



- D. The 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 District personnel found to have violated this Policy.
- E. Retaliation against a victim, good faith reporter, or a witness of harassment is prohibited.

### III. POLICY DISSEMINATION 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 District employee and independent contractor who regularly interacts with students at the time of initial employment with the District.
- C. This Policy shall appear in the student handbook.
- D. The District will develop a method of discussing this Policy with students and employees.
- E. The 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 respect, responsibility, integrity, citizenship, and honesty.
- F. This Policy shall be reviewed at least annually for compliance with state and federal law.

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| Board Adopted:           | March 28, 1995   |
| Board Revised:           | March 22, 1999   |
|                          | February 14, 2005  |
|                          | September 22, 2008   |
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| Contact Person:          | Executive Director of Human Resources; Assistant Superintendent        |

## **REGULATIONS 413                      HARASSMENT AND VIOLENCE**

### **I.        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, immigration status, status with regard to public assistance, sexual orientation, including gender identity or expression, immigration status, or disability when the conduct:**

1.        has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
2.        has the purpose or effect of substantially or unreasonably interfering with an individual’s work or academic performance; or
3.        otherwise adversely affects an individual’s employment or academic opportunities.

- C. “Immediately” means as soon as possible but in no event longer than 24 hours.
- D. Protected Classifications; Further Clarifications:
1. “Disability” means, with respect to an individual who:
    - a. has 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 minor’s having legal status or custody with:
    - a. the minor’s parent or parents or the minor’s legal guardian or guardians;
    - b. the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian or guardians. Familiar status also means residing with and caring for one or more individuals who lack the ability to meet essential requirements for physical health, safety, or self-care because the individual or individuals are unable to receive and evaluate information or communicate decisions; or
    - c. 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. “Immigration Status” means the state of an individual’s immigration classification status.
  4. “Marital status” means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment or discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.
  5. “National origin” means the place of birth of an individual or of any of the individual’s lineal ancestors.
  6. “Sex” includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
  7. “Sexual orientation” means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as

having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical

8. "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.
- 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 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.

II. REPORTING PROCEDURES

- A. Any person who believes they have been the target or victim of harassment or violence on the basis of Protected Class by a student, teacher, administrator, or other 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 District personnel or group of students, teachers, administrators, or other District personnel should report the alleged acts immediately to an appropriate District official designated by this policy. A person may report conduct, that may constitute harassment or violence anonymously. However, the District may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. The District encourages the reporting party or complainant to use the on-line form that is hosted on all Bloomington Public Schools websites, 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 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 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 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 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. Staff, school administrators, volunteers, or contractors 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. 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 appropriate 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 Executive Director of Human Resources and the Assistant Superintendent as the 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 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 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 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 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 District property and events and/or termination of services and/or contracts.

### III. INVESTIGATION

- A. By authority of the 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 District officials or by a third party designated by the 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 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 District may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, teachers, administrators, or other 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 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.

#### IV. DISTRICT ACTION

- A. Upon completion of an investigation that determines a violation of this policy has occurred, the 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. District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and applicable District policies and regulations.
- B. The 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 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 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.

#### V. RETALIATION OR REPRISAL

The District will discipline or take appropriate action against any staff member or administrator 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.

#### VI. 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.

#### VII. 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 Statutes Chapter. 260E. may be applicable.
- B. Nothing in this policy will prohibit the District from taking immediate action to protect victims of alleged harassment, violence, or abuse.