify the item the parent or eligible student believes to be inaccurate, misleading, or in violation of the privacy rights of the student, shall state the reason for this belief, and shall specify the correction the parent or eligible student wishes the school district to make. The request shall be signed by the parent or eligible student. If the school district decides not to amend the record as requested by the parent or eligible student, the school district will notify the parent or eligible student of the decision and advise him or her of the right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing;
 - c. That the parent or eligible student has a right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that federal and state law and the regulations promulgated thereunder authorize disclosures without consent;





1405 PROGRESS PARKWAY, VIRGINIA, MN 55792 | 218.742.3901 | FAX: 218.744.4381 | WWW.RRPS.ORG

- d. That the school district may disclose education records to other school officials within the school district if the school district has determined they have legitimate educational interests. For purposes of such disclosure, a “school official” is a person employed by the school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or other employee; a person serving on the school board; a person or company with whom the school district has consulted to perform a specific task (such as an attorney, auditor, medical consultant, therapist, public information officer, or data practices compliance official); or a parent or student serving on an official committee, such as a disciplinary or grievance committee; or any individual assisting a school official in the performance of his or her tasks. A school official has a “legitimate educational interest” if the individual needs to review an education record in order to fulfill his or her professional responsibility and includes, but is not limited to, an interest directly related to classroom instruction, teaching, student achievement and progress, discipline of a student, and student health and welfare and the ability to respond to a request for educational data;
- e. That the school district forwards education records on request to a school or post-secondary educational institution in which a student seeks or intends to enroll, or is already enrolled, as long as the disclosure is for purposes related to the student’s enrollment, including information about disciplinary action taken as a result of any incident in which the student possessed or used a dangerous weapon, suspension and expulsion information pursuant to 20 U.S.C. § 7917, part of the federal Every Student Succeeds Act and data regarding a student’s history of violent behavior, and any disposition order which adjudicates the student as delinquent for committing an illegal act on school district property and certain other illegal acts;
- f. That the parent or eligible student has a right to file a complaint with the U.S. Department of Education regarding an alleged failure by the school district to comply with the requirements of 20 U.S.C. § 1232g and the rules promulgated thereunder. The name and address of the office that administers the Family Education Rights and Privacy Act is:

Family Policy Compliance Office
U.S. Department of Education





1405 PROGRESS PARKWAY, VIRGINIA, MN 55792 | 218.742.3901 | FAX: 218.744.4381 | WWW.RRPS.ORG

400 Maryland Avenue S.W.
Washington, D.C. 20202-8520

3. Copies of the school board policy and accompanying procedures and regulations are available to parents and students upon written request to the Superintendent.
4. Pursuant to applicable law, Independent School District No. 2909 gives notice to parents of students currently in attendance in the school district, and eligible students currently in attendance in the school district, of their rights regarding “directory information.”

“Directory information” includes the following information relating to a student: the student’s name; photograph; major field of study; dates of attendance; grade level; enrollment status; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors and awards received; the most recent educational agency or institution attended by the student; ~~and other similar information.~~ “Directory information” does not include a student’s social security number or a student’s identification number (ID) if the ID may be used to access education records without use of one or more factors that authenticate the student’s identity such as a personal identification number, password, or other factor known or possessed only by the authorized user. It also does not include identifying information on a student’s religion, race, color, social position, or nationality. It does not include the name, address, and telephone number of the student’s parent(s).

5. Pursuant to applicable law, Independent School District No. 2909 hereby gives notice to parents of students and eligible students in grades 11 and 12 of their rights regarding release of information to military recruiting officers and post-secondary educational institutions. The school district must release the names, addresses, and home telephone numbers of students in grades 11 and 12 to military recruiting officers and post-secondary educational institutions within sixty (60) days after the date of the request. Data released to military recruiting officers under this provision may be used only for the purpose of providing information to students about military service, state and federal veterans’ education benefits, and other career and educational opportunities provided by the military and cannot be further disseminated to any other person except personnel of the recruiting services of the armed forces.





1405 PROGRESS PARKWAY, VIRGINIA, MN 55792 | 218.742.3901 | FAX: 218.744.4381 | WWW.RRPS.ORG

SHOULD THE PARENT OF A STUDENT OR THE ELIGIBLE STUDENT SO DESIRE, ANY OR ALL OF THE LISTED INFORMATION WILL NOT BE DISCLOSED TO MILITARY RECRUITING OFFICERS AND POST-SECONDARY EDUCATIONAL INSTITUTIONS WITHOUT PRIOR CONSENT.

IN ORDER TO REFUSE THE RELEASE OF THIS INFORMATION WITHOUT PRIOR CONSENT, THE PARENT OR ELIGIBLE STUDENT MUST MAKE A WRITTEN REQUEST TO THE RESPONSIBLE AUTHORITY, [DESIGNATE TITLE OF INDIVIDUAL, I.E., BUILDING PRINCIPAL], BY [INSERT DATE] EACH YEAR. THIS WRITTEN REQUEST MUST INCLUDE THE FOLLOWING INFORMATION:

- (1) NAME OF STUDENT AND PARENT, AS APPROPRIATE;**
- (2) HOME ADDRESS;**
- (3) STUDENT'S GRADE LEVEL;**
- (4) SCHOOL PRESENTLY ATTENDED BY STUDENT;**
- (5) PARENT'S LEGAL RELATIONSHIP TO STUDENT, IF APPLICABLE;**
- (6) SPECIFIC CATEGORY OR CATEGORIES OF INFORMATION WHICH ARE NOT TO BE RELEASED TO MILITARY RECRUITING OFFICERS AND POST-SECONDARY EDUCATIONAL INSTITUTIONS WITHOUT PRIOR CONSENT;**
- (7) SPECIFIC CATEGORY OR CATEGORIES OF DIRECTORY INFORMATION WHICH ARE NOT TO BE RELEASED TO THE PUBLIC, INCLUDING MILITARY RECRUITING OFFICERS AND POST-SECONDARY EDUCATIONAL INSTITUTIONS.**

Notice: Refusal to release the above information to military recruiting officers and post-secondary educational institutions alone does not affect the school district's release of directory information to the public, including military recruiting officers and post-secondary educational institutions. In order to make any directory information about a student private, the procedures contained in the Directory Information section of this notice also must be followed. If you do not want your child's or eligible student's directory information released to military recruiting officers or post-secondary educational institutions, you also must notify





1405 PROGRESS PARKWAY, VIRGINIA, MN 55792 | 218.742.3901 | FAX: 218.744.4381 | WWW.RRPS.ORG

the school district that you do not want this directory information released to any member of the public, including military recruiting officers and post-secondary educational institutions.

INDEPENDENT SCHOOL DISTRICT NO. 2909
Virginia, MINNESOTA

Dated: _____

Chair





1405 PROGRESS PARKWAY, VIRGINIA, MN 55792 | 218.742.3901 | FAX: 218.744.4381 | WWW.RRPS.ORG

**JUVENILE JUSTICE SYSTEM
REQUEST FOR INFORMATION**

Family Educational Rights and Privacy Act
Minnesota Government Data Practices Act, Minn. Stat. § 13.32, Subds. 3(i) and 8(b)

DATE/TIME OF REQUEST: _____

TO: _____
(Superintendent of school district or chief administrative officer of school)

FROM: _____
(Requester's name/agency)

STUDENT: _____

BASIS FOR REQUEST:

- _____ Juvenile delinquency investigation/prosecution
- _____ Child protection assessment/investigation
- _____ Investigation/filing of CHIPS or delinquency petition

REASON FOR REQUEST: (Requester must describe why information regarding existence of the data marked below is necessary to effectively serve the student)

RESPONSE TO REQUEST:

The school must indicate whether it has data on the student that document any activity or behavior marked by the requester.

INFORMATION REQUESTED: (*mark all that apply*) **RESPONSE PROVIDED:** (*yes / no*)





1405 PROGRESS PARKWAY, VIRGINIA, MN 55792 | 218.742.3901 | FAX: 218.744.4381 | WWW.RRPS.ORG

Indicate whether you have data that document the student's:

_____	Use of a controlled substance, alcohol, or tobacco	_____
_____	Assaultive or threatening conduct as defined in Minn. Stat. § 13.32, Subd. 8	_____
_____	Possession or use of weapons or look-alike weapons	_____
_____	Theft	_____
_____	Vandalism and damage to property	_____

CERTIFICATION: The undersigned certifies that he or she is a member of the juvenile justice system. The requested data are needed by the juvenile justice system so it may effectively serve, prior to adjudication, the student whose records are released. The undersigned will not disclose the information received to any other party, except as provided under state law, without prior written consent as required by Code of Federal Regulations, title 34, section 99.38(b). The undersigned further certifies that he or she understands that, by signing this request, he or she is subject to the penalties in Minn. Stat. § 13.09.

Signature/Title





Rock Ridge Public Schools

1405 Progress Parkway

Adopted: July 27, 2020

Revised: January 25, 2021

Revised: March 27, 2023

Revised: September 25, 2023

Revised: _____

620 CREDIT FOR LEARNING

I. PURPOSE

This policy recognizes student achievement that occurs in postsecondary enrollment options and other advanced enrichment programs. This policy also is to recognize student achievement that occurs in other schools, in alternative learning sites, and in out-of-school experiences such as community organizations, work-based learning, and other educational activities and opportunities. This policy addresses transfer of student credit from out-of-state, private, or home schools and online learning programs and to address how the school district will recognize student achievement obtained outside of the school district.

II. GENERAL STATEMENT OF POLICY

The policy of the school district is to provide a process for awarding students credit toward graduation requirements for credits and grades students complete in other schools, postsecondary or higher education institutions, other learning environments, and online courses and programs.

III. DEFINITIONS

- A. “Accredited school” means a school that is accredited by an accrediting agency, recognized according to Minnesota Statutes section 123B.445 or recognized by the Commissioner of the Minnesota Department of Education (Commissioner).
- B. “Concurrent enrollment” means nonsectarian courses in which an eligible pupil under [Minnesota Statutes, section 124D.095](#), subdivision 5 or 5b enrolls to earn both secondary and postsecondary credits, are taught by a secondary teacher or a postsecondary faculty member, and are offered at a high school for which the district is eligible to receive concurrent enrollment program aid under Minnesota Statutes, section 124D.091.
- C. “Course” means a course or program.
- D. “Eligible institution” means a Minnesota public postsecondary institution, a private, nonprofit two-year trade and technical school granting associate degrees, an opportunities industrialization center accredited by an accreditor recognized by the United States Department of Education, or a private, residential, two-year or four-year, liberal arts, degree-granting college or university located in Minnesota.

An eligible institution must not require a faith statement from a secondary student seeking to enroll in a postsecondary course under this section during the application process or base any part of the admission decision on a student's race, creed, ethnicity, disability, gender, or sexual orientation or religious beliefs or affiliations.

- E. “Nonpublic school” is a private school or home school in which a child is provided instruction in compliance with the Minnesota compulsory attendance laws.
- F. “Weighted grade” is a letter or numerical grade that is assigned a numerical advantage when calculating the grade point average.

IV. TRANSFER OF CREDIT FROM OTHER SCHOOLS

A. Transfer of Academic Requirements from Other Minnesota Public Secondary Schools

- 1. The school district will accept and transfer secondary credits and grades awarded to a student from another Minnesota public secondary school upon presentation of a certified transcript from the transferring public secondary school evidencing the course taken and the grade and credit awarded.
- 2. Credits and grades awarded from another Minnesota public secondary school may be used to compute honor roll and/or class rank if a student has earned at least some credits from the school district.

B. Transfer of Academic Requirements from Other Schools

- 1. The school district will accept secondary credits and grades awarded to a student for courses successfully completed at a public school outside of Minnesota or an accredited nonpublic school upon presentation of a certified transcript from the transferring public school in another state or nonpublic school evidencing the course taken and the grade and credit awarded.
 - a. When a determination is made that the content of the course aligns directly with school district graduation requirements, the student will be awarded commensurate credits and grades.
 - b. Commensurate credits and grades awarded from an accredited nonpublic school or public school in another state may be used to compute honor roll and/or class rank if a student has earned at least *[insert number]* credits from the school district.
 - c. In the event the content of a course taken at an accredited nonpublic school or public school in another state does not fully align with the content of the school district’s high school graduation requirements

but is comparable to elective credits offered by the school district for graduation, the student may be provided elective credit applied toward graduation requirements. Credit that does not fully align with the school district's high school graduation requirements will not be used to compute honor roll and/or class rank.

- d. If no comparable course is offered by the school district for which high school graduation credit would be provided, no credit will be provided to the student.
2. Students transferring from a non-accredited, nonpublic school shall receive credit from the school district upon presentation of a transcript or other documentation evidencing the course taken and grade and credit awarded.
- a. Students will be required to provide copies of course descriptions, syllabi, or work samples for determination of appropriate credit. In addition, students also may be asked to provide interviews/conferences with the student and/or student's parent and/or former administrator or teacher; review of a record of the student's entire curriculum at the nonpublic school; and review of the student's complete record of academic achievement.
 - b. Where the school district determines that a course completed by a student at a non-accredited, nonpublic school is commensurate with school district graduation requirements, credit shall be awarded, but the grade shall be "P" (pass).
 - c. In the event the content of a course taken at an non-accredited, nonpublic school does not fully align with the content of the school district's high school graduation requirements but is comparable to elective credits offered by the school district for graduation, the student may be provided elective credit applied toward graduation requirements.
 - d. If no comparable course is offered by the school district for which local high school graduation credit would be provided, no credit will be provided to the student.
 - e. Credit and grades earned from a non-accredited nonpublic school shall not be used to compute honor roll and/or class rank.
- C. A student must provide the school with a copy of the student's grades in each course taken for secondary credit under this policy, including interim or nonfinal grades earned during the academic term.

V. POSTSECONDARY ENROLLMENT CREDIT

- A. A student who satisfactorily completes a postsecondary enrollment options course or program under Minnesota Statutes section 124D.09 that has been approved as meeting the necessary requirements is not required to complete other requirements of the academic standards corresponding to that specific rigorous course of study.
- B. Secondary credits granted to a student through a postsecondary enrollment options course or program must be counted toward the graduation and subject area requirements of the district.
 - 1. Course credit will be considered by the school district only upon presentation of a certified transcript from an eligible institution evidencing the course taken and the grade and credit awarded.
 - 2. Seven quarter or four semester postsecondary credits shall equal at least one full year of high school credit. Fewer postsecondary credits may be prorated.
 - 3. When a determination is made that the content of the postsecondary course aligns directly with a required course for high school graduation, the commensurate credit and grade will be recorded on the student's transcript as a course credit applied toward graduation requirements.
 - 4. In the event the content of the postsecondary course does not fully align with the content of a high school course required for graduation but is comparable to elective credits offered by the school district for graduation, the school district may provide elective credit and the grade will be recorded on the student's transcript as an elective course credit applied toward graduation requirements.
 - 5. If no comparable course is offered by the school district for which high school graduation credit would be provided, the school district will notify the Commissioner, who shall determine the number of credits that shall be granted to a student.
 - 6. When secondary credit is granted for postsecondary credits taken by a student, the school district will record those credits on the student's transcript as credits earned at a postsecondary institution.
- C. A list of the courses or programs meeting the necessary requirements may be obtained from the school district.
- D. By the earlier of (1) three weeks prior to the date by which a student must register for district courses for the following school year, or (2) March 1 of each year, the school district must provide up-to-date information on the district's website and in materials that are distributed to parents and students about the program, including

information about enrollment requirements and the ability to earn postsecondary credit to all pupils in grades 8, 9, 10, and 11.

VI. CREDIT FOR EMPLOYMENT WITH HEALTH CARE PROVIDERS

Consistent with the career and technical pathways program, a student in grade 11 or 12 who is employed by an institutional long-term care or licensed assisted living facility, a home and community-based services and supports provider, a hospital or health system clinic, or a child care center may earn up to two elective credits each year toward graduation under Minnesota Statutes, section 120B.024, subdivision 1, paragraph (a), clause (7), at the discretion of the enrolling school district. A student may earn one elective credit for every 350 hours worked, including hours worked during the summer. A student who is employed by an eligible employer must submit an application, in the form or manner required by the school district, for elective credit to the school district in order to receive elective credit. The school district must verify the hours worked with the employer before awarding elective credit.

VII. ADVANCED ACADEMIC CREDIT

- A. The school district will grant academic credit to a student attending an accelerated or advanced academic course offered by a higher education institution or a nonprofit public agency, other than the school district.
- B. Course credit will be considered only upon official documentation from the higher education institution or nonprofit public agency that the student successfully completed the course attended and passed an examination approved by the school district.
- C. When a determination is made that the content of the advanced academic course aligns directly with a required course for high school graduation, the commensurate credit and grade will be recorded on the student's transcript as a course credit applied toward graduation requirements.
- D. In the event the content of the advanced academic course does not fully align with the content of a high school course required for graduation but is comparable to elective credits offered by the school district for graduation, the school district may provide elective credit and the grade will be recorded on the student's transcript as an elective course credit applied toward graduation requirements.
- E. If no comparable course is offered by the school district for which high school graduation credit would be provided, the school district will notify the Commissioner and request a determination of the number of credits that shall be granted to a student.

VIII. PROCESS FOR AWARDING CREDIT

- A. The building principal will be responsible for carrying out the process to award credits and grades pursuant to this policy. The building principal will notify students in writing of the decision as to how credits and grades will be awarded.
- B. A student or the student's parent or guardian may seek reconsideration of the decision by the building principal as to credits and/or grades awarded upon request of a student or the student's parent or guardian if the request is made in writing to the superintendent within five school days of the date of the building principal's decision. The request should set forth the credit and/or grade requested and the reason(s) why credit(s)/grade(s) should be provided as requested. Any pertinent documentation in support of the request should be submitted.
- C. The decision of the superintendent as to the award of credits or grades shall be a final decision by the school district and shall not be appealable by the student or student's parent or guardian except as set forth in Section IX.D. below.
- D. If a student disputes the number of credits granted by the school district for a particular postsecondary enrollment course, or advanced academic credit course, the student may appeal the school district's decision to the Commissioner. The decision of the Commissioner shall be final.
- E. At any time during the process, the building principal or superintendent may ask for course descriptions, syllabi, or work samples from a course where content of the course is in question for purposes of determining alignment with graduation requirements or the number of credits to be granted. Students will not be provided credit until requested documentation is available for review, if requested.

Legal References: Minn. Stat. § 120B.02 (Educational Expectations and Graduation Requirements for Minnesota's Students)
Minn. Stat. § 120B.021 (Required Academic Standards)
Minn. Stat. § 120B.11 (School District Process for Reviewing Curriculum, Instruction, and Student Achievement; Striving for the World's Best Workforce)
Minn. Stat. § 120B.14 (Advanced Academic Credit)
Minn. Stat. § 123B.02 (General Powers of Independent School Districts)
Minn. Stat. § 123B.445 (Nonpublic Education Council)
Minn. Stat. § 124D.03, Subd. 9 (Enrollment Options Program)
Minn. Stat. § 124D.09 (Post-secondary Enrollment Options Act)
Minn. Stat. § 124D.095 (Online Learning Option)
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 (Academic Standards for the Arts)
Minn. Rules Parts 3501.0900-3501.0960 (Academic Standards in Science)

Minn. Rules Parts 3501.1200-3501.1210 (Academic Standards for English Language Development)

Minn. Rules Parts 3501.1300-3501.1345 (Academic Standards for Social Studies)

Minn. Rules Parts 3501.1400-3501.1410 (Academic Standards for Physical Education)

Cross References: Policy 104 (School District Mission Statement)
Policy 601 (School District Curriculum and Instruction Goals)
Policy 613 (Graduation Requirements)
Policy 614 (School District Testing Plan and Procedure)
Policy 615 (Testing Accommodations, Modifications, and Exemptions for IEPs, Section 504 Plans, and LEP Students)
Policy 616 (School District System Accountability)
Policy 618 (Assessment of Student Achievement)
Policy 624 (Online Learning Options)

Adopted: _____

MSBA/MASA Model Policy 606.5
Orig. 2023

Revised: _____

606.5 LIBRARY MATERIALS

I. PURPOSE

The purpose of this policy is to provide direction and to delegate responsibility for selection and reconsideration of library materials.

II. GENERAL STATEMENT OF PURPOSE

The school board recognizes that library materials serve as a vital component of a student's education by enriching the breadth of the curriculum as a whole and meeting the needs and interests of individual students. The purpose of library materials is to meet the needs of all students. Therefore, questions regarding selection and reconsideration of library materials should be handled differently than those concerning textbooks and instructional materials.

To ensure that library materials fulfill this role, the school board delegates to the superintendent or the superintendent's designee responsibility for administering a process for selection of library materials. Responsibility for selection shall rest with professionally trained school district staff, with recognition that the school board has the final authority on selection of library materials. Parents and guardians have the right and the responsibility to determine their children's access to library materials.

[NOTE: The school board may choose to revise the General Statement of Purpose.]

III. DEFINITIONS

- A. "Library" is the school district resource that holds the library collection that serves the information and independent reading needs of students and supports the curriculum needs of teachers and staff. The term "library" includes a school library media center. The term also includes access to electronic materials.

For school districts with multiple school buildings, the term "library" refers to the resource within a specific school building.

Minnesota Statutes, section 124D.901, states that a school district or charter school library or school library media center provides equitable and free access to students, teachers, and administrators and that a school library or school library media center must have the following characteristics:

1. ensures every student has equitable access to resources and is able to locate, access, and use resources that are organized and cataloged;
2. has a collection development plan that includes but is not limited to materials selection and deselection, a challenged materials procedure, and an intellectual and academic freedom statement;
3. is housed in a central location that provides an environment for expanded learning and supports a variety of student interests;
4. has technology and Internet access; and
5. is served by a licensed school library media specialist or licensed school librarian.

[NOTE: The school board may add a sentence that incorporates the term(s) used to identify libraries in the school district, such as "The school district's libraries are commonly referred to as _____.]

- B. "Library collection" consists of the library materials made available to students.
- C. "Library materials" are the books, periodicals, newspapers, manuscripts, films, prints, documents, videotapes, subscription content, electronic and digital materials (including e-books, audiobooks, and databases), and related items made available to students in a school building or through access to electronic materials. This term does not include materials made available to students as part of the curriculum.
- D. "Library media specialist" is a teacher holding a Library Media Specialist teaching license issued by the Professional Educator Licensing and Standards Boards and who is trained to deliver library services to students and staff in a library. A library media specialist is authorized under Minnesota Rules to provide to students in kindergarten through grade 12 instruction that is designed to provide information and technology literacy skills instruction, to lead, collaborate, and consult with other classroom teachers for the purpose of integrating information and technology literacy skills with content teaching, and to administer media center operations, programming, and resources.

[NOTE: The specific titles of the school district's library staff should be used for this definition and substituted for "library media specialist" throughout this model policy.]

IV. RESPONSIBILITY FOR SELECTION OF LIBRARY MATERIALS

- A. The school board recognizes the expertise of the school district's professional staff and the vital need of such staff to be responsible for selection of library materials.
- B. While recommendations by administrators, faculty members, students, parents, and other community members may be considered, the final responsibility for selection of library materials shall rest with the library media specialist.

IV. SELECTION OF LIBRARY MATERIALS

- A. Selection Criteria: The library materials selection process should result in a library collection that, when considered as a whole, is consistent with the following criteria:
 - 1. Library materials shall support and be consistent with the general educational goals of the state and the district and the aims and objectives of individual schools and specific courses;
 - 2. Library materials shall be chosen to enrich and support the curriculum as well as to promote reading for pleasure by responding to the personal needs and interests of student users;
 - 3. Library materials shall not be excluded because of the race, nationality, religion, sex, gender, or political views of the writer;
 - 4. Library materials shall be appropriate to and reflect the needs, ages, maturity level, emotional development, ability levels, learning styles, social development, background, diversity, and needs and interests of the students for whom the materials were selected;

5. Library materials shall meet high standards of quality in one or more of these categories (presented alphabetically):
 - a. Artistic quality and/or literary style;
 - b. Authenticity;
 - c. Critical thinking;
 - d. Educational significance;
 - e. Factual content;
 - f. High interest for intended audience; and
 - g. Readability.
6. The selection of library materials shall conform to the constraints of the school district budget.

[NOTE: Before adopting selection criteria, the school board is strongly encouraged to consult with the licensed library media specialist, who possesses professional expertise and experience in selecting appropriate library materials. The school board may choose to adopt selection criteria specifically designed for each school building.]

[NOTE: A school board may choose to adopt similar selection criteria for classroom library materials, with the classroom teacher making selection decisions. If a school board chooses to address classroom libraries, the board can decide whether to follow the reconsideration process in this model policy or to create a different process for classroom library materials.]

- B. The library media specialist shall consult sources and specialists experienced in library materials collections appropriate for the building's students and that are reputable, experienced, unbiased, and professionally trained in school library materials.

[NOTE: The school board may choose to identify specific sources and specialists that satisfy this paragraph.]

- C. The superintendent or the superintendent's designee shall be responsible for keeping the school board informed of progress on review and selection of each building's library materials.
- D. Library materials that are outdated, inaccurate, no longer useful for curricular support or reading enrichment, or have not been utilized for an extended period of time may be removed. Library materials that are in poor physical condition may be removed or replaced as determined by the library media specialist or the principal.
- E. Gifts and Donations of Library Materials

Materials offered for donation or gifted to a school library may be accepted if they comply with the library collection selection criteria and approved by the library media specialist. The school district's libraries welcome donations of books and other resource materials from individuals and organizations, but also reserve the right to decline to accept library materials that do not meet the criteria for selection. In addition, financial donations to

benefit school district's libraries will be accepted with the understanding that funds will be used to purchase materials that are needed for libraries based on the needs of the individual schools.

V. INDIVIDUAL STUDENT ACCESS TO SPECIFIC LIBRARY MATERIAL

A parent or guardian may request that access to specific material in the library materials collection be restricted from their student. The school shall take reasonable steps to fulfill this request. This type of request will not result in removal of specific library collection material from the library or restrictions upon any other student accessing specific library materials.

VI. RECONSIDERATION OF SPECIFIC LIBRARY MATERIAL

- A. The school board seeks to uphold students' access to library materials that meet the educational goals and selection criteria set forth in this policy.
- B. A school district employee, student, or a parent or guardian of a school district student may request reconsideration of specific library material on the basis of appropriateness. Access to the material in question shall not be restricted until the procedures listed below have been fully completed and a decision to remove or restrict the materials has been made.

[NOTE: The school board may decide whether to allow a building principal to remove library materials pending completion of the reconsideration process.]

- C. Informal Request for Reconsideration of Specific Library Material
 - 1. Requests for reconsideration of specific library material shall be directed to the library media specialist and the building principal. The building principal and the library media specialist shall assume responsibility for processing the request on an informal basis.
 - 2. The building principal and/or the library media specialist shall provide an explanation to the individual who submitted the request. The explanation shall include the particular selection criteria that the material in question met in order to be included in the library as curriculum support or as an independent reading choice for students in the building.
 - 3. If the request is not resolved informally, the principal shall submit a report on the matter to the superintendent or the superintendent's designee. The requestor will have an option to initiate a Formal Request for Reconsideration.
- D. Formal Request for Reconsideration of Specific Library Collection Material
 - 1. A Formal Request for Reconsideration of specific library material is initiated upon submission of a completed *Formal Request for Reconsideration of Specific Library Collection Material* form. The form must be completed in its entirety for each work that is subject to a request for reconsideration. The principal shall notify the superintendent or the superintendent's designee and the library media specialist of receipt of a completed Formal Request form.

If specific library material is the subject of a Formal Request for Reconsideration and a final decision is made to retain the specific library material, then the specific library material shall not be subject to additional requests for reconsideration for three years following the date of final resolution of the initial

Formal Request for Reconsideration.

2. On an annual basis, the Superintendent or the superintendent's designee shall appoint a Library Materials Review Committee (Review Committee). This committee shall include:
 - a. One member of the school district administration
 - b. One principal
 - c. Two teachers
 - d. One library media specialist (or district media specialist or public librarian if the school district does not have a library media specialist)
 - e. Two members of the school district community with no direct connection with the request for reconsideration
 - f. Two student representatives (as appropriate to the specific request).

[NOTE: This list of Review Committee members is an example. The school board may alter this list. The school district may decide to create Review Committees for individual schools.]

3. The Review Committee shall establish a date upon which it will discuss the request and whether the specific library collection material conforms to the selection criteria set forth in this policy.
4. The Review Committee
 - a. may consult individuals, organizations, and other resources with relevant professional knowledge on school library material;
 - b. shall examine the specific library material as a whole;
 - c. shall examine the specific library material as to its conformance with the criteria for selection of library materials; and
 - d. shall submit a written report to the superintendent or the superintendent's designee containing the Review Committee's decision on whether to retain, to remove, or to take other action regarding the specific library material.
5. The superintendent or the superintendent's designee shall inform the requestor and the school board of the Review Committee's decision. The requestor may appeal the Review Committee's decision to the superintendent or the superintendent's designee by submitting a written appeal to the superintendent or the superintendent's designee within fourteen (14) days of submission of the Review Committee's decision to the requestor. The superintendent or the superintendent's designee shall provide a written decision on a requestor's appeal within a reasonable time period.

[NOTE: The school board can decide whether to allow appeal of a Review Committee decision to the superintendent or the superintendent's designee. If appeal to the superintendent or the

superintendent's designee is permitted, the school board may direct the superintendent or the superintendent's designee to craft an appeal process or the board may choose to create the process itself.]

6. The requestor shall have the right to appeal the decision of the superintendent or the superintendent's designee to the school board.

[NOTE: The school board may decide whether to allow an appeal of a Review Committee decision directly to the school board or whether the appeal to the superintendent or the superintendent's designee is a required intermediary step. If appeal to the school board is permitted, the school board may direct the superintendent or the superintendent's designee or designee to craft an appeal process or the board may choose to create the process itself.]

Legal References:

Minn. Stat. § 120A.22, Subd. 9 (Compulsory Instruction)
Minn. Stat. § 123B.02 (General Powers of Independent School Districts)
Minn. Stat. § 123B.09 (School Board Responsibilities)
Minn. Stat. § 124D.901 (Public School Libraries and Media Centers)
Minn. Rules Part 8710.4550 (Library Media Specialists)
Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico, 457 U.S. 853 (1982)
Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624, 642 (1943)

Cross References:

MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)
MSBA/MASA Model Policy 606 (Textbooks and Instructional Materials)



Newsletter

October 19, 2023

Model Policy 606.5: Library Materials

In response to requests from MSBA members, the Minnesota School Boards Association (MSBA) has created a model policy for selection and reconsideration of library materials. The objective is to support school districts and charter schools in establishing processes that are clear, that include input from students, families, and school staff, and that rely upon the experience and training of school staff.

As with other MSBA model policies, Model Policy 606.5 offers Notes that explain items and which offer guidance to school boards on decisions that they may choose to make as they engage in the policy adoption process.

The model policy language is presented as a stand-alone policy. School boards may choose to revise MSBA Model Policy 606 (Textbooks and Instructional Materials) in order to group all policies regarding materials selection and reconsideration in a single policy. If a school board chooses to amend Model Policy 606:

1. MSBA recommends that the policy be renamed as “Textbooks, Instructional Materials, and Library Materials.”
2. Articles I and II of Model Policy 606.5 (*Purpose* and *General Statement of Purpose*) can be embedded in the corresponding articles of Policy 606.
3. Articles III through VI of Model Policy 606.5 can be added as new articles VI through IX of Model Policy 606.

**MSBA is finalizing a sample Reconsideration of Materials form, which should be available soon.

Whether a school board adopts a stand-alone policy or chooses to embed the language in an existing policy, Model Policy 208’s provisions regarding a multi-meeting process would likely apply.

Instructions to access the Policy Manual online

1. Please visit www.mnmsba.org.
2. Go to the Resources tab and select Policies
3. Log into the Members area (access is limited to Policy Services subscribers)
4. Click on Policy 606.5
5. A clean version for download can be found at the bottom of the Policy 606.5 webpage, below the Legal References and Cross References. Because this is a new policy, no redline version is available.

If you have questions about Policy Services, how to navigate the online Policy Reference Manual, or the content of model policies, please contact Terry Morrow by email at tmorrow@mnmsba.org

Jaymyson Sillman (jsillman@mnmsba.org) can assist if technological issues arise related to accessing the model policies or the revisions.





Rock Ridge Public Schools

1405 Progress Parkway

Adopted: September 28, 2020

Revised: October 24, 2022

606 TEXTBOOKS AND INSTRUCTIONAL MATERIALS

I. PURPOSE

The purpose of this policy is to provide direction for selection of textbooks and instructional materials.

II. GENERAL STATEMENT OF POLICY

The school board recognizes that selection of textbooks and instructional materials is a vital component of the school district's curriculum. The school board also recognizes that it has the authority to make final decisions on selection of all textbooks and instructional materials.

III. RESPONSIBILITY OF SELECTION

- A. While the school board retains its authority to make final decisions on the selection of textbooks and instructional materials, the school board recognizes the expertise of the professional staff and the vital need of such staff to be primarily involved in the recommendation of textbooks and instructional materials. Accordingly, the school board delegates to the superintendent the responsibility to direct the professional staff in formulating recommendations to the school board on textbooks and other instructional materials.
- B. In reviewing textbooks and instructional materials during the selection process, the professional staff shall select materials that:
1. support the goals and objectives of the education programs;
 2. consider the needs, age, and maturity of students;
 3. foster respect and appreciation for cultural diversity and varied opinion;
 4. fit within the constraints of the school district budget;
 5. are in the English language. Another language may be used, pursuant to Minnesota Statutes section 124D.61;
 6. permit grade-level instruction for students to read and study America's founding documents, including documents that contributed to the

foundation or maintenance of America's representative form of limited government, the Bill of Rights, our free-market economic system, and patriotism; and

7. do not censor or restrain instruction in American or Minnesota state history or heritage based on religious references in original source documents, writings, speeches, proclamations, or records.

C. The superintendent 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. Such procedures and guidelines shall provide opportunity for input and consideration of the views of students, parents, and other interested members of the school district community. This procedure shall be coordinated with the school district's curriculum development effort and may utilize advisory committees.

IV. SELECTION OF TEXTBOOKS AND OTHER INSTRUCTIONAL MATERIALS

A. The superintendent shall be responsible for keeping the school board informed of progress on the part of staff and others involved in the textbook and other instructional materials review and selection process.

B. The superintendent shall present a recommendation to the school board on the selection of textbooks and other instructional materials after completion of the review process as outlined in this policy.

V. RECONSIDERATION OF TEXTBOOKS OR OTHER INSTRUCTIONAL MATERIALS

A. The school board recognizes differences of opinion on the part of some members of the school district community relating to certain areas of the instruction program. Interested persons may request an opportunity to review materials and submit a request for reconsideration of the use of certain textbooks or instructional materials.

B. The superintendent shall be responsible for the development of guidelines and procedures to identify the steps to be followed to seek reconsideration of textbooks or other instructional materials.

C. The superintendent shall present a procedure to the school board for review and approval regarding reconsideration of textbooks or other instructional materials. When approved by the school board, such procedure shall be an addendum to this policy.

Legal References: Minn. Stat. § 120A.22, Subd. 9 (Compulsory Instruction)
Minn. Stat. § 120B.235 (American Heritage Education)

Minn. Stat. § 123B.02, Subd. 2 (General Powers of Independent School Districts)

Minn. Stat. § 123B.09, Subd. 8 (School Board Responsibilities)

Minn. Stat. § 124D.59-124D.61 (Education for English Learners Act)

Minn. Stat. § 127A.10 (State Officials and School Board Members to be Disinterested; Penalty)

Hazelwood Sch. Dist. v. Kuhlmeier, 484 U.S. 260 (1988)

Pratt v. Independent Sch. Dist. No. 831, 670 F.2d 771 (8th Cir. 1982)

Cross References: Policy 603 (Curriculum Development)
Policy 604 (Instructional Curriculum)