

Work Session

Monday, July 17, 2023 5:00 PM

ECC 350 and Virtual, 5701 Normandale Road, Edina, MN 55424

I. Determination of Quorum and Call to Order

II. Approval of Agenda



**School Board Work Session
Monday, July 17, 2023; 5:00 PM
ECC Room 350 and Virtual***

- I. Determination of Quorum and Call to Order**
- II. Approval of Agenda**
- III. Discussion**
 - A. Liaison Roles
Description: The board has multiple liaison and representative appointments that are advisory in nature and serve to facilitate communication and relationships between the school board, district and local, regional and state organization to further the interest of the school district. These roles are approved annually by the school board.
Presenter(s): Governance Committee
 - B. Draft Elections Cooperation Agreement Update
Description: An update on the draft election cooperation agreement will be presented.
Presenter(s): Dr. Stacie Stanley, Superintendent
 - C. Overview: Changes from the 2023 Legislative Session Related to Discipline
Description: Counsel will provide an overview of the changes related to school discipline that resulted from legislative action.
Presenter(s): Trevor Helmers, Attorney – Squires, Waldspurger & Mace, P.A.
- IV. Leadership and Committee Updates**
- V. Superintendent Updates**
- VI. Adjournment**

* One Board member will be participating virtually from 25617 Silver Beach Road, Glenwood, MN 56334

III. Discussion

III.A. Liaison Roles



Board Meeting Date: July 17, 2023

Title: Board Liaisons

Type: Discussion

Presenter: Governance

Description: The board has multiple liaison and representative appointments that are advisory in nature and serve to facilitate communication and relationships between the school board, district and local, regional and state organization to further the interest of the school district. These roles are approved annually by the school board.

Recommendation: Board members are to review the roles that need board representation and come to the July 17th work session prepared to discuss and volunteer for various roles. All roles will need to be filled and all board members should plan to participate in a variety of roles. It is understood that some roles have a greater time commitment than other roles and a collective effort will be made to distribute workload amongst all board members.

The board will also discuss a communication plan to inform organizations of any changes in board representation.

Desired Outcomes from the Board: Approve the completed board liaison document via consent at the August regular board meeting.

Attachments: 2023-2024 Board Liaison Document

	Term Renewed	FUNCTION	2023-2024 School Year Proposal	2022-2023 Board Assignment	Proposed 2023-2024 Board Assignment
ASSOCIATIONS					
AMSD	JUNE	AMSD advocates for metropolitan school districts and advances legislation supporting student achievement. The Bd of Directors, comprised of the superintendent & 1 school board member from each of the 44 member school districts, governs the association. Board representative also serves on LAC.	One board member attends AMSD meetings monthly and ongoing representation	Julie Greene	
MSBA	JUNE	Supports, promotes, enhances the work of public school boards and public education. Bd of Directors is comprised of 1 rep from each MSBA District. 6 divisions - Admin/Governance; Bd Devel/Training; Gov't Relations; Mgmt Svcs; Policy Svcs; PR/Communications.	One board member attends MSBA meetings monthly and ongoing representation	Dan Arom	
GROUPS					
Ed Fund	JUNE	Independent non-profit organization dedicated to continued EPS academic excellence. Secures private, supplemental funding to support valuable education experiences & innovative projects. Funds raised augment school system revenues provided by taxes, state aid, and other parent and student led fundraising efforts.	One board member attends Ed Fund meeting (twice yearly), ongoing representation as needed	Karen Gabler	
Talent Development Advisory Cmte	JUNE	Incls Talent Development Coord, teaching specialists, a principal rep, two volunteer parent reps from each school. Provides network for communication, support, and accountability	One board member attends the Talent Development Advisory Committee meetings, as scheduled and ongoing representation	Janie Shaw	
Student Voice Liaison	JUNE	SAAC -Student Activities Advisory Cmte; member of LAC; Seek out additional opportunities to garner student voice, with administration, assess current work already done by the district. Bring proposal to the board after the end of the 2023-2024 school year with any recommendations to elevate student voice to the board level.	One board member assigned	NEW	
Cultural Liaison Representative	JUNE	Add a liaison for cultural affinity groups and other identified groups. This liaison will work with our cultural liaisons and potential other identified groups and will develop a plan as to how to most effectively bring a broader stakeholder voice to the board and presents plan to board when prepared.	One board member assigned	NEW	
SEAC - Special Services Advisory Cmte and Mental Health & Wellness	JUNE	State required; promotes understanding of district-wide issues relating to education/welfare of EPS students. Incls reps of each school parent organization, EFC, PCN, Community Ed, & Ed Fund.	One board member attends SEAC meetings, monthly, and ongoing representation	Erica Allenburg and Michael Birdman	
World's Best Workforce	JUNE	State required, T&L driven, to ensure every district is making strides to increase student performance. State required, T&L driven, to ensure every district is making strides to increase student performance.	Two board members attend meetings	Erica Allenburg and Julie Greene	
Meet and Confer	JUNE	Policies and other matters related to employment other than terms and conditions of employment as defined by the Minnesota Public Employee Labor Relations Act	Board chair and Vice Chair	Erica Allenburg and Julie Greene	
Community Ed Services Advisory	JUNE	Provides input, direction & insight to Community Education, meets quarterly	One board member assigned	Julie Greene	
City Council	JANUARY	A committee dedicated to facilitating the partnership with the City of Edina. Two to three board members will be assigned to this committee, along with the Superintendent. It is recommended, but not required that the board chair and treasurer sit on this committee.	2-3 board members assigned	Erica Allenburg, Janie Shaw and Michael Birdman	
SCHOOL SITES					
ELC/ECSE	JUNE	Attend PTO or site council meetings only to share information about the board and collect information about site. It is recommended that the board members assigned to this does not have students in this site.	Board member attends every other month; site to receive monthly written board summary, and ongoing representation as needed	Karen Gabler	
Elementary Site Liaison 1: Concord, Countryside, Creek Valley	JUNE	Attend PTO or site council meetings only to share information about the board and collect information about site. Board members attend every third month; site to receive monthly written board summary. It is recommended that the board members assigned to this do not have students in any of these sites.	One board member rotates attendance at Concord, Countryside, Creek Valley monthly PTO meetings, and ongoing representation as needed	NEW	
Elementary Site Liaison 2: Cornelia, Highlands, Normandale	JUNE	Attend PTO or site council meetings only to share information about the board and collect information about site. Board members attend every third month; site to receive monthly written board summary. It is recommended that the board members assigned to this do not have students in any of these sites.	One board member rotates attendance at Cornelia, Highlands, Normandale monthly PTO meetings, and ongoing representation as needed	NEW	
Middle School Liaison	JUNE	Attend PTO or site council meetings only to share information about the board and collect information about site. It is recommended that the board members assigned to this do not have students in any of these sites.	Board members attend bi-monthly; site to receive monthly written board summary, and ongoing representation as needed.	NEW	
EHS	JUNE	Attend PTO or site council meetings only to share information about the board and collect information about site. It is recommended that the board members assigned to this does not have students in this site.	Board members attend bi-monthly; site to receive monthly written board summary, and ongoing representation as needed.	NEW	

***ISD 287 has been removed from this chart because it is more than a liaison role, it is a paid full board position that needs to be renewed annually in January.

<i>Board Calendar for PLC Attendance</i>					
September	Greene				
October	Shaw				
November	Neville				
December	Gabler				
January	Allenburg				
February	Arom				
March	Birdman				
April	-				
May	-				

Outline for Board Updates from Liaisons

This outline is considered a minimum expectation but updates can be brought at anytime.

August					
September	SEAC update				
October	Secondary sites update				
November	Elementary sites update, AMSD update				
December	ELC/ECSE update, MSBA update				
January	Community Ed Services Update, Talent Dev. update				
February	Secondary sites update, student voice liaison update, cultural liaison update				
March	Elementary sites update, AMSD update				
April	ELC/ECSE update, MSBA update				
May	Community Ed Services update, Talent Dev. update				
June	SEAC update				
July					

*WBW update will be given annual by Director of Teaching and Learning

Ed Fund - correspond with presentation from them and give and go. Have it on the board calendar annually.

Have student voice presentations on the board calendar annually

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III.B. Draft Elections Cooperation Agreement
Update



Board Meeting Date: 7/17/2023

Title: Draft Election Cooperation Agreement - Update

Type: Discussion

Presenter(s): City-District Committee

Description: Update on the Election Cooperation Agreement with the City. This has been reviewed by district legal counsel.

Recommendation: No recommendation at this time

Desired Outcomes from the Board: Please review this draft elections cooperation agreement.

Attachment(s): Draft election cooperation agreement.

DRAFT ELECTION COOPERATION AGREEMENT

This Election Cooperation Agreement (“Agreement”) is entered into between Independent School District No. 273, Edina Public Schools (“District”) and the City of Edina, Minnesota (“City”) to memorialize an understanding of the parties regarding cooperative efforts to carry out the District’s odd-year election activities.

Scope of Agreement

This Agreement applies to District elections and election-related activities during the District’s odd-year elections. This Agreement will remain in effect indefinitely, but may be terminated by either party by giving written notice to the other party at least ninety (90) days before the date of termination.

District Responsibilities

The District agrees to incur the following responsibilities under this Agreement:

- The District will provide election ballots and supply the consumable materials necessary to facilitate the District’s election activities.
- The District will provide, manage, and compensate professional support staff required by the District to carry out election activities (*e.g.*, information technology, human resources, legal, and communications professionals). The District will provide professional staff needed to support election judges and to provide technical support related to polling technology and equipment.
- In addition to city-generated communications about elections, the District is responsible for communications to the public, media, or election-authorities related to the District’s election activities.
- The District is responsible for all candidate filings and campaign finance disclosures.
- The District is responsible for ensuring that residents of local healthcare centers have access to the District’s elections.
- The District is responsible for complying with federal, state, and local election laws related to the District’s elections.
- The District will handle its special elections such as a bond or operations levy as outlined in the remainder of this document.
- The District will communicate with precinct voting locations provided by the City to coordinate the set up of precinct voting locations for the District’s elections.

- The District will sort, organize, prepare, and deliver the supplies and paperwork necessary to carry out the District's election activities to precinct voting locations provided by the City. The City will provide the District with access to the election room on the 2nd floor at Edina City Hall to allow the District to carry out these activities.

City Responsibilities

The City agrees to incur the following responsibilities under this Agreement:

- The City will make available sufficient physical space and access to parking at Edina City Hall for the District to complete absentee voting and early voting for District elections and other election-related activities, at no cost to the District.
- The City will provide access to the copier room in the copy office at Edina City Hall for the purpose of making copies necessary to carry out election-related activities. The City may charge the District for the cost of copies made by District staff.
- The City will make election day precinct voting locations available and accessible for District elections and other election-related activities, at no cost to the District.
- The City will supply furniture, fixtures, and equipment to carry out elections and other election-related activities, at no cost to the District, and the District will ensure that these materials are delivered to and collected from precinct voting locations.
- The City will supply polling technology and equipment to carry out elections and other election-related activities, at no cost to the District. The City will supply the District with the intellectual property information necessary for the District to access and use the polling technology and equipment (e.g., usernames, passwords, etc.). Only the District's election-implementation team shall have access to the City's election storage room, where the City's polling technology and equipment are stored.
- The District is responsible for obtaining and transporting polling technology and equipment to and from precinct voting locations.
- The District may leverage City staff and the City's transportation vendor to coordinate transportation and delivery of polling technology and equipment to and from precinct voting locations. The District shall be responsible for paying the transportation vendor if the District chooses to use the vendor.
- The City may charge the District for the time spent by City staff coordinating transportation with the transportation vendor.

- The City will provide the technical equipment and technology necessary to carry out election activities including items such as: internet access, electronic poll books, DS200 ballot scanner and vote tabulators, voting booths, at no cost to the District.
- The City will make an internet hotspot available at all voting locations to ensure the District has internet access at voting locations.
- The City will coordinate all required pre-election testing and post-election audits of voting technology and equipment with District staff.
- City staff will not touch test ballots during the pre-election testing. The District may leverage City staff to complete required testing and audits. The City may charge the District for the time spent by City staff completing required testing and audits.
- The City will maintain custody of ballots during early, absentee, and election day voting, with the exception of test ballots, which will be maintained solely by District staff. Completed ballots will be securely stored in the City Council office. Completed ballots will be accessible only to the District's election-implementation team.
- The City is responsible for ensuring that its polling places comply with the applicable federal, state, and local voting-place accessibility requirements. The District will communicate with polling places in advance of its elections to confirm each location complies with applicable laws and requirements, and will promptly notify the City if a polling location is not compliant.

Joint Responsibilities

The parties agree to share the following responsibilities under this Agreement:

- The City will recruit election judges to carry out election activities. The City will hire and pay election judges, but the District will reimburse the City for all payments to elections judges and any related election-judge expenses.
- The City will provide statutorily-required training to election judges for even-year elections, as required by law. To the extent additional training must be provided to carry out election activities, the parties will work together to ensure that training is provided.
- The parties agree that the data they each maintain is governed by the Minnesota Government Data Practices Act ("MGDPA") and other federal, state, and local laws related to elections. The parties each agree to comply with applicable data privacy laws that are implicated by this Agreement.

- The parties agree that this Agreement does not create a partnership or joint venture between them. Each party is responsible for its own acts and omissions, and the acts and omissions of its officials, employees, and agents to the extent authorized by law.

General Provisions

- Each party agrees to defend, indemnify, and hold harmless the other party from and against all claims, demands, liabilities, causes of action, costs and expenses (including reasonable attorneys’ fees) arising out of the acts and omissions of its own officials, employees, and agents. This provision survives the termination of this Agreement.
- The parties agree that this Agreement is governed by the laws of the State of Minnesota. If any part of this Agreement is deemed unenforceable or in violation of law, the remaining portions of the Agreement will remain in full force and effect.
- This Agreement is the entire agreement between the parties. No waiver or modification of any provision of this Agreement is valid unless it is in writing and signed by both parties.
- This Agreement may be signed in counterparts, and a copy or electronic reproduction of this Agreement will have the same legal effect as the original.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates shown below.

I.S.D. NO. 273, EDINA

CITY OF EDINA

By: _____
School Board Chair

By: _____
City Mayor

By: _____
School Board Clerk

By: _____
City Clerk

III.C. Overview: Changes from the 2023 Legislative
Session Related to Discipline



Board Meeting Date: 7/17/2023

Title: Overview: Changes from the 2023 Legislative Session Related to Discipline

Type: Discussion

Presenter(s): Trevor S. Helmers, Attorney – Squires, Waldspurger & Mace, P.A.

Description: Counsel will provide an overview of the changes related to school discipline that resulted from legislative action.

Recommendation: No Recommendation

Desired Outcome(s) from the Board: Review linked information and come prepared with questions for the presenter.

Attachment(s):

[MN Statute 121A.61 Current and 2023 Legislative Updates](#)

MN Statute Outline of Changes

[Minnesota Statute 121A.61](#) (2023 Legislative Session Changes are outlined below).

Sec. 26. Minnesota Statutes 2022, section 121A.41, is amended by adding a subdivision to read:

Subd. 12. **Nonexclusionary disciplinary policies and practices; alternatives to pupil removal and dismissal.** "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).

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

Sec. 27. Minnesota Statutes 2022, section 121A.41, is amended by adding a subdivision to read:

Subd. 13. **Pupil withdrawal agreement.** "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.

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

Sec. 28. Minnesota Statutes 2022, section 121A.425, is amended to read:

**121A.425 FULL AND EQUITABLE PARTICIPATION IN
~~PRESCHOOL AND PREKINDERGARTEN~~ EARLY LEARNING.**

MN Statute Outline of Changes

Subdivision 1. **Disciplinary dismissals prohibited.**

(a) A pupil enrolled in the following is not subject to dismissals under this chapter:

(1) a preschool or prekindergarten program, including ~~a child participating in an~~ early childhood family education, school readiness, school readiness plus, voluntary prekindergarten, Head Start, or other school-based preschool or prekindergarten program; ~~may not be subject to dismissals under this chapter;~~ or

(2) kindergarten through grade 3.

(b) This provision does not apply to a dismissal from school for less than one school day, except as provided under chapter 125A and federal law for a student receiving special education services.

(c) Notwithstanding this subdivision, expulsions and exclusions may be used only after resources outlined in subdivision 2 have been exhausted, and only in circumstances where there is an ongoing serious safety threat to the child or others.

Subd. 2. **Nonexclusionary discipline.**

For purposes of this section, nonexclusionary discipline must include at least one of the following:

(1) collaborating with the pupil's family or guardian, child mental health consultant or provider, education specialist, or other community-based support;

(2) creating a plan, written with the parent or guardian, that details the action and support needed for the pupil to fully participate in the current educational program, including a preschool or prekindergarten program; or

MN Statute Outline of Changes

(3) providing a referral for needed support services, including parenting education, home visits, other supportive education interventions, or, where appropriate, an evaluation to determine if the pupil is eligible for special education services or section 504 services.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 29. Minnesota Statutes 2022, section 121A.45, subdivision 1, is amended to read:

Subdivision 1. **Provision of alternative programs.** No school shall dismiss any pupil without attempting to ~~provide alternative educational services~~ use nonexclusionary disciplinary policies and practices before dismissal proceedings or pupil withdrawal agreements, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property.

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

Sec. 30. Minnesota Statutes 2022, section 121A.46, subdivision 4, is amended to read:

Subd. 4. **Provision of alternative education services; suspension pending expulsion or exclusion hearing.** (a) Alternative education services must be provided to a pupil who is suspended for more than five consecutive school days.

(b) Notwithstanding the provisions of subdivisions 1 and 3, the pupil may be suspended pending the school board's decision in the expulsion or exclusion hearing; provided that alternative educational services are implemented to the extent that suspension exceeds five consecutive school days.

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

Sec. 31. Minnesota Statutes 2022, section 121A.46, is amended by adding a subdivision to read:

Subd. 5. **Minimum education services.** School administration must allow a suspended pupil the opportunity to complete all school work assigned during the period of the pupil's

MN Statute Outline of Changes

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.

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

Sec. 32. Minnesota Statutes 2022, section 121A.47, subdivision 2, is amended to read:

Subd. 2. **Written notice.** Written notice of intent to take action shall:

(a) be served upon the pupil and the pupil's parent or guardian personally or by mail;

(b) contain a complete statement of the facts, a list of the witnesses and a description of their testimony;

(c) state the date, time, and place of the hearing;

(d) be accompanied by a copy of sections [121A.40](#) to [121A.56](#);

(e) describe ~~alternative educational services~~ the nonexclusionary disciplinary practices accorded the pupil in an attempt to avoid the expulsion proceedings; and

(f) inform the pupil and parent or guardian of the right to:

(1) have a representative of the pupil's own choosing, including legal counsel, at the hearing. The district ~~shall~~ must advise the pupil'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 Department of Education and is posted on their website;

MN Statute Outline of Changes

- (2) examine the pupil's records before the hearing;
- (3) present evidence; and
- (4) confront and cross-examine witnesses.

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

Sec. 33. Minnesota Statutes 2022, section 121A.47, subdivision 14, is amended to read:

Subd. 14. **Admission or readmission plan.** (a) A school administrator ~~shall~~ must prepare and enforce an admission or readmission plan for any pupil who is excluded or expelled from school. The plan ~~may~~ must include measures to improve the pupil's behavior, ~~including~~ which may include completing a character education program, consistent with section [120B.232, subdivision 1](#), ~~and require~~ 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 pupil of not improving the pupil's behavior.

(b) The definition of suspension under section [121A.41, subdivision 10](#), does not apply to a student's dismissal from school for ~~one school day or less than one school day~~, except as provided under federal law for a student with a disability. Each suspension action may include a readmission plan. A readmission plan must provide, where appropriate, alternative education services, which must not be used to extend the student's current suspension period. Consistent with section [125A.091, subdivision 5](#), a readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. School officials 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.

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

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Sec. 34. Minnesota Statutes 2022, section 121A.53, subdivision 1, is amended to read:

Subdivision 1. Exclusions and expulsions; student withdrawals; physical assaults.

Consistent with subdivision 2, the school board must report through the department electronic reporting system each exclusion or expulsion ~~and~~, each physical assault of a district employee by a ~~student~~ pupil, and each pupil withdrawal agreement within 30 days of the effective date of the dismissal action, pupil withdrawal, or assault, to the commissioner of education. This report must include a statement of ~~alternative educational services~~ nonexclusionary disciplinary practices, or other sanction, intervention, or resolution in response to the assault given the pupil 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 ~~student's~~ pupil's age, grade, gender, race, and special education status.

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

Sec. 35. Minnesota Statutes 2022, section 121A.55, is amended to read:

121A.55 POLICIES TO BE ESTABLISHED.

(a) The commissioner of education ~~shall~~ must promulgate guidelines to assist each school board. Each school board ~~shall~~ must establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections [121A.40](#) to [121A.56](#). The policies ~~shall~~ must include nonexclusionary disciplinary policies and practices consistent with section 121A.41, subdivision 12, and must emphasize preventing dismissals through early detection of problems ~~and shall~~. The policies must be designed to address students' inappropriate behavior from recurring.

(b) The policies ~~shall~~ 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 ~~towards~~ toward meeting the graduation standards adopted under section [120B.02](#) and help prepare the pupil for readmission in accordance with section 121A.46, subdivision 5.

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(d) For expulsion and exclusion dismissals and pupil withdrawal agreements as defined in section 121A.41, subdivision 13:

(1) for a pupil who remains enrolled in the district or is awaiting enrollment in a new district, a 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. A 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 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 district under section 245.4889 continues to be eligible for those services until the pupil is enrolled in a new district; and

(3) a 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 district or charter school website.

~~(b)~~ (e) An area learning center under section [123A.05](#) may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

~~(c)~~ (f) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education program from school grounds.

EFFECTIVE DATE. This section is effective for the 2023-2024 school year and later.

Sec. 36. Minnesota Statutes 2022, section 121A.58, is amended to read:

121A.58 CORPORAL PUNISHMENT; PRONE RESTRAINT; AND CERTAIN PHYSICAL HOLDS.

Subdivision 1. ~~Definition~~ **Definitions.**

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(a) For the purpose of this section, "corporal punishment" means conduct involving:

(1) hitting or spanking a person with or without an object; or

(2) unreasonable physical force that causes bodily harm or substantial emotional harm.

(b) For the purpose of this section, "prone restraint" means placing a child in a face-down position.

Subd. 2. **Corporal punishment not allowed.**

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.

Subd. 2a. **Prone restraint and certain physical holds not allowed.**

(a) 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 restraint.

(b) 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.

Subd. 3. **Violation.**

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Conduct that violates subdivision 2 is not a crime under section [645.241](#), but may be a crime under chapter 609 if the conduct violates a provision of chapter 609. Conduct that violates subdivision 2a is not per se corporal punishment under this statute. Nothing in this section or section 125A.0941 precludes the use of reasonable force under section 121A.582.

Sec. 37. Minnesota Statutes 2022, section 121A.61, subdivision 1, is amended to read:

Subdivision 1. **Required policy.** Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must contain the discipline complaint procedure that any member of the school community may use to file a complaint regarding the application of discipline policies and seek corrective action. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

Sec. 38. Minnesota Statutes 2022, section 121A.61, subdivision 3, is amended to read:

Subd. 3. **Policy components.** The policy must include at least the following components:

(a) rules governing student conduct and procedures for informing students of the rules;

(b) the grounds for removal of a student from a class;

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(c) the authority of the classroom teacher to remove students from the classroom pursuant to procedures and rules established in the district's policy;

(d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee;

(e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;

(f) provisions relating to the responsibility for and custody of a student removed from a class;

(g) the procedures for return of a student to the specified class from which the student has been removed;

(h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;

(i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;

(j) any procedures determined appropriate for encouraging early detection of behavioral problems;

(k) any procedures determined appropriate for referring a student in need of special education services to those services;

(l) any procedures determined appropriate for ensuring victims of bullying who respond with behavior not allowed under the school's behavior policies have access to a remedial response, consistent with section 121A.031;

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~~(h)~~ (m) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individualized education program of a student with a disability who is removed from class;

~~(n)~~ (n) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;

~~(o)~~ (o) the minimum consequences for violations of the code of conduct;

~~(p)~~ (p) procedures for immediate and appropriate interventions tied to violations of the code;

~~(q)~~ (q) a provision that states that a teacher, school employee, school bus driver, or other agent of a district may use reasonable force in compliance with section [121A.582](#) and other laws;

~~(r)~~ (r) an agreement regarding procedures to coordinate crisis services to the extent funds are available with the county board responsible for implementing sections [245.487](#) to [245.4889](#) for students with a serious emotional disturbance or other students who have an individualized education program whose behavior may be addressed by crisis intervention; **and**

~~(s)~~ (s) a provision that states a student must be removed from class immediately if the student engages in assault or violent behavior. For purposes of this paragraph, "assault" has the meaning given it in section [609.02, subdivision 10](#). The removal shall be for a period of time deemed appropriate by the principal, in consultation with the teacher;

(t) a prohibition on the use of exclusionary practices for early learners as defined in section 121A.425; and

(u) a prohibition on the use of exclusionary practices to address attendance and truancy issues.

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Sec. 39. Minnesota Statutes 2022, section 121A.61, is amended by adding a subdivision to read:

Subd. 4. **Discipline complaint procedure.** The discipline policy must contain procedures for students, parents and other guardians, and school staff to file a complaint and seek corrective action when the requirements of sections 121A.40 to 121A.61, including the implementation of the local behavior and discipline policies, are not being implemented appropriately or are being discriminately applied. Each district and school policy implemented under this section must, at a minimum:

(1) provide procedures for communicating this policy including the ability for a parent to appeal a decision under 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 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.

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Sec. 40. Minnesota Statutes 2022, section 121A.61, is amended by adding a subdivision to read:

Subd. 5. **School supports.** (a) A school board is strongly encouraged to adopt a policy that promotes the understanding in school staff that when a student is unable to meet adult expectations it is often because the student lacks the skills to respond to a situation appropriately. A school district must support school staff in using tiered interventions that teach students skills and prioritize relationships between students and teachers.

(b) A school board is strongly encouraged to adopt a policy that discourages teachers and staff from reacting to unwanted student behavior with approaches that take away the student's opportunity to build skills for responding more appropriately.

Sec. 41. [121A.611] RECESS AND OTHER BREAKS.

(a) "Recess detention" as used in this chapter 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) A school district or charter school 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) A school district or charter school 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

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(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) A school district or charter school must not withhold recess from a student based on incomplete schoolwork.

(e) A school district or charter school must require school staff to make a reasonable attempt to notify a parent or guardian within 24 hours of using recess detention.

(f) A school district or charter school 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. A school district or charter school is encouraged to use the data in professional development promoting the use of nonexclusionary discipline.

(g) A school district or charter school 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 section 124D.111 or other state or federal law.



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**STUDENT DISCIPLINE:
Updates from the 2023 Legislative Session**

July 17, 2023

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I. CHANGES FROM THE 2023 LEGISLATIVE SESSION RELATED TO DISCIPLINE

- A. Disciplinary Dismissals Prohibited.** Effective July 1, 2023, for students in a preschool or prekindergarten program and students in kindergarten through grade three, dismissal is prohibited. Dismissal is defined to include suspension, expulsion, and exclusion. This does not apply to dismissal for less than one school day, except as provided under chapter 125A and federal law for students receiving special education services. Minn. Stat. § 121A.425, subd. 1.
- 1. Dismissal Defined.** A dismissal is the denial of the current educational program to any student and includes exclusion, expulsion, and suspension. It does not include removal from class. Minn. Stat. § 121A.41, subd. 2.

NOTE: These materials and the corresponding presentation are meant to inform you of interesting and important legal developments. While current as of the date of presentation, the information that is provided may be superseded by court decisions, legislative amendments, rule changes, and opinions issued by bodies interpreting the area of law. We cannot render legal advice without an awareness and analysis of the facts of a particular situation. If you have questions about the application of concepts addressed in this outline or discussed in the presentation, you should consult with your legal counsel.

2. **Exception.** Expulsion or exclusion may only be used after nonexclusionary discipline has been exhausted and only in circumstances where there is an ongoing serious safety threat to the child or others. Minn. Stat. § 121A.425, subd. 1. Nonexclusionary discipline must include at least one of the following: 1) collaborating with the student’s family or guardian, child mental health consultant or provider, education specialist, or other community based support; 2) creating a plan, written with the parent or guardian, that details the action and support needed for the student to fully participate in the current education program; or 3) providing a referral for needed support services including parenting education, home visits, other supportive education interventions, or where appropriate, an evaluation to determine if the student is eligible for special education services or section 504 services.

B. Nonexclusionary Policies and Practices. Beginning with the 2023-2024 school year, a school cannot dismiss a student without first attempting to use nonexclusionary policies and practices unless the student will create an immediate and substantial danger to themselves or to surrounding persons or property. Minn. Stat. § 121A.45, subd. 1.

1. Most incidents that result in expulsion present an immediate and substantial danger to self, surrounding persons, or property.

2. **Definition of Nonexclusionary Policies and Practices.** Nonexclusionary policies and practices are 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.” Minn. Stat. § 121A.41, subd. 12.

3. School districts must implement a policy detailing their nonexclusionary policies and practices.

C. Suspension & Readmission Plans. According to the amendments to the statute on readmission plans, the definition of suspension under section 121A.41, subd. 10, “does not apply to a student’s dismissal from school for less than one school day, except as provided under federal law for a student with a disability.” Minn. Stat. § 121A.47, subd. 14(b). This implies that if a district dismisses a student for part of a school day that does not count as a suspension.

- D. Reporting Provision.** Beginning next school year, the school board must report through the MDE electronic reporting system each exclusion, withdrawal agreement, or expulsion within 30 days of the effective date of the action to the Commissioner. This report must include a statement of nonexclusionary disciplinary practices, or other sanctions given to the pupil 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. Minn. Stat. § 121A.53, subd. 1.
- E. Withdrawal Agreements.** Withdrawal agreements are now defined as “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.” Minn. Stat. §121A.41, subd. 13.
1. Withdrawal agreements must be reported to MDE in accordance with the provision above.
 2. If a Student signs a withdrawal agreement they must be accorded the services detailed below until they are enrolled in another district.
- F. Services During Expulsion, Exclusion, or if a Withdrawal Agreement has been executed.**
1. If a student remains enrolled in the district or is awaiting enrollment in a new district, the school district has a continuing responsibility to review the student’s schoolwork and grades on a quarterly basis to ensure the student is on track for readmission with the student’s classmates. The district must communicate on a regular basis with the student’s parents or guardian to ensure that the pupil is completing the work assigned through the alternative educational services. These services are required until the pupil enrolls in another school or returns to the same school. Minn. Stat. §121A.55(d)(1).
 2. A student receiving school-based or school-linked mental health services in the district continues to be eligible for those services until the student is enrolled in a new district. Minn. Stat. §121A.55(d)(2).
 3. A school district must provide the student’s parent or guardian information on accessing mental health services, including any free or sliding fee providers in the community. This information must also be posted on the district website. Minn. Stat. §121A.55(d)(3).

- G. Minimum Education Services During Suspension.** Beginning in the 2023-2024 school year, school districts must allow all suspended students the opportunity to complete all school work assigned during the period of the student's suspension. The student must have the opportunity to receive full credit for satisfactorily completing the assignments. Minn. Stat. § 121A.46, subd. 5.
1. School principals are encouraged to designate a district or school employee as a liaison to work with suspended students' teachers to allow the suspended students to timely receive course materials, complete daily and weekly assignments, and receive feedback from teachers on those assignments.
 2. This new provision applies to students regardless of the length of their suspension.
- H. Legal Assistance Resource List.** This document must be posted to the District website prior to the start of the 2023-2024 school year.
- I. Recess Detention & Other Breaks.**
1. **Recess Detention Defined.** Recess detention means excluding or excessively delaying a student from participating in a scheduled recess period as a consequence for student behavior.
 - a. Recess detention does **not** include providing alternative recess at the student's choice.
 2. **Prohibition on Recess Detention.** School districts can no longer 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 IEP team has determined that withholding recess is appropriate based on the individualized needs of the student. Minn. Stat. § 121A.611(c). Additionally, recess must not be withheld from a student based on incomplete schoolwork. *Id.* at (d).
 3. **Parent Notification.** School staff must make a reasonable attempt to notify a parent or guardian within 24 hours of using recess detention. Minn. Stat. § 121A.611(e).
 4. **Recess Detention Data.** School districts must compile information on each recess detention at the end of the school year, including the student's

age, grade, gender, race or ethnicity, and special education status. Minn. Stat. § 121A.611(f).

5. **Students that Do Not Have Recess.** For students in the upper grade levels, the statute encourages school districts to ensure that students are receiving their structured or scheduled breaks from the demands of school. Minn. Stat. § 121A.611(f).
6. **Mealtimes.** School districts must not withhold or excessively delay a student's participation in mealtimes. Minn. Stat. § 121A.611(g).

J. Reasonable Force.

1. Previously, a district staff member could only use reasonable force when it was necessary to prevent bodily harm or death to another.
2. Under the new reasonable force standard, a district employee may use reasonable force when necessary to prevent imminent bodily harm or death to the student or another. Minn. Stat. § 121A.582.
 - a. This allows staff to step in if a student is harming themselves as well as if they are harming or about to harm another.
3. District must report data on their use of any reasonable force used on a student with a disability.
4. Districts must annually report by July 15 data from the prior school year about any reasonable force used on a general education student.

K. Prone Restraints and Certain Physical Holds.

1. **Prone Restraints.** Placing a child in a face-down position is a prone restraint. Minn. Stat. §121A.58, subd. 1(b). Prone restraints should not be used by any district employees including school resource officers, security personnel, and police officers contracted with the district. *Id.* at 2a(a).
2. **Physical Holds.** Physical holds that restrict or impair a student's ability to breathe; restricts or impairs a student's ability to communicate distress; places pressure or weight on a student's head, throat, neck, chest, lungs, sternum, diaphragm, back or abdomen; or results in straddling a student's torso is prohibited. Minn. Stat. §121A.58, subd. 2a(b).

3. **Reasonable Force.** This section does not preclude the use of reasonable force under section 121A.582.

L. Policies and Procedures Related to Discipline that are Required to be Implemented. Beginning in the 2023-2024 school year, there are several new policies and practices required by law in addition to the policy on Nonexclusionary disciplinary policies.

1. **Alternative Educational Services.** The district is responsible for ensuring that alternative educational services are adequate to allow a student to make progress towards graduation standards and help prepare the student for readmission. Minn. Stat. §121A.55(b).
2. **Complaint Procedures.** School districts are now required to implement a policy that details the procedure that may be used for any member of the school community to file a complaint regarding the application of discipline policies and seek corrective action. Minn. Stat. § 121A.61, subd. 1. If a complaint is made, the school must allow the involved parties to submit additional information related to the complaint and then begin to investigate the complaint within three (3) school days of receipt. Once the investigation is complete, a written determination on the complaint should be made addressing each allegation and containing findings and conclusions. If it is found that requirements of Minn. Stat. § 121A.40 to 121A.61 have not been followed, then a corrective action plan to correct the student’s record and provide training to staff must be completed. There can be no retaliation or reprisal against a person who submits a complaint. Minn. Stat. § 121A.61, subd. 4.
3. **Written Rules of Conduct for Students.** The policy governing student conduct (Policy 506) must now include 1) any procedures determined appropriate for ensuring victims of bullying who respond with behavior not allowed under the school’s behavior policies have access to remedial response; 2) a prohibition on the use of exclusionary practices for students in preschool or prekindergarten through third grade; and 3) a prohibition on the use of exclusionary practices to address attendance and truancy issues. Minn. Stat. § 121A.61, subd. 3(1)(t)&(u).
4. **Malicious and Sadistic Conduct.** Along with the bullying policy statutes, the legislature added a statute on malicious conduct.
 - a. Malicious and sadistic conduct is defined as “creating a hostile learning environment by acting with the intent to cause harm by intentionally injuring another without just cause or reason or

engaging in extreme or excessive cruelty or delighting in cruelty.”
Minn. Stat. § 121A.0312(a).

- b. Districts must adopt a policy to address malicious and sadistic conduct and sexual exploitation by a district staff member, independent contractor, or student enrolled in a public school against a staff member, independent contractor, or student that occurs under the scope of bullying.
- c. The policy must prohibit malicious and sadistic conduct involving race, color, creed, national origin, sex, age, marital status, status with regard to public assistance, disability, religion, sexual harassment, and sexual orientation and gender identity and sexual. Minn. Stat. § 121A.0312(b).
- d. This policy must apply to student, independent contractors, teachers, administrators and other personnel. Moreover, it must comply with the local policy components described in subdivision 4 of the bullying policy statute. Additionally, it must include disciplinary actions for each violation of the policy.
 - i. Disciplinary actions must comply with collective bargaining agreements and the Pupil Fair Dismissal Act.
- e. This policy must be posted throughout each school building, distributed to each district employee at the time of hiring or contracting and must be included in the school’s handbook on policies. Each school must develop a process for discussing this policy with all school staff, students, and contractors.

M. Policies that are Encouraged. There are two policies that the new statutes encourage school districts to implement. *See* Minn. Stat. Stat. § 121A.61, subd. 5.

- 1. School boards are encouraged to adopt a policy that promotes the understanding in school staff that when a student is unable to meet adult expectations it is often because the student lacks the skills to respond to a situation appropriately. The school district must support school staff in using a tiered intervention system that teaches students skills and prioritizes relationships between students and teachers.
- 2. School boards are encouraged to adopt a policy that discourages teachers and staff from reacting to unwanted student behavior with approaches that

take away the student's opportunity to build skills for responding more appropriately.

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IV. **Leadership and Committee Updates**

V. **Superintendent Updates**

VI. **Adjournment**