



# Minnesota State Academies Board

Tuesday, April 13, 2021 at 2:00 PM

Policy Committee Meeting

Electronic Means

615 Olof Hanson Drive

Faribault, MN 55021

*Join Zoom Meeting*

*Link to Zoom Mtg*

*Meeting ID: 826 6012 7820, Passcode: MSA\*PC*

*One tap mobile +13126266799,,82660127820#,,,,\*746863# US (Chicago)*

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- |  |    |
|--|----|
| 1. Call to Order                               |    |
| 2. Meeting Minutes Review                      | 2  |
| 3. Policies to Review from MSBA - None         |    |
| 4. Policies to Review for a Second Reading     |    |
| 5. Policies to Review to be Revised - None     |    |
| 6. Policies to Review Prior to a First Reading | 4  |
| 7. Policies to Review for Reauthorization      | 18 |
| 8. Adjourn                                     |    |

INDIVIDUALS WHO REQUIRE ACCOMMODATIONS  
SHOULD CONTACT LOLA BRAND  
EMAIL: [lola.brand@msa.state.mn.us](mailto:lola.brand@msa.state.mn.us)  
PHONE: (507) 384-6602 / VP: (507) 412-5109

## **Minutes of Policy Committee Meeting Minnesota State Academies Board**

A Policy Committee Meeting of the Minnesota State Academies Board was held Monday, March 8, 2021 beginning at 2:00pm via Zoom video Meeting.

Present: Marty Duncan; Board Member, Jamers Speier; Board Member, Terry Wilding; Superintendent, Bridget Buckingham; HR Director, Jody Olson; MSAD Assistant Director

Absent: Kerry Vigesaa, HR Specialist 1

### 1. Call to Order

2:05 pm

### 2. Review Meeting Minutes

- a. February 8, 2021 Meeting Minutes - Approved

### 3. Policies to Review from MSBA

- a. Policy 906 – Community Notification of Predatory Offenders

Terry will bring to this committee next month information on persons not allowed on campus. All agreed this policy should be implemented. Terry will work on it and bring it back for review.

### 4. Policies to Review for a Second Reading

- a. Policy 752 - MSA Museums Collections Management

This policy needs some more adjustments in the area of how alumni are involved in the museum. Terry and Jody will work together on the language.

### 5. Policies to Review to be Revised

- a. Policy 208 - Development, Adoption, and Implementation of Policies

No changes

- b. Policy 401 - Equal Employment Opportunity

No changes

- c. Policy 404 - Employment Background Checks

Include intermittent employees.

d. Policy 412 - Expense Reimbursement

Missing the word "legal" in the references area.

e. Policy 440 - Reasonable Accommodations

No changes

f. Policy 444 - Driver's License and Record Checks

No Changes

g. Policy 451 - Social Media

Section 5 personal information paragraph F should also state that we encourage employees to not put in any personal information on social media sites.

h. Policy 455 - Employee Code of Conduct

Remove or change "long distance telephone misuse" in IX (A). Possibly use "electronic device misuse" Terry will work on that language.

Terry will also review some policies with the ILT (Instructional Lead Team).

6. Policies to Review Prior to a First Reading

a. Policy 751 - Library Collection

The Library committee worked on this and wanted our opinion on it. Jody thought that A-J were good points but maybe bias should be expanded on. Terry will revise and bring back to April's policy committee before 1<sup>st</sup> reading.

7. Board Procedures to Review Prior to Board Approval – none

Additional discussion was the meeting start time and it was decided to move the meeting time to 2:15pm

8. Adjourn – 2:35pm

Policy #: <b>751</b>
Title: <b>MSA LIBRARY COLLECTIONS MANAGEMENT</b>
Date of Initial Approval: <b>NEW</b>
Revision/Re-authorization Dates:
Reviewers: MSA Superintendent; MSA Campus Directors; MSA Director of Student Support Services; MSA Librarian; MSA Library Committee

**I. PURPOSE**

The purpose of this policy is to act as a guide for Minnesota State Academies (MSA) libraries, primarily the MSAD student library, the MSA curriculum/resource library, and other resources within the library software system, to assign responsibilities and develop strategies that foster literacy development at MSA, and to ensure school community participation in decisions regarding selection, purchase, and as needed, removal of library books, resources, media, and materials. Other libraries may be added to the scope of this policy as determined by the MSA Library Committee (i.e., curriculum libraries, subject-specific libraries). This policy does not include the Minnesota Resource Libraries' collection (refer to MSA Policy #750).

**II. MISSION STATEMENT OF THE MSA LIBRARIES**

The mission of the MSA libraries is to foster language development and growth within a supportive learning environment that includes all aspects of informational resources in multiple formats and accessibility. Through culturally responsive material, the MSA libraries encourage students to become critical thinkers, innovative learners, and lifelong readers.

**III. GENERAL STATEMENT OF POLICY.**

The MSA board recognizes that MSA libraries are a vital component of student success. The MSA board also assigns the responsibility of selection, purchase, and removal of library books, resources, media, and materials to the MSA Library Committee.

The MSA Libraries have five primary roles:

1. Deliver current, accessible materials of high interest in a variety of formats for students of all ages and their families.
2. Maintain collaboration between library staff and educational staff by providing timely, accurate information and instruction.
3. Maximize use of resources which are technologically advanced to foster language development and academic growth.
4. Provide access to learning for students by promoting enjoyment of reading, curiosity for information, and space for innovation.
5. Collaborate with the Minnesota Resource Libraries and other agencies to obtain resources for students and staff.

**IV. DEFINITIONS**

**A. MSA Library Committee** - composed of librarian(s), one administrator, and at least one educational staff member. The committee will invite additional participants as needed to reflect the current library needs (i.e., elementary teachers for purchasing elementary level books). The committee will meet once a month. The Library

Committee members, other than the librarian, will serve a two-year term for consistency purposes.

- B. Materials** - print and non-print items that are available for teachers, educational staff, and students and their families. This includes materials such as classroom book sets, supplemental resources, and magazine subscriptions (i.e. Scholastic Weekly Reader).
- C. Curriculum and Related Materials** – print and non-print items related to classroom curriculum content (i.e., textbooks, workbooks, supplemental books, videos)  
*Note: The Library Committee is not responsible for the curriculum or assessment selection process as that is managed by the School Accountability Committee (MSA Policy #616).*
- D. Digital Media** – digital files and resources, including DVD, CDs, or any pre-recorded materials available to the public via the Library database and MSA-approved website(s).
- E. Multiple formats** – Resources and activities that the library provides should be available in multiple formats, including but not limited to: print and non- print materials, Braille, digital media, read aloud groups, family activities, and group & independent reading.
- F. Resources** – Resources other than books, printed material, or media which support technology-related skill development, including but not limited to 3-D printing, ASL lab, interactive monitors/panels, interactive tables, video editing programs, projectors, Visio books, Braille readers, eBooks, makerspace, and similar equipment/tools.

## V. **SELECTION CRITERIA FOR LIBRARY MATERIALS**

The Library Committee is responsible for the review, evaluation, and selection of materials for the school library collection. Decisions made by the committee will be guided by the philosophy and criteria set forth in this policy. The committee works cooperatively with administrators and educational staff to provide resources that represent diverse points of view, stimulate growth in language and critical thinking skills, and promote the overall educational program. The collection of library materials is developed to meet both curricular and individual needs. To ensure that these needs are met, the committee is responsible for the application of selection criteria and use of recommended selection tools. All purchases, including gifts and donations, should meet the same selection standards.

The selection criteria below reflect the MSA libraries mission statement and supports the principles of intellectual freedom described in the Library Bills of Rights (ALA), Students' Right to Read (NCTE), and other position statements on intellectual freedom from the American Library Association and the American Association of School Libraries. The following is the book selection criteria:

- A. Appropriate for students with diverse needs:** Library materials and media should be provided to meet curricular needs and the individual needs, interests, and learning

styles of all students at all levels. Materials will be made accessible as much as possible for students as required by MSA Policy #121.

- B. Appropriate for recommended levels:** Library materials and media should be accessible to students of varied abilities and meet informational and interest needs of all students.
- C. Appropriate format to effectively teach the curriculum:** Library materials and media should be available in a variety of formats, e.g. print, nonprint, electronic, multimedia, to meet the needs and learning styles of a diverse student population.
- D. Accurate in terms of content:** Library materials and media should present facts in an objective manner. Authority of the author, organization, publisher/producer should be a consideration in selection.
- E. Cost effective in terms of use:** Library materials and media should be evaluated for cost effectiveness in terms of accessibility, projected use, and durability.
- F. Free of bias and stereotypes:** Library materials and media should reflect the basic humanity of all people and be free of stereotypes, caricatures, distorted dialect, sexual bias, and other offensive characteristics. Library materials and media concerning religious, social, and political content should inform rather than indoctrinate. [Anti-bias and anti-racism principles will be utilized when ordering materials and media to ensure support for the diverse backgrounds of our students.](#)
- G. Pertinent to the curriculum and the objectives of the instructional program:** Library materials and media should reflect the curriculum utilized by MSA and support the objectives of MSA's instructional programs. Materials and media should be purchased to support learning that is happening within MSA classrooms.
- H. Recent copyright date as appropriate to the subject:** Library materials and media should be assessed for currency and relevance of the information as it relates to the content and purpose of the item.
- I. Reflective of the pluralistic nature of a global society:** Library materials and media should provide a global perspective and promote diversity as a positive attribute of our society. It is important to include materials by authors and illustrators of all cultures.
- J. Representative of differing viewpoints on controversial subjects:** Students have the right to information on both sides of a controversial issue. By having access to a variety of resources, students will have the knowledge base to develop critical thinking and problem-solving skills. The school library must provide free and equitable access to all information.

## VI. SELECTION TOOLS

The Library Committee will consider recommendations from teachers, students, and parents. Communication with teachers to assess curriculum needs and recommendations for purchase is an important part of the selection process. Suggestions

from students and parents are crucial to the selection process as well. The following professional resources are available to assist the Library Committee in the selection process; however, selection is not limited to the use of these tools.

- Booklist
- School Library Journal
- Horn Book
- Book Wire
- Caldecott Medal Home Page
- Coretta Scott King Award Home
- Junior Library Guild
- Newbery Medal Home Page
- Pura Belpre Award Homepage
- Voice of Youth Advocates (VOYA)
- MultiCultural Review
- Publishers Weekly
- Children's Literature Review
- Library Media Connection

#### **VII. PURCHASE PROCESS**

The Library Committee will follow MSA policies and procedures for all purchases. The librarian will work with our business office to determine the best vendors and costs to acquire materials and media that are selected by the committee.

#### **VIII. GIFTS AND DONATIONS**

Aligned with MMB Statewide Operating Procedure 602-12 (Gift Acceptance), members of the school community are encouraged to support the mission of the MSA libraries through gifts in the form of materials or financial support. Monetary gifts are welcome and will be used to enhance programs and services. Items not added to the collection are recycled or donated to other organizations. The MSA librarian will ensure that all gifts and donations are acknowledged and approved by the MSA board, following established procedures.

**NON-CASH GIFTS AND DONATIONS:** Gifts of books and/or other materials are gratefully accepted with the understanding that the Library Committee has the final authority to approve materials that will be added to the library collection. The MSA libraries will not accept items that are obsolete, unauthorized, and/or otherwise not needed. Please consult with the MSA librarian prior to any donations.

- **HOW TO DONATE**
  - All donations must be arranged in advance with the MSA librarian. Donations must be in good condition and delivered in boxes. Donations that are not in acceptable condition as determined by the MSA librarian will not be returned to the donor and will be donated, recycled, or discarded.
  - Checks for monetary gifts to the library should be made out to the Minnesota State Academies with the memo listing the MSA Libraries.

## IX. INVENTORY PROCEDURE

### 1. Reviewing Library Materials

The Minnesota State Academies Libraries recognize the importance of maintaining a collection of relevant, accurate, and useful materials. A good collection development plan must include reviewing inventory and determining items to be removed. This process is a key part of assessing the collection. The following guidelines have been developed to help in the review/removal process; however, the final decision concerning the removal or replacement of materials rests with the Library Committee.

### B. Guidelines

The Library Committee will attempt to re-introduce unused/unpopular books that have not been checked out for a long time into a special exhibit to try to garner interest. If certain books have not been checked out for a lengthy period of time, the librarian will remove the books from circulation and go through the review/removal process. To determine which library materials should be removed, the Library Committee will make decisions based on the following guidelines:

- Are they in poor physical condition?
- Are they outdated in content, use, or accuracy?
- Are they poor in quality?
- Are they biased or portray stereotypes?
- Are they inappropriate in reading level?
- Do they duplicate information no longer in heavy demand?
- Are they not compatible with general selection criteria?

### C. Removing Library Materials

Withdrawn materials may be distributed to classrooms (only if appropriate), recycled, donated, or discarded.

### D. Materials/equipment other than books and curriculum resources

Library inventory systems may be utilized to inventory materials/equipment other than books and curriculum resources. (i.e., technology accessories; adaptive equipment; etc.) Decisions about use of library inventory systems will be reviewed by MSA's Instructional Leadership Team.

## V. RECONSIDERATION OF MATERIALS

The MSA Libraries abide by the philosophy expressed in the American Library Association's Library Bill of Rights and the American Association of School Librarians' School Library Bill of Rights for School Library Media Programs.

If a requested purchase is declined by the librarian's supervisor for reasons other than financial constraints, the Library Committee may review the reasons given, and if appropriate/desired, appeal the decision to the superintendent's office. This appeal should be in written form and include reasons for the appeal. A copy of the reasons given for the declined purchase should also accompany this request. The superintendent's office will respond within 5 working days.

Declined purchases will be kept on record in the library for future reference and utilized in response to future requests for the same item.

The Library Committee also recognizes that materials or media selected for the MSA Libraries may be challenged or questioned, despite the care taken in selecting them. Complaints about materials or media purchased by the MSA libraries should be made to the librarian and brought to the MSA Library Committee for review and response.

**Legal References:**

*Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious, and Racial Harassment and Violence Policy)*

*Minn. Stat. Ch. 363A (Minnesota Human Rights Act)*

*42 U.S.C. § 12101 et seq. (Americans with Disabilities Act)*

**Cross References:**

*TSD Model Policy (Library Collection Development Procedures)*

*American Library Association. (October 2008). Workbook for selection policy writing.*

<http://www.ala.org/Template.cfm?Section=dealing&Template/ContentManagement/ContentDisplay.cfm&ContentID=11173> (Accessed May 12, 2020)

*Berkeley Public Library. (May 2017). Donations Policy. <http://www.berkeleypl.org/policies/donations> (Accessed May 12, 2020)*

*Terrebonne Parish Library. (August 19, 1999). Library policies. <http://mytpl.org/library-policies/> (Accessed May 12, 2020).*

*University Laboratory High School Library. (2014). Collection development.*

<https://www.library.illinois.edu/uni/policies/collectiondevelopment/> (Accessed May 12, 2020).

Policy #: <b>904</b>
Title: <b>DISTRIBUTION OF MATERIALS AT MSA BY NON-SCHOOL PERSONS</b>
Date of Initial Approval: <b>NEW</b>
Revision/Re-authorization Dates:
Reviewers: MSA Instructional Leadership Team

**I. PURPOSE**

The purpose of this policy is to provide for distribution of materials appropriate to the school setting by individuals who are not employees or students (non-school persons) at the Minnesota State Academies (MSA) on MSA property in a reasonable time, place, and manner which does not disrupt the educational program nor interfere with the educational objectives of MSA.

**II. GENERAL STATEMENT OF POLICY**

- A. MSA intends to provide a method for individuals who are not employees or students at the Minnesota State Academies (MSA) and non-school organizations to distribute materials appropriate to the school setting within the limitations and provisions of this policy.
- B. To provide for orderly and nondisruptive distribution of materials, the MSA board adopts the following regulations and procedures.

**III. DEFINITIONS**

- A. **“Distribution”** means circulation or dissemination of materials by means of handing out free copies, selling or offering copies for sale, accepting donations for copies, posting or displaying materials, or placing materials in internal staff or student mailboxes.
- B. **“Materials”** includes all materials and objects intended by non-school persons or non-school organizations for distribution. Examples of non-school-sponsored materials include, but are not limited to, leaflets, brochures, buttons, badges, flyers, petitions, posters, underground newspapers whether written by students, employees or others, and tangible objects.
- C. **“Non-school person”** means any person who is not currently enrolled as a student in or employed by the MSA.
- D. **“Obscene to minors”** means:
  - 1. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of minors of the age to whom distribution is requested;
  - 2. The material depicts or describes, in a manner that is patently offensive to prevailing standards in the adult community concerning

how such conduct should be presented to minors of the age to whom distribution is requested, sexual conduct such as intimate sexual acts (normal or perverted), masturbation, excretory functions, and lewd exhibition of the genitals; and

3. The material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

E. **“Minor”** means any person under the age of eighteen (18).

F. **“Material and substantial disruption”** of a normal school activity means:

1. Where the normal school activity is an educational program of MSA for which student attendance is compulsory, “material and substantial disruption” is defined as any disruption which interferes with or impedes the implementation of that program.
2. Where the normal school activity is voluntary in nature (including school athletic events, school plays and concerts, and lunch periods) “material and substantial disruption” is defined as student rioting, unlawful seizures of property, conduct inappropriate to the event, participation in a school boycott, demonstration, sit-in, stand-in, walk-out, or other related forms of activity.

In order for the expression to be considered disruptive, specific facts must exist upon which the likelihood of disruption can be forecast including past experience in the school, current events influencing student activities and behavior, and instances of actual or threatened disruption relating to the written material in question.

G. **“School activities”** means any activity sponsored by MSA including, but not limited to, classroom work, library activities, physical education classes, official assemblies and other similar gatherings, school athletic contests, band concerts, school plays, other theatrical productions, and in-school lunch periods.

H. **“Libelous”** is a false and unprivileged statement about a specific individual that tends to harm the individual’s reputation or to lower them in the esteem of the community.

#### IV. GUIDELINES

A. Non-school persons and organizations may, within the provisions of this policy, be granted permission to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, materials and objects which are appropriate to the school setting.

- B. Requests for distribution of materials will be reviewed by the campus director on a case-by-case basis. However, distribution of the following materials is always prohibited. Prohibited materials include those that:
1. are obscene to minors;
  2. are libelous;
  3. are pervasively indecent or vulgar or contain any indecent or vulgar language or representations, with a determination made as to the appropriateness of the material for the age level of students to which it is intended;
  4. advertise any product or service not permitted to minors by law;
  5. advocate violence or other illegal conduct;
  6. constitute insulting or fighting words, the very expression of which injures or harasses other people (e.g., threats of violence, defamation of character or of a person's race, religion, or ethnic origin);
  7. present a clear and present likelihood that, (either because of its content or the manner of distribution), it will cause a material and substantial disruption of the proper and orderly operation and discipline of the school or school activities, or will cause the commission of unlawful acts or the violation of lawful school regulations.
- C. Permission for non-school persons to distribute materials on MSA property is a privilege and not a right. In making decisions regarding permission for such distribution, the campus directors will consider factors including, but not limited to, the following:
1. whether the material is educationally related;
  2. the extent to which distribution is likely to cause disruption of or interference with the school district's educational objectives, discipline, or school activities;
  3. whether the materials can be distributed from the office or other isolated location so as to minimize disruption of traffic flow in the buildings or campuses;
  4. the quantity or size of materials to be distributed;
  5. whether distribution would require assignment of MSA staff, use of MSA equipment, or other resources;
  6. whether distribution would require that non-school persons be present on the MSA campuses;
  7. whether the materials are a solicitation for goods or services not requested by the recipients.

**V. TIME, PLACE, AND MANNER OF DISTRIBUTION**

If permission is granted pursuant to this policy for the distribution of any materials, the time, place, and manner of distribution will be solely within the discretion of the campus directors, consistent with the provisions of this policy.

The campus directors will establish dates that the materials can be distributed and/or posted and any materials left after those dates will be discarded.

## VI. PROCEDURES

- A. Any non-school person wishing to distribute materials must first submit for approval a copy of the materials to the campus director at least five days in advance of desired distribution time, together with the following information:
  1. Name and contact information of the person submitting the request.
  2. Date(s) and time(s) of day of requested distribution.
  3. If material is intended for students, the grade(s) of students to whom the distribution is intended.
  4. The proposed method of distribution.
- B. The campus director will review the request and render a decision within 48 hours. The campus director will assign a location and method of distribution and will inform the persons submitting the request whether non-school persons may be present to distribute the materials. The campus director will also determine the end-date of the distribution (i.e., date when flyers will be taken off bulletin boards). If permission to distribute the materials is denied or limited, the person submitting the request will be informed of the reasons for the denial or limitation.
- C. Permission or denial of permission to distribute material does not imply approval or disapproval of its contents by either the school, the administration of MSA, the MSA board, or the individual reviewing the material submitted.
- D. If permission to distribute materials is denied, the non-school person or organization may request reconsideration of the decision through the superintendent. The request for reconsideration must be in writing and must set forth the reasons why distribution is desirable and in the interest of the school community. The superintendent will respond within 48 hours of the request for reconsideration.
- E. Additional procedures or guidelines relevant to this policy may be developed by the MSA administration and will be posted on the MSA website.

## VII. VIOLATION OF POLICY

Any party violating this policy or distributing materials without permission will be directed to leave the school property immediately and, if necessary, the police will be called. Materials left on campus without permission will be immediately discarded.

### **Legal References:**

*U. S. Const., amend. I*

*Hazelwood School District v. Kuhlmeier, 484 U.S. 260, 108 S.Ct. 562, 98 L.Ed.2d 592 (1988)*

*Doe v. South Iron R-1 School District, 498 F.3d 878 (8<sup>th</sup> Cir. 2007)*

*Bystrom v. Fridley High School, 822 F.2d 747 (8<sup>th</sup> Cir. 1987)*

POLICY #904  
MINNESOTA STATE ACADEMIES

*Cornelius v. NAACP Legal Defense and Educational Fund, Inc.*, 473 U.S. 788, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985)

*Perry Education Assn v. Perry Local Educators' Assn*, 460 U.S. 37, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983)

*Roark v. South Iron R-1 School Dist.*, 573 F.3d 556 (8<sup>th</sup> Cir. 2009)

*Victory Through Jesus Sports Ministry Foundation v. Lee's Summit R-7 School Dist.*, 640 F.3d 329 (8<sup>th</sup> Cir. 2011), cert. denied 565 U.S. 1036, 132 S.Ct. 592 (2011)

**Cross References:**

MSBA/MASA Model Policy 505 (*Distribution of Non-school-Sponsored Materials on School Premises by Students and Employees*)

MSBA/MASA Model Policy 512 (*School-Sponsored Student Publications*)

Policy #: <b>906</b>
Title: <b>COMMUNITY NOTIFICATION OF PREDATORY OFFENDERS</b>
Date of Initial Approval: <b>NEW</b>
Revision/Re-authorization Dates:
Reviewers: MSA Instructional Leadership Team

**I. PURPOSE**

The purpose of this policy is to assist Minnesota State Academies (MSA) administrators and employees in responding to a notification by a law enforcement agency that a convicted predatory offender is moving into the community so that they may better protect individuals in the school's care while they are on or near MSA premises or under the control of MSA.

**II. GENERAL STATEMENT OF POLICY**

- A. The policy of MSA is to provide information to staff regarding known predatory offenders that are moving into the community so that they may monitor school premises for the safety of the school, its students, and employees. Employees will be notified as appropriate and have access to Offender Fact Sheets.
- B. MSA will provide safety information and resources for distribution to students regarding protecting themselves from abuse, abduction, or exploitation. MSA administrators may ask local law enforcement officials for assistance in providing instruction to employees and students.

**III. DEFINITIONS**

- A. The "**Sex Offender Community Notification Act**," (*Minn. Stat. § 244.052*) as amended, allows law enforcement agencies to disclose information about certain predatory offenders when they are released into the community. The information disclosed and to whom it is disclosed will depend upon their assessment of the level of risk posed by the predatory offender.
- B. "**Risk Level Assessment**" is the level of danger to the community as established by the Minnesota Department of Corrections following a review by a committee of experts. The level of risk assigned to a soon-to-be-released offender determines the scope of notification. (*Minn. Stat. § 244.052, Subds. 2, 3*)
- C. "**Risk Levels**" (*Minn. Stat. § 244.052, Subd. 3(e)*)
  - 1. **Risk Level I** is assigned to a predatory offender whose risk assessment score indicates a low risk of re-offense.
  - 2. **Risk Level II** is assigned to a predatory offender whose risk assessment score indicates a moderate risk of re-offense.
  - 3. **Risk Level III** is assigned to a predatory offender whose risk assessment score indicates a high risk of re-offense.

- D. **“Notification or Disclosure by Law Enforcement Agency”** (*Minn. Stat. § 244.052, Subd. 4*)
1. **Risk Level I** – The local law enforcement agency may disclose certain information to other law enforcement agencies and to any victims of or witnesses to the offense committed by the offender. There will be no disclosure to school districts.
  2. **Risk Level II** – In addition to those notified in Level I, a law enforcement agency may notify agencies and groups the offender is likely to encounter that the offender is about to move into the community and provide to those agencies and groups an Offender Fact Sheet on the offender. School districts, private schools, day care centers, and other institutions serving those likely to be victimized by the predatory offender are included in a Level II notification.
  3. **Risk Level III** – In most cases, the local law enforcement agencies will hold a community meeting and distribute an Offender Fact Sheet with information concerning and a photograph of the soon-to-be-released Level III offender.
- E. **“Offender Fact Sheet”** is a data sheet compiled by the Department of Corrections or local law enforcement agency. The Offender Fact Sheet contains both public and private data including a photograph and physical description of the predatory offender, as well as the general location of the offender’s residence.
1. A local law enforcement agency will generally provide Offender Fact Sheets for Level II predatory offenders directly to MSA.
  2. Level III Offender Fact Sheets will be distributed at a community meeting conducted by the local law enforcement agency.
- F. **“Law enforcement agency”** means the law enforcement agency having primary jurisdiction over the location where the offender expects to reside upon release. (*Minn. Stat. § 244.052, Subd. 1(3)*)
- G. **“Criminal history conviction data”** is public data on a convicted criminal which is compiled by the State Bureau of Criminal Apprehension (BCA). (*Minn. Stat. § 13.87*)

#### IV. GUIDELINES

- A. The superintendent’s office shall request that all appropriate Level II and Level III notifications are to be provided from law enforcement agencies within Rice County to MSA as promptly as possible.
- B. Upon notification, the superintendent’s office shall forward the Offender Fact Sheet to all department supervisors to be posted in an area accessible to employees, but not to the public, unless a determination has been made that public posting would help secure the school or protect students. Supervisors must communicate with staff when a new fact sheet is posted.

- C. MSA may request criminal history conviction data on the Level II predatory offender from its local law enforcement agency. On a case-by-case basis, the superintendent may determine whether to send a letter to parents with general information regarding release of the Level II offender and a copy of the criminal history conviction data that MSA obtained from its local law enforcement agency. The offender fact sheet contains data classified as private or not public under Minnesota law and may only be distributed to parents, students, or others outside MSA if it determines the release is for the purpose of securing the schools and protecting individuals under MSA's care while they are on or near school premises.
- D. When a Level III predatory offender is released into a community, generally the local law enforcement agencies will notify school districts of the time and location of the community meeting at which the Level III Offender Fact Sheet will be distributed to the community. When MSA receives this information, the superintendent or a designee will attend the community notification meeting. The superintendent will also determine on a case-by-case basis whether MSA will notify parents and students of the time, date, and location of the community meeting.
- E. When MSA receives information that a Level III predatory offender is moving into the community, in addition to following the procedures specified above, MSA shall follow the procedures outlined for a Level II notification.
- F. If the predatory offender is participating in programs offered by MSA that require or might allow the person to interact with children other than the person's children, the superintendent shall notify parents of children enrolled at MSA of the contents of the Offender Fact Sheet.

***[Note: The Department of Administration issued an opinion confirming that the Predatory Offender Fact Sheet contains private data or not public data. However, it is the department's opinion that a school district may release any information contained in the notification to anyone, including staff, students, parents, and guardians, if it determines that the release of data will help secure the school or protect students.]***

**Legal References:**

*Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)*

*Minn. Stat. § 244.052 (Community Notification)*

*20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)*

*42 U.S.C. § 16901 et seq. (Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program)*

*Dept. of Admin. Advisory Op. No. 98-004*

**Cross References:**

*MSA Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)*

*MSA Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)*

*MSA Policy 515 (Protection and Privacy of Pupil Records)*

*MSA Policy 903 (Visitors to MSA Buildings and Sites)*

Policy #: <b>404</b>
Title: <b>EMPLOYMENT BACKGROUND CHECKS</b>
Date of Initial Approval: 01-22-2009
Revision/Re-authorization Dates: 03-15-2018
Reviewers: MSA Human Resources; MSA Superintendent

**I. PURPOSE**

The purpose of this policy is to maintain a safe and healthful environment at the Minnesota State Academies (MSA) in order to promote the physical, social, and psychological well-being of its students. To that end, MSA will seek a criminal history background check for applicants who receive an offer of employment at MSA, including intermittent employees, and all individuals who are offered the opportunity to provide athletic coaching services or other extracurricular academic coaching/sponsor services to MSA, regardless of whether any compensation is paid.

MSA may also require background checks for volunteers (MSA Policy# 450); independent contractors performing services on our campuses; and student volunteers/employees at MSA. MSA may accept criminal history background checks performed by other entities if the check was performed within the last 12 months.

**II. GENERAL STATEMENT OF POLICY**

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

### III. PROCEDURES

- A. Normally, an individual will not commence employment or provide services until MSA receives the results of the criminal history background check. MSA may conditionally hire an applicant or allow an individual to provide services, pending completion of the background check, but shall notify the individual that the individual's employment or opportunity to provide services may be terminated based on the result of the background check. Background checks will be performed by the Minnesota Bureau of Criminal Apprehension (hereinafter "the BCA"). MSA reserves the right to also have criminal history background checks conducted by other organizations or agencies.
- B. In order for an individual to be eligible for employment or to provide athletic coaching services or other extracurricular academic coaching/sponsor services to MSA, the individual must sign a criminal history consent form (Appendix 404A), which provides permission for MSA to conduct a criminal history background check, and provide a money order or check payable to either the BCA or to the Minnesota State Academies, in an amount equal to the actual cost to the BCA and MSA of conducting the criminal history background check. If the individual fails to provide MSA with a signed Informed Consent Form and fee at the time the individual receives a job offer, or permission to provide services, the individual will be considered to have voluntarily withdrawn the application for employment or request to provide services.
- C. MSA, in its discretion, may elect not to perform a criminal history background check on an individual who holds an initial teacher license from the state of Minnesota issued within the 12 months preceding an offer of employment or permission to provide services. However, MSA must have a copy of the individual's most recent criminal background check performed within 12 months prior to employment at MSA on file.
- D. MSA may use the results of a criminal background check conducted at the request of another school or hiring authority if:
1. the results of the criminal background check are on file with the other school or hiring authority or otherwise accessible;
  2. the other school or hiring authority conducted a criminal background check within the previous 12 months;
  3. the individual executes a written consent form giving MSA access to the results of the check; and
  4. there is no reason to believe that the individual has committed an act subsequent to the check that would disqualify the individual for employment or provision of services.

- E. For all non-Minnesota state residents who are offered employment with or the opportunity to provide athletic coaching services or other extracurricular academic coaching/sponsor services to MSA, MSA shall request a criminal history background check on such individuals from the superintendent of the BCA and from the government agency performing the same function in the resident state or, if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. The offer of employment or the opportunity to provide services shall be conditioned upon a determination by MSA that an individual's criminal history does not preclude the individual from employment with, or provision of services to MSA. Such individuals must provide an executed criminal history consent form.
- F. When required, individuals must provide fingerprints to assist in a criminal history background check. If the fingerprints provided by the individual are unusable, the individual will be required to submit another set of prints.
- G. The need to submit to a criminal history background check will be included with the basic criteria for employment or provision of services in the position posting and position advertisements.
- H. The individual will be informed of the results of the criminal background check(s) to the extent required by law. If the criminal history background check precludes employment with or provision of services to MSA, the individual will be so advised.
- I. Each MSA employee must report to the Superintendent in writing within seven days of when the employee becomes aware of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any misdemeanor or felony offense of which the employee has not previously notified MSA or the Superintendent through written notification, records or employment application.
- J. This policy will be posted on the MSA website so that parents and families are aware of our procedures and expectations in relation to criminal history background checks.

**Legal References:**

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

**Appendix:**

- Appendix 404A – Criminal History Consent Form*

Policy #: <b>412</b>
Title: <b>EXPENSE REIMBURSEMENT</b>
Date of Initial Approval: 03-24-2016
Revision/Re-authorization Dates: 06-29-2017
Reviewers: MSA Superintendent; MSA Business Office

**I. PURPOSE**

The purpose of this policy is to identify school district business expenses that involve initial payment by an employee and qualify for reimbursement from the school district, and to specify the manner by which the employee seeks reimbursement. The Minnesota State Academies (MSA) is a State agency and is part of the executive branch of government in Minnesota. MSA follows the Employee Business/Travel Expense Policy PAY0021 set forth by Minnesota Management and Budget.

[https://mn.gov/admin/assets/PAY0021-Employee-Business-Travel-Expenses\\_tcm36-208026.pdf](https://mn.gov/admin/assets/PAY0021-Employee-Business-Travel-Expenses_tcm36-208026.pdf)

**II. MSA-SPECIFIC PROCEDURES**

The Minnesota State Academies may establish specific procedures for paperwork and filing so employees can easily comply with this policy. Employees should refer to Procedure #4400 – Employee Expense Reimbursement for additional information.

**References:**

- [PAY0020 - Travel Advances - Operating Policy and Procedure](#)
- [PAY0049 - Self Service Business Expenses - Operating Policy and Procedure](#)
- M.S. 43A.38, Subd. 2
- M.S. 15.435
- All Minnesota Statutes are available from The Office of the Revisor of Statutes.  
<https://www.revisor.mn.gov/statutes/>
- Department of Treasury, Internal Revenue Service, Publication 15 (Circular E), Employer's Tax Guide
- Minnesota Management & Budget Administrative Procedure 4.4, Special Expenses

**Procedure:**

Procedure #4400

Policy #: <b>501</b>
Title: <b>SCHOOL WEAPONS PROHIBITION</b>
Date of Initial Approval: 05-03-2007
Revision/Re-authorization Dates: 03-15-2018
Reviewers: MSA Human Resources; MSA Superintendent

**I. PURPOSE**

The purpose of this policy is to assure a safe school environment for students, staff and the public.

**II. GENERAL STATEMENT OF POLICY**

No student or nonstudent, including adults and visitors, shall possess, use or distribute a weapon when in a school location except as provided in this policy. The Minnesota State Academies (MSA) will act to enforce this policy and to discipline or take appropriate action against any student, teacher, administrator, school employee, volunteer, or member of the public who violates this policy.

**III. DEFINITIONS**

A. "Weapon"

1. A "weapon" means any object, device or instrument designed as a weapon; or through its use is capable of threatening or producing bodily harm; or which may be used to inflict self-injury including, but not limited to, any firearm, whether loaded or unloaded; air guns; pellet guns; BB guns; all knives; blades; clubs; metal knuckles; numchucks; throwing stars; explosives; fireworks; mace and other propellants; stun guns; ammunition; poisons; chains; arrows; and objects that have been modified to serve as a weapon.
2. No person shall possess, use, or distribute any object, device, or instrument having the appearance of a weapon. Such objects, devices, or instruments shall be treated as weapons including, but not limited to, weapons listed above which are broken or non-functional, look-alike guns; toy guns; and any object that is a facsimile of a real weapon.
3. No person shall use articles designed for other purposes (i.e., lasers or laser pointers, belts, combs, pencils, files, scissors, etc.), to inflict bodily harm and/or intimidate and such use will be treated as the possession and use of a weapon.

B. "School Location"

School locations include any school building or grounds, whether leased, rented, owned, or controlled by the school; locations of school activities or trips; bus stops; school buses or school vehicles; school-contracted vehicles;

the area of entrance or departure from school premises or events; all locations where school-related functions are conducted; and any locations or activities where students are under the jurisdiction of the Minnesota State Academies.

C. "Possession"

Possession means having a weapon on one's person or in an area subject to one's control in a school location.

**IV. EXCEPTIONS**

A. If a student, who finds a weapon on the way to school or in a school location; or discovers that they accidentally have a weapon in their possession, takes the weapon immediately to the director's office, they shall not be considered to possess a weapon.

B. If it would be impractical or dangerous to take the weapon to the director's office, a student shall not be considered to possess a weapon if they immediately turn the weapon over to an administrator, teacher, coach, dormitory director, or another staff member; or immediately notifies an administrator, teacher, coach, dormitory director, or another staff member of the weapon's location.

C. It shall not be a violation of this policy if an individual falls within one of the following categories:

1. active licensed peace officers;
2. military personnel, or individuals participating in military training, who are on duty performing official duties;
3. persons authorized to carry a pistol under Minn. Stat. § 624.714 while in a motor vehicle or outside of a motor vehicle for the purpose of directly placing a firearm in, or retrieving it from, the trunk or rear area of the vehicle;
4. persons who keep or store in a motor vehicle pistols in accordance with Minn. Stat. §§ 624.714 or 624.715 or other firearms in accordance with Minn. Stat. § 97B.045;
  - i. Section 624.714 specifies procedures and standards for obtaining pistol permits and penalties for the failure to do so. Section 624.715 defines an exception to the pistol permit requirements for "antique firearms which are carried or possessed as curiosities or for their historical significance or value."
  - ii. Section 97B.045 generally provides that a firearm may not be transported in a motor vehicle unless it is (1) unloaded and in a gun case without any portion of the firearm exposed; (2) unloaded and in the closed trunk; or (3) a handgun carried in compliance with §§ 624.714 and 624.715.

5. Instructors and participants in firearm safety or marksmanship courses or activities for students or nonstudents conducted on school property;
6. Members of a ceremonial color guard in possession of dangerous weapons, BB guns, or replica firearms;
7. Vendors/demonstrators at a gun or knife show held on school property;
8. Individuals in possession of dangerous weapons, BB guns, or replica firearms with written permission from the superintendent's office; or
9. Persons who are on unimproved property owned or leased by MSA unless the person knows that a student is currently present on the land for a school-related activity.

D. Policy Application to Instructional Equipment/Tools

While the Minnesota State Academies takes a firm "Zero Tolerance" position on the possession, use, or distribution of weapons by students, and a similar position with regard to nonstudents, such a position is not meant to interfere with instruction or the use of appropriate equipment and tools by students or nonstudents. Such equipment and tools, when properly possessed, used and stored, shall not be considered in violation of the rule against the possession, use, or distribution of weapons. However, when authorized instructional and work equipment and tools are used in a potentially dangerous or threatening manner, such possession and use will be treated as the possession and use of a weapon.

E. Firearms in School Parking Lots and Parking Facilities

The Minnesota State Academies may not prohibit the lawful carry or possession of firearms in a school parking lot or parking facility. For purposes of this policy, the "lawful" carry or possession of a firearm in a school parking lot or parking facility is specifically limited to nonstudent permit-holders authorized under Minn. Stat. § 624.714 to carry a pistol in the interior of a vehicle or outside the motor vehicle for the purpose of directly placing a firearm in, or retrieving it from, the trunk or rear area of the vehicle. Any possession or carry of a firearm beyond the immediate vicinity of a permit-holder's vehicle shall constitute a violation of this policy.

V. **CONSEQUENCES OF STUDENT WEAPON POSSESSION, USE, OR DISTRIBUTION**

- A. The Minnesota State Academies takes a firm position of "Zero Tolerance" in regard to the possession, use, or distribution of weapons by students. Consequently, the minimum consequence for students possessing, using, or distributing weapons shall include:
1. immediate out-of-school suspension;
  2. confiscation of the weapon;
  3. immediate notification of police;
  4. parent or guardian notification; and
  5. recommendation to the superintendent of dismissal for a period of time not to exceed one year.

- B. Pursuant to Minnesota law, a student who brings a firearm, as defined by federal law, to school will be expelled for at least one year. The school board may modify this requirement on a case-by-case basis. MSA directors will work with the student's home school district to determine appropriate steps to take in relation to the student's IEP and other FAPE requirements.
- C. Administrative Discretion:  
While the school district takes a "Zero Tolerance" position on the possession, use or distribution of weapons by students, the superintendent may use discretion, including review of the student's Individual Education Program (IEP), in determining whether, under the circumstances, a course of action other than the minimum consequences specified above is warranted. If so, other appropriate action may be taken, including consideration of a recommendation for lesser discipline.

## VI. CONSEQUENCES FOR WEAPON POSSESSION/USE/DISTRIBUTION BY NONSTUDENTS

### A. Employees

1. An employee who violates the terms of this policy is subject to disciplinary action, including nonrenewal, suspension, or discharge.
2. Sanctions against employees, including nonrenewal, suspension, or discharge shall be pursuant to and in accordance with applicable statutory authority, collective bargaining agreements, and MSA policies.
3. When an employee violates the weapons policy, law enforcement will be notified, as appropriate.

### B. Other nonstudents

1. Any member of the public who violates this policy shall be informed of the policy and asked to leave the school location. Depending on the circumstances, the person may be barred from future entry to the Minnesota State Academies. In addition, if the person is a student in another school district, that school district may be contacted concerning the policy violation.
2. As appropriate, law enforcement will be notified of the policy violation by the member of the public and may be asked to provide an escort to remove the member of the public from the Minnesota State Academies.

### **Legal References:**

- Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)*  
*Minn. Stat. § 121A.44 (Expulsion for Possession of Firearm)*  
*Minn. Stat. § 121A.05 (Referral to Police)*  
*Minn. Stat. § 609.66 (Dangerous Weapons)*  
*Minn. Stat. § 609.605 (Trespass)*

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*Minn. Stat. § 609.02, Subd. 6 (Definition of Dangerous Weapon)*  
*Minn. Stat. § 97B.045 (Transportation of Firearms)*  
*Minn. Stat. § 624.714 (Carrying of Weapons without Permit; Penalties)*  
*Minn. Stat. § 624.715 (Exemptions; Antiques and Ornaments)*  
*18 U.S.C. § 921 (Definition of Firearm)*  
*In re C.R.M. 611 N.W.2d 802 (Minn. 2000)*

**Cross References:**

*MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)*  
*MSBA/MASA Model Policy 506 (Student Discipline)*  
*MSBA/MASA Model Policy 525 (Violence Prevention)*

Policy #: <b>502</b>
Title: <b>SEARCH OF STUDENT LOCKERS, DORM ROOMS, OTHER SPACES, DESKS, PERSONAL POSSESSIONS, AND STUDENT'S PERSON</b>
Date of Initial Approval: 07-09-1996
Revision/Re-authorization Dates:05-31-2001; 11-21-2013; 06-12-2018
Reviewers: MSAB Director; MSAD Director; MSA Director of Student Support Services; MSA Superintendent

**I. PURPOSE**

The purpose of this policy is to provide for a safe and healthful educational environment by enforcing the Minnesota State Academies (MSA) policies against contraband.

**II. GENERAL STATEMENT OF POLICY**

A. Lockers and Personal Possessions within a Locker: Pursuant to Minnesota statutes, school lockers are the property of the Minnesota State Academies and at no time does MSA relinquish its exclusive control of those lockers provided for the convenience of students. Inspection of the interior of lockers may be conducted by school authorities for any reason at any time, without notice, without student consent, and without a search warrant.

The personal possessions of students within a school locker may be searched only when school authorities have a reasonable suspicion that the search will uncover evidence of a violation of law or MSA policies/rules. As soon as practicable after the search of a student's personal possessions, MSA officials must provide notice of the search to students whose lockers were searched unless disclosure would impede an ongoing investigation by police or MSA officials.

B. Dorm rooms and other spaces provided by MSA, and personal possessions within those spaces: Dorm rooms and other spaces provided by MSA are the property of the Minnesota State Academies. At no time does MSA relinquish its exclusive control of dorm rooms and other spaces provided for the convenience of students. Inspection of the interior of dorm rooms, and other spaces, including personal possessions within those spaces may be conducted by school authorities if they have reasonable suspicion that the search will uncover evidence of a violation of law or MSA policies/rules. As soon as practicable after the search of a student's dorm room, other space, and/or personal possessions, MSA officials must provide notice of the search to students whose lockers, dorm rooms and/or other spaces were searched unless disclosure would impede an ongoing investigation by police or MSA officials.

C. Desks and other furniture: School desks and other furniture are the property of MSA. At no time does MSA relinquish their exclusive control of desks and

other furniture provided for the convenience of students. Inspection of the interior of desks and/or other furniture may be conducted by MSA officials for any reason at any time, without notice, without student consent, and without a search warrant.

- D. Personal Possessions and Student's Person: The personal possessions (including automobiles) of students and/or a student's person may be searched when MSA officials have a reasonable suspicion that the search will uncover a violation of law or MSA policies and rules. The search will be reasonable in its scope and intrusiveness.
- E. It is a violation of this policy for students to use lockers, dorm rooms (including closets, dressers, or other furniture) and other spaces provided by MSA for unauthorized purposes or to store contraband. It shall be a violation for students to carry contraband on their person or in their personal possessions.

### III. DEFINITIONS

- A. **“Contraband”** means any unauthorized item possession of which is prohibited by MSA policy and/or law. It includes but is not limited to weapons and “look-alikes”; alcoholic beverages; controlled substances and “look-alikes”; overdue books and other materials belonging to MSA; and stolen property.
- B. **“Personal Possessions”** includes but is not limited to purses, backpacks, suitcases, book bags, packages, and clothing.
- C. **“Reasonable Suspicion”** means that a MSA official has grounds to believe that the search will result in evidence of a violation of MSA policies, rules, and/or law. Reasonable suspicion may be based on a school official's personal observation, a report from a student or staff member, a student's suspicious behavior, a student's age and past history or record of conduct both in and out of the school context, or other reliable sources of information.
- D. **“Reasonable Scope”** means that the scope and/or intrusiveness of the search is reasonably related to the objectives of the search. Factors to consider in determining what is reasonable include the seriousness of the suspected infraction, the reliability of the information, the necessity of acting without delay, the existence of exigent circumstances necessitating an immediate search and further investigation (e.g. to prevent violence, serious and immediate risk of harm or destruction of evidence), and the age of the student.
- E. **“Strip Search”** is a search involving the removal of coverings or clothing from private areas.

#### **IV. PROCEDURES**

- A. MSA administrators or designees may inspect the interiors of lockers, desks, and other furniture provided by MSA for any reason at any time, without notice, without student consent, and without a search warrant.
- B. MSA administrators or designees may inspect the dorm rooms, other spaces, and/or personal possessions of students and/or a student's person based on a reasonable suspicion that the search will uncover a violation of law or school rules. A search of personal possessions of a student and/or a student's person will be reasonable in its scope and intrusiveness.
- C. As soon as practicable after a search of personal possessions within a locker, dorm room, other spaces, desk, or other furniture provided by MSA to this policy, the staff must provide notice of the search to students whose possessions were searched unless disclosure would impede an ongoing investigation by police or MSA officials.
- D. Whenever possible, two (2) staff members will be present for a search.
- E. Whenever feasible, a search of a person shall be conducted in private by an MSA official of the same sex. A second MSA official of the same sex shall be present as an observer during the search of a person whenever feasible. A MSA official conducting any other search may determine when it is appropriate to have a second official present as an observer.
- F. Strip searches will be conducted only in circumstances involving imminent danger. Mass strip searches or body cavity searches are prohibited.
- G. A copy of this policy will be printed in the student handbook. MSA officials shall review this policy with students at the beginning of each school year when students are typically given use of a locker, dorm room, other spaces, desk, and/or other furniture provided by MSA.

#### **V. DIRECTIVES AND GUIDELINES**

MSA administration may establish reasonable directives and guidelines which address specific needs of the Academies such as use of tape in lockers, desks, other furniture, dorm rooms and other spaces provided by MSA; standards of cleanliness and care; and posting of pin-ups and posters which may constitute sexual harassment, etc.

#### **VI. SEIZURE OF CONTRABAND**

If a search yields contraband, MSA officials will seize the item and, when appropriate, turn it over to legal authorities for ultimate disposition

#### **VII. VIOLATIONS**

A student found to have violated this policy and/or the directives and guidelines implementing it shall be subject to discipline in accordance with the MSA Student Discipline Policy, which may include suspension, exclusion, or expulsion, and the student may, when appropriate, be referred to legal authorities.

**Legal References:**

*U. S. Const., amend. IV*  
*Minn. Const., art. I, § 10*  
*Minn. Stat. § 121A.72 (School Locker Policy)*  
*New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985)*  
*G.C. v. Owensboro Public Schools, 711 F.3d 623 (6<sup>th</sup> Cir. 2013)*

**Cross References:**

*MSBA/MASA Model Policy 417 (Chemical Use and Abuse)*  
*MSBA/MASA Model Policy 418 (Drug-Free Workplace/Drug-Free School)*  
*MSBA/MASA Model Policy 501 (School Weapons)*  
*MSBA/MASA Model Policy 506 (Student Discipline)*

Policy #: <b>515</b>
Title: <b>PROTECTION AND PRIVACY OF PUPIL RECORDS</b>
Date of Initial Approval: 01-24-2013
Revision/Re-authorization Dates: 01-23-2014; 06-12-2018
Reviewers: MSA Superintendent; MSA Director of Student Support Services; MSA Human Resources Office

**I. PURPOSE**

The Minnesota State Academies (MSA) recognizes its responsibility in regard to the collection, maintenance, and dissemination of pupil records and the protection of the privacy rights of students as provided in federal law and state statutes.

**II. GENERAL STATEMENT OF POLICY**

The following procedures and policies regarding the protection and privacy of parents and students are adopted by the Minnesota State Academies, pursuant to the requirements of 20 U.S.C. § 1232g, *et seq.*, (Family Educational Rights and Privacy Act (FERPA)) 34 C.F.R. Part 99 and consistent with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and Minn. Rules Parts 1205.0100-1205.2000.

**III. DEFINITIONS**

**A. Authorized Representative:**

“Authorized representative” means any entity or individual designated by MSA, state, or an agency headed by an official of the Comptroller of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or state and local educational authorities to conduct, with respect to federal or state supported education programs, any audit or evaluation or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

**B. Biometric Record:**

“Biometric record,” as referred to in “Personally Identifiable,” means a record of one or more measurable biological or behavioral characteristics that can be used for authorized recognition of an individual (e.g., fingerprints, retina and iris patterns, voice prints, DNA sequence, facial characteristics, and handwriting).

**C. Dates of Attendance:**

“Dates of attendance,” as referred to in “Directory Information,” means the period of time during which a student attends or attended a school or schools at MSA, including attendance in person or by paper correspondence, satellite, internet or other electronic communication technologies for students who are not in the classroom, and including the period during which a student is

working under a work-study program. The term does not include specific daily records of a student's attendance at a school or schools of MSA.

**D. Directory Information:**

"Directory information" is defined in FERPA and state law to mean information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to: the student's name, address, telephone number, e-mail address, Date and place of birth, photograph, dates of attendance, grade level, enrollment status (i.e., full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended. It also includes the name, address, and telephone number of the student's parent(s).

Directory information does not include:

1. a student's social security number;
2. a student's identification number (ID), user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems if the identifier may be used to access education records;
3. personally identifiable data which references religion, race, color, social position, or nationality; or
4. data collected from nonpublic school students, other than those who receive shared time educational services, unless written consent is given by the student's parent or guardian.

*Please refer to Section VII, Subsection A (page 13 of this policy) for MSA's designation of directory information.*

**E. Education Records:**

"Education records" means those records which: (1) are directly related to a student; and (2) are maintained by MSA or by a party acting for MSA.

The term, "education records," does not include:

1. Records of instructional, supervisory, and administrative personnel which:
  - a. are in the sole possession of the maker of the record; and
  - b. are not accessible or revealed to any other individual except a substitute teacher; and
  - c. are destroyed at the end of the school year.
2. Records of a law enforcement unit of MSA, provided education records maintained by MSA are not disclosed to the unit, and the law enforcement records are:
  - a. maintained separately from education records;
  - b. maintained solely for law enforcement purposes; and
  - c. disclosed only to law enforcement officials of the same jurisdiction.
3. Records relating to an individual, including a student, who is employed by MSA which:
  - a. are made and maintained in the normal course of business;

- b. relate exclusively to the individual in that individual's capacity as an employee; and
- c. are not available for use for any other purpose.

However, these provisions shall not apply to records relating to an individual in attendance at MSA who is employed as a result of his or her status as a student.

1. Records relating to an eligible student, or a student attending an institution of post-secondary education, which are:
  - a. made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity or assisting in that capacity;
  - b. made, maintained, or used only in connection with the provision of treatment to the student; and
  - c. disclosed only to individuals providing the treatment; provided that the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are a part of the program of instruction within MSA.
2. Records that only contain information about an individual after he or she is no longer a student at MSA and that are not directly related to the individual's attendance as a student.

F. Eligible Student:

"Eligible student" means a student who has attained eighteen (18) years of age or is attending an institution of post-secondary education.

G. Juvenile Justice System:

"Juvenile justice system" includes criminal justice agencies and the judiciary when involved in juvenile justice activities.

H. Legitimate Educational Interest:

"Legitimate educational interest" includes interest directly related to classroom instruction, teaching, student achievement and progress, discipline of a student, student health and welfare, and the ability to respond to a request for education data. It includes a person's need to know in order to:

1. Perform an administrative task required in the school or employee's contract or position description approved by the MSA Board;
2. Perform a supervisory or instructional task directly related to the student's education;
3. Perform a service or benefit for the student or the student's family such as health care, counseling, student job placement, or student financial aid; or
4. Perform a task directly related to responding to a request for data.

I. Parent:

"Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent of the student in the absence of a parent or guardian. MSA may presume the parent has the authority to

exercise the rights provided herein, unless it has been provided with evidence that there is a state law or court order governing such matters as marriage dissolution, separation or child custody, or a legally binding instrument which provides to the contrary.

J. Personally Identifiable:

“Personally identifiable” means that the data or information includes, but is not limited to:

1. a student’s name;
2. the name of the student’s parent or other family member;
3. the address of the student or student’s family;
4. a personal identifier such as the student’s social security number or student number or biometric record;
5. other direct identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. information requested by a person who MSA reasonably believes knows the identity of the student to whom the education record relates.

K. Record:

“Record” means any information or data recorded in any way including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

1. “Private records” in this policy are the same as “educational records” and are classified as private data on individuals by state law.
2. “Public records” in this policy are the same as “directory information” which can be released subject to the limitations in this policy.

L. Responsible Authority:

“Responsible authority” means the superintendent or the superintendent’s designee.

M. Student:

“Student” includes any individual who is or has been in attendance, enrolled, or registered at MSA and regarding whom MSA maintains education records. Student also includes applicants for enrollment or registration at MSA and individuals who receive part time educational services from MSA.

N. School Official:

“School official” includes:

1. a person duly appointed to the MSA board;
2. a person employed by the MSA board in an administrative, supervisory, instructional, or other professional position;
3. a person employed by the MSA board as a temporary substitute in a

professional position for the period of his or her performance as a substitute;  
and

4. a person employed by, or under contract to MSA to perform a special task such as a secretary, a clerk, a public information officer or data practices compliance official, an attorney, or an auditor for the period of his or her performance as an employee or contractor.

O. Summary Data:

“Summary data” means statistical records and reports derived from data on individuals but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify the individual is ascertainable.

P. Other Terms and Phrases:

All other terms and phrases shall be defined in accordance with applicable state and federal law or ordinary customary usage.

#### **IV. GENERAL CLASSIFICATION**

State law provides that all data collected, created, received, or maintained by MSA are public unless classified by state or federal law as not public or private or confidential. State law classifies all data on individuals maintained by MSA which relates to a student as private data on individuals. This data may not be disclosed to parties other than the parent or eligible student without consent, except pursuant to a valid court order, certain state statutes authorizing access, and the provisions of FERPA and the regulations promulgated thereunder.

#### **V. STATEMENT OF RIGHTS**

A. Rights of Parents and Eligible Students:

Parents and eligible students have the following rights under this policy:

1. The right to inspect and review the student’s education records;
2. The right to request the amendment of the student’s education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student’s privacy or other rights;
3. The right to consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that such consent is not required for disclosure pursuant to this policy, state or federal law, or the regulations promulgated thereunder;
4. The right to refuse release of names, addresses, and home telephone numbers of students in grades 11 and 12 to military recruiting officers and post-secondary educational institutions;
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by MSA to comply with the federal law and the regulations promulgated thereunder;
6. The right to be informed about rights under the federal law; and
7. The right to obtain a copy of this policy at the location set forth in Section XXI of this policy.

**B. Eligible Students**

All rights and protections given parents under this policy transfer to the student when he or she reaches eighteen (18) years of age or enrolls in an institution of post-secondary education. The student then becomes an “eligible student.” However, the parents of an eligible student who is also a “dependent student” are entitled to gain access to the education records of such student without first obtaining the consent of the student. In addition, parents of an eligible student may be given access to education records in connection with a health or safety emergency if the disclosure meets the conditions of any provision set forth in 34 C.F.R. § 99.31(a).

**C. Disabled Students**

MSA shall follow 34 C.F.R. §§ 300.610-300.617 with regard to the confidentiality of information related to students with a disability.

**VI. DISCLOSURE OF EDUCATION RECORDS**

**A. Consent Required for Disclosure**

1. MSA shall obtain a signed and dated written informed consent of the parent of a student or the eligible student before disclosing personally identifiable information from the education records of the student, except as provided herein.
2. The written consent required by this subdivision must be signed and dated by the parent of the student or the eligible student giving the consent and shall include:
  - a. a specification of the records to be disclosed;
  - b. the purpose or purposes of the disclosure;
  - c. the party or class of parties to whom the disclosure may be made;
  - d. the consequences of giving informed consent; and
  - e. if appropriate, a termination date for the consent.
3. When a disclosure is made under this subdivision:
  - a. if the parent or eligible student so requests, MSA shall provide them with a copy of the records disclosed; and
  - b. if the parent of a student who is not an eligible student so requests, MSA shall provide the student with a copy of the records disclosed.
4. A signed and dated written consent may include a record and signature in electronic form that:
  - a. identifies and authenticates a particular person as the source of the electronic consent; and
  - b. indicates such person’s approval of the information contained in the electronic consent.
5. If the responsible authority seeks an individual’s informed consent to the release of private data to an insurer or the authorized representative of an insurer, informed consent shall not be deemed to have been given unless the statement is:
  - a. in plain language;
  - b. dated;
  - c. specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;
  - d. specific as to the nature of the information the subject is authorizing to be disclosed;

- e. specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;
- f. specific as to the purpose or purposes for which the information may be used by any of the parties named in Clause e. above, both at the time of the disclosure and at any time in the future; and
- g. specific as to its expiration date which should be within a reasonable time, not to exceed one year except in the case of authorizations given in connection with applications for: (i) life insurance or noncancellable or guaranteed renewable health insurance and identified as such, two years after the date of the policy, or (ii) medical assistance under Minn. Stat. Ch. 256B or Minnesota Care under Minn. Stat. Ch. 256L, which shall be ongoing during all terms of eligibility, for individualized education program health-related services provided by MSA that are subject to third party reimbursement.

**B. Eligible Student Consent:**

Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent of the student shall thereafter only be accorded to and required of the eligible student, except as provided in Section V. of this policy.

**C. Prior Consent for Disclosure Not Required**

The Minnesota State Academies may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student unless otherwise provided herein, if the disclosure is:

1. To other school officials, including teachers, within MSA whom MSA determines have a legitimate educational interest in such records;
2. To a contractor, consultant, volunteer, or other party to whom MSA has outsourced institutional services or functions provided that the outside party:
  - a. performs an institutional service or function for which MSA would otherwise use employees;
  - b. is under the direct control of MSA with respect to the use and maintenance of education records; and
  - c. will not disclose the information to any other party without the prior consent of the parent or eligible student and uses the information only for the purposes for which the disclosure was made.
3. To officials of other schools, school districts, or post-secondary educational institutions in which the student seeks or intends to enroll, or is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer. The records shall include information about disciplinary action taken as a result of any incident in which the student possessed or used a dangerous weapon, and with proper annual notice (see Section XIX.), suspension and expulsion information pursuant to section 7165 of the federal No Child Left Behind Act. The records also shall include a copy of any probable cause notice or any disposition or court order under Minn. Stat. § 260B.171, unless the data are required to be destroyed under Minn. Stat. § 120A.22, Subd. 7(c) or § 121A.75. On request, MSA will provide the parent or eligible student with a copy of the education records which have

- been transferred and provide an opportunity for a hearing to challenge the content of those records in accordance with Section XV. of this policy;
4. To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or the Commissioner of the State Department of Education or his or her representative, subject to the conditions relative to such disclosure provided under federal law;
  5. In connection with financial aid for which a student has applied or has received, if the information is necessary for such purposes as to:
    - a. determine eligibility for the aid;
    - b. determine the amount of the aid;
    - c. determine conditions for the aid; or
    - d. enforce the terms and conditions of the aid.

**“Financial aid”** for purposes of this provision means a payment of funds provided to an individual or a payment in kind of tangible or intangible property to the individual that is conditioned on the individual’s attendance at an educational agency or institution;

6. To state and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to state statute adopted:
  - a. before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system’s ability to effectively serve the student whose records are released; or
  - b. after November 19, 1974, if the reporting or disclosure allowed by state statute concerns the juvenile justice system and the system’s ability to effectively serve, prior to adjudication, the student whose records are released, provided the officials and authorities to whom the records are disclosed certify in writing to MSA that the data will not be disclosed to any other party, except as provided by state law, without the prior written consent of the parent of the student. At a minimum, MSA shall disclose the following information to the juvenile justice system under this paragraph: a student’s full name, home address, telephone number, and date of birth; a student’s school schedule, attendance record, and photographs, if any; and parents’ names, home addresses, and telephone numbers.
7. To organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction; provided that the studies are conducted in a manner which does not permit the personal identification of parents or students by individuals other than representatives of the organization who have a legitimate interest in the information, the information is destroyed when no longer needed for the purposes for which the study was conducted, and MSA enters into a written agreement with the organization that: (a) specifies the purpose, scope, and duration of the study or studies and the information to be disclosed; (b) requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement; (c) requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with

legitimate interests; and (d) requires the organization to destroy all personally identifiable information when information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed. For purposes of this provision, the term, "organizations," includes, but is not limited to, federal, state, and local agencies and independent organizations. In the event the Department of Education determines that a third party outside of MSA to whom information is disclosed violates this provision, MSA may not allow that third party access to personally identifiable information from education records for at least five (5) years;

8. To accrediting organizations in order to carry out their accrediting functions;
9. To parents of a student eighteen (18) years of age or older if the student is a dependent of the parents for income tax purposes;
10. To comply with a judicial order or lawfully issued subpoena, provided, however, that MSA makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance therewith so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with a federal grand jury subpoena, or any other subpoena issued for law enforcement purposes, and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, or the disclosure is in compliance with an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. § 2332b(g)(5)(B), an act of domestic or international terrorism as defined in 18 U.S.C. § 2331, or a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of the proceeding. If MSA initiates legal action against a parent or student, it may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for MSA to proceed with the legal action as plaintiff. Also, if a parent or eligible student initiates a legal action against MSA, MSA may disclose to the court, without a court order or subpoena, the student's education records that are relevant for MSA to defend itself;
11. To appropriate parties, including parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health, including the mental health, or safety of the student or other individuals. The decision is to be based upon information available at the time the threat occurs that indicates that there is an articulable and significant threat to the health or safety of a student or other individuals. In making a determination whether to disclose information under this section, MSA may take into account the totality of the circumstances pertaining to a threat and may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other students. A record of this disclosure must be maintained pursuant to Section XIII.E of this policy. In addition, an educational agency or institution may include in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. This information may be disclosed to teachers and school officials within MSA

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- and/or teachers and school officials in other schools who have legitimate educational interests in the behavior of the student;
12. To the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;
  13. Information MSA has designated as "directory information" pursuant to Section VII. of this policy;
  14. To military recruiting officers and post-secondary educational institutions pursuant to Section XI. of this policy;
  15. To the parent of a student who is not an eligible student or to the student himself or herself;
  16. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;
  17. To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;
  18. To the juvenile justice system, on written request that certifies that the information will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student:
    - a. the following information about a student must be disclosed: a student's full name, home address, telephone number, date of birth; a student's school schedule, daily attendance record, and photographs, if any; and any parents' names, home addresses, and telephone numbers;
    - b. the existence of the following information about a student, not the actual data or other information contained in the student's education record, may be disclosed provided that a request for access must be submitted on the statutory form and it must contain an explanation of why access to the information is necessary to serve the student: (1) use of a controlled substance, alcohol, or tobacco; (2) assaultive or threatening conduct that could result in dismissal from school under the Pupil Fair Dismissal Act; (3) possession or use of weapons or look-alike weapons; (4) theft; or (5) vandalism or other damage to property. Prior to releasing this information, the principal or chief administrative officer of a school who receives such a request must, to the extent permitted by federal law, notify the student's parent or guardian by certified mail of the request to disclose information. If the student's parent or guardian notifies the school official of an objection to the disclosure within ten (10) days of receiving certified notice, the school official must not disclose the information and instead must inform the requesting member of the juvenile justice system of the objection. If no objection from the parent or guardian is received within fourteen (14) days, the school official must respond to the request for information.

The written requests of the juvenile justice system member(s), as well as a record of any release, must be maintained in the student's file;

19. To the principal where the student attends and to any counselor directly supervising or reporting on the behavior or progress of the student if it is information from a disposition order received by a superintendent under Minn. Stat. § 260B.171, Subd. 3. The principal must notify the counselor immediately and must place the disposition order in the student's permanent education record. The principal also must notify immediately any teacher or administrator who directly supervises or reports on the behavior or progress of the student whom the principal believes needs the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other school district employees, substitutes, and volunteers who are in direct contact with the student if the principal determines that these individuals need the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. Such notices from the principal must identify the student, outline the offense, and describe any conditions of probation about which the school must provide information if this information is provided in the disposition order. Disposition order information received is private educational data received for the limited purpose of serving the educational needs of the student and protecting students and staff. The information may not be further disseminated by the counselor, teacher, administrator, staff member, substitute, or volunteer except as necessary to serve the student, to protect students and staff, or as otherwise required by law, and only to the student or the student's parent or guardian;
20. To the principal where the student attends if it is information from a peace officer's record of children received by a superintendent under Minn. Stat. § 260B.171, Subd. 5. The principal must place the information in the student's education record. The principal also must notify immediately any teacher, counselor, or administrator directly supervising the student whom the principal believes needs the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other district employees, substitutes, and volunteers who are in direct contact with the student if the principal determines that these individuals need the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. Such notices from the principal must identify the student and describe the alleged offense if this information is provided in the peace officer's notice. Peace officer's record information received is private educational data received for the limited purpose of serving the educational needs of the student and protecting students and staff. The information must not be further disseminated by the counselor, teacher administrator, staff member, substitute, or volunteer except to communicate with the student or the student's parent or guardian as necessary to serve the student, to protect students and staff, or as otherwise required by law.

The principal must delete the peace officer's record from the student's education record, destroy the data, and make reasonable efforts to notify any teacher, counselor, staff member, administrator, substitute, or volunteer who received information from the peace officer's record if the county attorney determines not to proceed with a petition or directs the student into a diversion or mediation

program or if a juvenile court makes a decision on a petition and the county attorney or juvenile court notifies the superintendent of such action; or

21. To the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of state and local educational and other agencies and institutions receiving funding or providing benefits of one or more programs authorized under the National School Lunch Act or the Child Nutrition Act of 1966 for which the results will be reported in an aggregate form that does not identify any individual, on the conditions that: (a) any data collected shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary; and (b) any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements.
22. To an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in section 450b of Title 25), who has the right to access a student's case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student's education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State or tribal laws applicable to protecting the confidentiality of a student's education records.

**D. Nonpublic School Students**

MSA may disclose personally identifiable information from the education records of a nonpublic school student, other than a student who receives shared time educational services, without the written consent of the parent of the student or the eligible student unless otherwise provided herein, if the disclosure is:

1. Pursuant to a valid court order;
2. Pursuant to a statute specifically authorizing access to the private data; or
3. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiological investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted.

**VII. RELEASE OF DIRECTORY INFORMATION**

**A. MSA Directory Information**

The MSA Board has designated the following as directory information:

- Student's name
- Resident school district, town, and state
- School/Team photographs
- Enrollment Period

- Grade Level
- Participation in officially recognized activities and sports
- Degrees, Honors, and Awards received
- Parents Names
- Parents Addresses
- Parents' Telephone numbers

B. Classification

Directory information is public except as provided herein.

C. Former Students

Unless a former student validly opted out of the release of directory information while the student was in attendance and has not rescinded the opt out request at any time, MSA may disclose directory information from the education records generated by it regarding the former student without meeting the requirements of Paragraph C. of this section. In addition, under an explicit exclusion from the definition of an "education record," MSA may release records that only contain information about an individual obtained after he or she is no longer a student at MSA and that are not directly related to the individual's attendance as a student (e.g., a student's activities as an alumnus of MSA).

D. Present Students and Parents

MSA may disclose directory information from the education records of a student and information regarding parents without prior written consent of the parent of the student or eligible student, except as provided herein. Prior to such disclosure MSA shall:

1. Annually give public notice by any means that are reasonably likely to inform the parents and eligible students of:
  - a. the types of personally identifiable information regarding students and/or parents that MSA has designated as directory information;
  - b. the parent's or eligible student's right to refuse to let MSA designate any or all of those types of information about the student and/or the parent as directory information; and
  - c. the period of time in which a parent or eligible student has to notify MSA in writing that he or she does not want any or all of those types of information about the student and/or the parent designated as directory information.
2. Allow a reasonable period of time after such notice has been given for a parent or eligible student to inform MSA in writing that any or all of the information so designated should not be disclosed without the parent's or eligible student's prior written consent, except as provided in Section VI of this policy.
3. A parent or eligible student may not opt out of the directory information disclosures to:

- a. prevent MSA from disclosing or requiring the student to disclose the student's name, ID, or school district e-mail address in a class in which the student is enrolled; or
  - b. prevent MSA from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information and that has been properly designated by MSA as directory information.
4. MSA shall not disclose or confirm directory information without meeting the written consent requirements contained in Section VI.A of this policy if a student's social security number or other non-directory information is used alone or in combination with other data elements to identify or help identify the student or the student's records.

E. Procedure for Obtaining Nondisclosure of Directory Information

The parent's or eligible student's written notice shall be directed to the responsible authority and shall include the following:

1. Name of the student and/or parent, as appropriate;
2. Home address;
3. School presently attended by student;
4. Parent's legal relationship to student, if applicable; and
5. Specific categories of directory information to be made not public without the parent's or eligible student's prior written consent, which shall only be applicable for that school year.

F. Duration

The designation of any information as directory information about a student or parents will remain in effect for the remainder of the school year unless the parent or eligible student provides the written notifications provided herein.

## VIII. DISCLOSURE OF PRIVATE RECORDS

A. Private Records

For the purposes herein, education records are records which are classified as private data on individuals by state law and which are accessible only to the student who is the subject of the data and the student's parent if the student is not an eligible student. MSA may not disclose private records or their contents except as summary data, or except as provided in Section VI of this policy, without the prior written consent of the parent or the eligible student. MSA will use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other party to whom personally identifiable information from education records is disclosed.

B. Private Records Not Accessible to Parent

In certain cases state law intends, and clearly provides, that certain information contained in the education records of MSA pertaining to a student be accessible to the student alone, and to the parent only under special circumstances, if at all.

The responsible authority may deny access to private data by a parent when a minor student who is the subject of that data requests that the responsible authority deny such access. The minor student's request must be submitted in writing setting forth the reasons for denying access to the parent and must be signed by the minor. Upon receipt of such request the responsible authority shall determine if honoring the request to deny the parent access would be in the best interest of the minor data subject. In making this determination the responsible authority shall consider the following factors:

1. whether the minor is of sufficient age and maturity to be able to explain the reasons for and understand the consequences of the request to deny access;
2. whether the personal situation of the minor is such that denying parental access may protect the minor data subject from physical or emotional harm;
3. whether there are grounds for believing that the minor data subject's reasons for precluding parental access are reasonably accurate;
4. whether the data in question is of such a nature that disclosure of it to the parent may lead to physical or emotional harm to the minor data subject; and
5. whether the data concerns medical, dental or other health services provided pursuant to Minn. Stat. §§ 144.341-144.347, in which case the data may be released only if the failure to inform the parent would seriously jeopardize the health of the minor.

C. Private Records Not Accessible to Student

Students shall not be entitled to access to private data concerning financial records and statements of the student's parent or any information contained therein.

**IX. DISCLOSURE OF CONFIDENTIAL RECORDS**

A. Confidential Records

Confidential records are those records and data contained therein which are made not public by state or federal law, and which are inaccessible to the student and the student's parents or to an eligible student.

B. Reports Under the Maltreatment of Minors Reporting Act

Pursuant to Minn. Stat. § 626.556, written copies of reports pertaining to a neglected and/or physically and/or sexually abused child shall be accessible only to the appropriate welfare and law enforcement agencies. In respect to other parties, such data shall be confidential and will not be made available to the parent or the subject individual by MSA. The subject individual, however, may obtain a copy of the report from either the local welfare agency, county sheriff, or the local police department subject to the provisions of Minn. Stat. § 626.556, Subd. 11.

Regardless of whether a written report is made under Minn. Stat. § 626.556, Subd. 7, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident occurred that may constitute maltreatment of the child, when the

incident occurred, and the nature of the conduct that may constitute maltreatment.

**C. Investigative Data**

Data collected by MSA as part of an active investigation undertaken for the purpose of the commencement or defense of pending civil legal action, or which are retained in anticipation of a pending civil legal action are classified as protected nonpublic data in the case of data not on individuals, and confidential data in the case of data on individuals.

1. MSA may make any data classified as protected non-public or confidential pursuant to this subdivision accessible to any person, agency, or the public if MSA determines that such access will aid the law enforcement process, promote public health or safety, or dispel widespread rumor or unrest.
2. A complainant has access to a statement he or she provided to MSA.
3. Parents or eligible students may have access to investigative data of which the student is the subject, but only to the extent the data is not inextricably intertwined with data about other school district students, school district employees, and/or attorney data as defined in Minn. Stat. § 13.393.
4. Once a civil investigation becomes inactive, civil investigative data becomes public unless the release of the data would jeopardize another pending civil legal action, except for those portions of such data that are classified as not public data under state or federal law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. For purposes of this provision, a civil investigation becomes inactive upon the occurrence of any of the following events:
  - a. a decision by MSA, or by the chief attorney for MSA, not to pursue the civil legal action. However, such investigation may subsequently become active if MSA or its attorney decides to renew the civil legal action;
  - b. the expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil legal action; or
  - c. the exhaustion or expiration of rights of appeal by either party to the civil legal action.
5. A “pending civil legal action” for purposes of this subdivision is defined as including, but not limited to, judicial, administrative, or arbitration proceedings.

**D. Chemical Abuse Records**

To the extent MSA maintains records of the identity, diagnosis, prognosis, or treatment of any student which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, such records are classified as confidential and shall be disclosed only for the purposes and under the circumstances expressly authorized by law.

**X. DISCLOSURE OF SCHOOL RECORDS PRIOR TO EXCLUSION OR EXPULSION HEARING**

At a reasonable time prior to any exclusion or expulsion hearing, the student and the student’s parent or guardian or representative shall be given access to all

school district records pertaining to the student, including any tests or reports upon which the action proposed by MSA may be based, pursuant to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. § 121A.40, *et seq.*

**XI. DISCLOSURE OF DATA TO MILITARY RECRUITING OFFICERS AND POST-SECONDARY EDUCATIONAL INSTITUTIONS**

A. MSA will 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 unless a parent or eligible student has refused in writing to release this data pursuant to Paragraph C. below.

B. Data released to military recruiting officers under this provision:

1. 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
2. cannot be further disseminated to any other person except personnel of the recruiting services of the armed forces.

C. A parent or eligible student has the right to refuse the release of the name, address, or home telephone number to military recruiting officers and post-secondary educational institutions. To refuse the release of the above information to military recruiting officers and post-secondary educational institutions, a parent or eligible student must notify the Director of Student Support Services in writing by *September 1<sup>st</sup>* of each year. The 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; and
7. Specific category or categories of information which are not to be released to the public, including military recruiting officers and post-secondary educational institutions.

D. Annually, MSA will provide public notice by any means that are reasonably likely to inform the parents and eligible students of their rights to refuse to release the names, addresses, and home phone numbers of students in grades 11 and 12 without prior consent.

E. A parent or eligible student's refusal to release the above information to military recruiting officers and post-secondary educational institutions does not affect MSA's release of directory information to the rest of the public, which includes military recruiting officers and post-secondary educational institutions. In order to make any directory information about a student

private, the procedures contained in Section VII of this policy also must be followed. Accordingly, to the extent MSA has designated the name, address, phone number, and grade level of students as directory information, absent a request from a parent or eligible student not to release such data, this information will be public data and accessible to members of the public, including military recruiting officers and post-secondary educational institutions.

## XII. LIMITS ON REDISCLOSURE

### A. Redisclosure

Consistent with the requirements herein, MSA may only disclose personally identifiable information from the education records of a student on the condition that the party to whom the information is to be disclosed will not disclose the information to any other party without the prior written consent of the parent of the student or the eligible student, except that the officers, employees, and agents of any party receiving personally identifiable information under this section may use the information, but only for the purposes for which the disclosure was made.

### B. Redisclosure Not Prohibited

1. Subdivision A. of this section does not prevent MSA from disclosing personally identifiable information under Section VI. of this policy with the understanding that the party receiving the information may make further disclosures of the information on behalf of MSA provided:
  - a. The disclosures meet the requirements of Section VI. of this policy; and
  - b. MSA has complied with the record-keeping requirements of Section XIII of this policy.
2. Subdivision A. of this section does not apply to disclosures made pursuant to court orders or lawfully issued subpoenas or litigation, to disclosures of directory information, to disclosures to a parent or student or to parents of dependent students, or to disclosures concerning sex offenders and other individuals required to register under 42 U.S.C. § 14071. However, MSA must provide the notification required in Section XII.D of this policy if a redisclosure is made based upon a court order or lawfully issued subpoena.  
*[Note: 42 U.S.C. § 14071 was repealed. School districts should retain this statutory reference, however, as it remains a reference in FERPA and the Minnesota Government Data Practices Act and still may apply to individuals required to register prior to the repeal of this law.]*

### C. Classification of Disclosed Data

The information disclosed shall retain the same classification in the hands of the party receiving it as it had in the hands of MSA.

### D. Notification

MSA shall inform the party to whom a disclosure is made of the requirements set forth in this section, except for disclosures made pursuant to court orders or lawfully issued subpoenas, disclosure of directory information under Section VII of this policy, disclosures to a parent or student, or disclosures to parents of a dependent student. In the event that the Family Policy

Compliance Office determines that a state or local educational authority, a federal agency headed by an official listed in 34 C.F.R. § 99.31(a)(3), or an authorized representative of a state or local educational authority or a federal agency headed by an official listed in § 99.31(a)(3), or a third party outside of MSA improperly rediscloses personally identifiable information from education records or fails to provide notification required under this section of this policy, MSA may not allow that third party access to personally identifiable information from education records for at least five (5) years.

### **XIII. RESPONSIBLE AUTHORITY; RECORD SECURITY; AND RECORD KEEPING**

#### **A. Responsible Authority**

The MSA superintendent shall be responsible for the maintenance and security of student records.

#### **B. Record Security**

The Director of Student Support Services, subject to the supervision and control of the responsible authority, shall be the records manager of the school, and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records.

#### **C. Plan for Securing Student Records**

The Director of Student Support Services shall submit to the responsible authority a written plan for securing students records by September 1 of each school year. The written plan shall contain the following information:

1. A description of records maintained;
2. Titles and addresses of person(s) responsible for the security of student records;
3. Location of student records, by category, in the buildings;
4. Means of securing student records; and
5. Procedures for access and disclosure.

#### **D. Review of Written Plan for Securing Student Records**

The superintendent shall review the plans submitted pursuant to Paragraph C. of this section for compliance with the law, this policy and the various administrative policies of MSA. The superintendent and the Director of Student Support Services shall then promulgate a chart incorporating the provisions of Paragraph C. # (Appendix 515-A)

#### **E. Record Keeping**

1. The Director of Student Support Services shall, for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record with the education records of the student which indicates:
  - a. the parties who have requested or received personally identifiable information from the education records of the student;
  - b. the legitimate interests these parties had in requesting or obtaining the information; and

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- c. the names of the state and local educational authorities and federal officials and agencies listed in Section VI.B.4 of this policy that may make further disclosures of personally identifiable information from the student's education records without consent.
2. In the event MSA discloses personally identifiable information from an education record of a student pursuant to Section XII.B. of this policy, the record of disclosure required under this section shall also include:
  - a. the names of the additional parties to which the receiving party may disclose the information on behalf of MSA;
  - b. the legitimate interests under Section VI. of this policy which each of the additional parties has in requesting or obtaining the information; and
  - c. a copy of the record of further disclosures maintained by a state or local educational authority or federal official or agency listed in Section VI.B.4. of this policy in accordance with 34 C.F.R. § 99.32 and to whom MSA disclosed information from an education record. MSA shall request a copy of the record of further disclosures from a state or local educational authority or federal official or agency to whom education records were disclosed upon a request from a parent or eligible student to review the record of requests for disclosure.
3. Section XIII.E.1 does not apply to requests by or disclosure to a parent of a student or an eligible student, disclosures pursuant to the written consent of a parent of a student or an eligible student, requests by or disclosures to other school officials under Section VI.B.1 of this policy, to requests for disclosures of directory information under Section VII. of this policy, or to a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or agency has ordered that the existence or the contents of the subpoena or the information provided in response to the subpoena not be disclosed or as directed by an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18. U.S.C. § 2332b(g)(5)(B) or an act of domestic or international terrorism.
4. The record of requests of disclosures may be inspected by:
  - a. the parent of the student or the eligible student;
  - b. the school official or his or her assistants who are responsible for the custody of the records; and
  - c. the parties authorized by law to audit the record-keeping procedures of MSA.
5. MSA shall record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception:
  - a. the articulable and significant threat to the health or safety of a student or other individual that formed the basis for the disclosure; and
  - b. the parties to whom MSA disclosed the information.
  - c. The record of requests and disclosures shall be maintained with the education records of the student as long as MSA maintains the student's education records.

**XIV. RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS**

A. Parent of a Student, an Eligible Student, or the Parent of an Eligible Student Who is Also a Dependent Student

MSA shall permit the parent of a student, an eligible student, or the parent of an eligible student who is also a dependent student who is or has been in attendance in MSA to inspect or review the education records of the student, except those records which are made confidential by state or federal law or as otherwise provided in Section VIII of this policy.

B. Response to Request for Access

MSA shall respond to any request pursuant to Subdivision A. of this section immediately, if possible, or within ten (10) days of the date of the request, excluding Saturdays, Sundays, and legal holidays.

C. Right to Inspect and Review

The right to inspect and review education records under Subdivision A. of this section includes:

1. The right to a response from MSA to reasonable requests for explanations and interpretations of records; and
2. If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the education records, MSA shall provide the parent or eligible student with a copy of the records requested or make other arrangements for the parent or eligible student to inspect and review the requested records.
3. Nothing in this policy shall be construed as limiting the frequency of inspection of the education records of a student with a disability by the student's parent or guardian or by the student upon the student reaching the age of majority.

D. Form of Request

Parents or eligible students shall submit to MSA a written request to inspect education records which identify as precisely as possible the record or records he or she wishes to inspect.

E. Collection of Student Records

If a student's education records are maintained in more than one location, the responsible authority may collect copies of the records or the records themselves from the various locations so they may be inspected at one site. However, if the parent or eligible student wishes to inspect these records where they are maintained, MSA shall attempt to accommodate those wishes. The parent or eligible student shall be notified of the time and place where the records may be inspected.

F. Records Containing Information on More Than One Student

If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information which pertains to that student.

G. Authority to Inspect or Review

MSA may presume that either parent of the student has authority to inspect or review the education records of a student unless MSA has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as marriage dissolution, separation, or custody which provides to the contrary.

H. Fees for Copies of Records

1. MSA shall charge a reasonable fee for providing photocopies or printed copies of records unless printing a copy is the only method to provide for the inspection of data. In determining the amount of the reasonable fee, MSA shall consider the following:
  - a. the cost of materials, including paper, used to provide the copies;
  - b. the cost of the labor required to prepare the copies;
  - c. any schedule of standard copying charges established by MSA in its normal course of operations;
  - d. any special costs necessary to produce such copies from machine based record-keeping systems, including but not limited to computers and microfilm systems; and
  - e. mailing costs.
2. If 100 or fewer pages of black and white, letter or legal size paper copies are requested, actual costs shall not be used, and, instead, the charge shall be no more than 25 cents for each page copied.
3. The cost of providing copies shall be borne by the parent or eligible student.
4. The responsible authority, however, may not impose a fee for a copy of an education record made for a parent or eligible student if doing so would effectively prevent or, in the case of a student with a disability, impair the parent or eligible student from exercising their right to inspect or review the student's education records.

**XV. REQUEST TO AMEND RECORDS; PROCEDURES TO CHALLENGE DATA**

A. Request to Amend Education Records

The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate, misleading, or violates the privacy rights of the student may request that MSA amend those records.

1. The request shall be in writing, shall identify the item the requestor believes to be inaccurate, misleading, or in violation of the privacy or other rights of the student, shall state the reason for this belief, and shall specify the correction the requestor wishes MSA to make. The request shall be signed and dated by the requestor.
2. MSA shall decide whether to amend the education records of the student in accordance with the request within thirty (30) days after receiving the request.

3. If MSA decides to refuse to amend the education records of the student in accordance with the request, it shall inform the parent of the student or the eligible student of the refusal and advise the parent or eligible student of the right to a hearing under Subdivision B. of this section.

**B. Right to a Hearing**

If MSA refuses to amend the education records of a student, MSA, on request, shall provide an opportunity for a hearing in order to challenge the content of the student's education records to ensure that information in the education records of the student is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. A hearing shall be conducted in accordance with Subdivision C. of this section.

1. If, as a result of the hearing, MSA decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the education records of the student accordingly and so inform the parent of the student or the eligible student in writing.
2. If, as a result of the hearing, MSA decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of MSA, or both.
3. Any statement placed in the education records of the student under Subdivision B. of this section shall:
4. be maintained by MSA as part of the education records of the student so long as the record or contested portion thereof is maintained by MSA; and
5. if the education records of the student or the contested portion thereof are disclosed by MSA to any party, the explanation shall also be disclosed to that party.

**C. Conduct of Hearing**

1. The hearing shall be held within a reasonable period of time after MSA has received the request, and the parent of the student or the eligible student shall be given notice of the date, place, and time reasonably in advance of the hearing.
2. The hearing may be conducted by any individual, including an official of MSA who does not have a direct interest in the outcome of the hearing. MSA's representative from the Attorney General's office shall be in attendance to present the MSA board's position and advise the designated hearing officer on legal and evidentiary matters.
3. The parent of the student or eligible student shall be afforded a full and fair opportunity for hearing to present evidence relative to the issues raised under Subdivisions A. and B. of this section and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.
4. MSA shall make a decision in writing within a reasonable period of time after the conclusion of the hearing. The decision shall be based solely on evidence presented at the hearing and shall include a summary of evidence and reasons for the decision.

D. Appeal

The final decision of the designated hearing officer may be appealed in accordance with the applicable provisions of Minn. Stat. Ch. 14 relating to contested cases.

**XVI. PROBLEMS ACCESSING DATA**

- A. The data practices compliance official is the designated employee to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.
- B. The data practices compliance official at MSA is the Human Resources Director.
- C. Any request by an individual with a disability for reasonable modifications of MSA's policies or procedures for purposes of accessing records shall be made to the data practices compliance official.

**XVII. COMPLAINTS FOR NONCOMPLIANCE WITH FERPA**

A. Where to File Complaints

Complaints regarding alleged violations of rights accorded parents and eligible students by FERPA, and the rules promulgated thereunder, shall be submitted in writing to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202.

B. Content of Complaint

A complaint filed pursuant to this section must contain specific allegations of fact giving reasonable cause to believe that a violation of FERPA and the rules promulgated thereunder has occurred.

**XVIII. WAIVER**

A parent or eligible student may waive any of his or her rights provided herein pursuant to FERPA. A waiver shall not be valid unless in writing and signed by the parent or eligible student. MSA may not require such a waiver.

**XIX. ANNUAL NOTIFICATION OF RIGHTS**

A. Contents of Notice

MSA shall give parents of students currently in attendance and eligible students currently in attendance annual notice by such means as are reasonably likely to inform the parents and eligible students of the following:

1. That the parent or eligible student has a right to inspect and review the student's education records and the procedure for inspecting and reviewing education records;
2. 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 or other rights and the procedure for requesting amendment of records;
3. 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 disclosure without consent;

4. 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 MSA to comply with the requirements of FERPA and the rules promulgated thereunder;
5. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest for purposes of disclosing education records to other school officials whom MSA has determined to have legitimate educational interests; and
6. That MSA forwards education records on request to a school 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 or transfer and that such records may include suspension and expulsion records pursuant to the federal No Child Left Behind Act and, if applicable, a student's history of violent behavior.

**B. Notification to Parents of Students Having a Primary Home Language Other Than English**

MSA shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.

**C. Notification to Parents or Eligible Students Who are Disabled**

MSA shall provide for the need to effectively notify parents or eligible students identified as disabled.

**XX. DESTRUCTION AND RETENTION OF RECORDS**

Destruction and retention of records by MSA shall be controlled by state and federal law.

**XXI. COPIES OF POLICY**

Copies of this policy may be obtained by parents and eligible students at the office of the superintendent.

**Legal References:**

- Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)*
- Minn. Stat. Ch. 14 (Administrative Procedures Act)*
- Minn. Stat. § 120A.22 (Compulsory Instruction)*
- Minn. Stat. § 121A.40-121A.56 (The Pupil Fair Dismissal Act)*
- Minn. Stat. § 121A.75 (Sharing Disposition Order and Peace Officer Records)*
- Minn. Stat. § 127A.852 (Military-Connected Youth Identifier)*
- Minn. Stat. § 144.341-144.347 (Consent of Minors for Health Services)*
- Minn. Stat. § 260B.171, Subds. 3 and 5 (Disposition Order and Peace Officer Records of Children)*
- Minn. Stat. § 363A.42 (Public Records; Accessibility)*
- Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)*
- Minn. Rules Parts 1205.0100-1205.2000 (Data Practices)*
- 10 U.S.C. § 503(b) and (c) (Enlistments: Recruiting Campaigns; Compilation of Directory Information)*
- 18 U.S.C. § 2331 (Definitions)*

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18 U.S.C. § 2332b (*Acts of Terrorism Transcending National Boundaries*)  
20 U.S.C. § 1232g et seq. (*Family Educational Rights and Privacy Act*)  
20 U.S.C. § 6301 et seq. (*No Child Left Behind*)  
20 U.S.C. § 7908 (*Armed Forces Recruiting Information*)  
26 U.S.C. §§ 151 and 152 (*Internal Revenue Code*)  
34 C.F.R. §§ 99.1-99.67 (*Family Educational Rights and Privacy*)  
34 C.F.R. § 300.610-300.627 (*Confidentiality of Information*)  
42 C.F.R. § 2.1 et seq. (*Confidentiality of Drug Abuse Patient Records*)  
*Gonzaga University v. Doe*, 536 U.S. 273, 122 S.Ct. 2268, 153 L.Ed. 2d 309 (2002)

**Cross References:**

MSBA/MASA Model Policy 414 (*Mandated Reporting of Child Neglect or Physical or Sexual Abuse*)  
MSBA/MASA Model Policy 417 (*Chemical Use and Abuse*)  
MSBA/MASA Model Policy 506 (*Student Discipline*)  
MSBA/MASA Model Policy 519 (*Interviews of Students by Outside Agencies*)  
MSBA/MASA Model Policy 520 (*Student Surveys*)  
MSBA/MASA Model Policy 711 (*Video Recording on School Buses*)  
MSBA/MASA Model Policy 906 (*Community Notification of Predatory Offenders*)  
MSBA Service Manual, Chapter 13, School Law Bulletin "I" (*School Records – Privacy – Access to Data*)

**Appendix:**

515-A: *Written Plan/Chart for Securing Student Records*

Policy #: <b>518</b>
Title: <b>DNR-DNI Orders</b>
Date of Initial Approval: 12/05/2000
Revision/Re-authorization Dates: 03-15-2018
Reviewers: MSA Superintendent; MSAB/MSAD Directors; Health Services Director

**I. PURPOSE**

The Minnesota State Academies (MSA) serves students with complex health needs. MSA also recognizes that staff members may be confronted with requests to withhold emergency care of a student in the event of a life threatening situation at school or during school activities; or be presented with Do Not Resuscitate/Do Not Intubate (DNR-DNI) orders. The purpose of this policy is to provide guidance to MSA staff in these situations.

**II. GENERAL STATEMENT OF POLICY**

- A. The primary mission of the school district is education. DNR-DNI Orders are medical documents. MSA staff will not accept or honor requests to withhold emergency care or DNR-DNI orders. However, MSA nursing staff will maintain DNR-DNI orders on file and communicate them with emergency medical personnel when available and when MSA nursing staff are present. If possible, MSA nursing staff will send a copy of the DNR-DNI order along with the student to the medical facility. Otherwise, the nursing staff will send the DNR-DNI order to the medical facility as soon as possible.
- B. MSA staff will provide reasonable emergency care and assistance when a student is undergoing a medical emergency during school or school activities.
- C. MSA staff will activate emergency medical services (911) as soon as possible when a student is undergoing a medical emergency during school or school activities.
- D. The parent/guardian will be notified of the emergency as soon as possible.
- E. Notwithstanding this policy, IEP and Section 504 teams must comply with individualized medical emergency care plans for students when indicated in accordance with state and federal law.
- F. Parents/guardians who request that emergency care be withheld for their child or present DNR-DNI Orders shall be advised of and given a copy of this policy.

**Legal References:**

29 U.S.C. §794 et seq. (§504 Rehabilitation Act of 1973)  
42 USCA §§12101-12213 (Americans with Disabilities Act)

Policy #: <b>520</b>
Title: <b>PARTICIPATION IN RESEARCH PROJECTS AND STUDENT SURVEYS</b>
Date of Initial Approval: 06-12-2018
Revision/Re-authorization Dates:
Reviewers: MSAB Director; MSAD Director; MSA Director of Student Support Services

**I. PURPOSE**

Occasionally, the Minnesota State Academies may wish to utilize surveys to obtain opinions, feedback, and/or collect information about students. MSA also participates in some research studies which may incorporate surveys and/or other means of gathering information. The purpose of this policy is to establish the parameters of information that may be sought in student surveys.

**II. GENERAL STATEMENT OF POLICY**

Student surveys and research projects must be approved by the Superintendent based on recommendations from the Directors (Instructional Leadership Team). Surveys, analyses and evaluations conducted as part of any program funded through the U.S. Department of Education must comply with 20 U.S.C. § 1232h.

**III. STUDENT SURVEYS IN GENERAL**

- A. Student surveys will be conducted to ensure compliance with Minnesota Data Privacy Laws. To the extent that personally identifiable information of a student is contained in his or her responses to a survey, the school district will take appropriate steps to ensure the data is protected in accordance with Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act), 20 U.S.C. § 1232g (Family Educational Rights and Privacy Act) and 34 C.F.R. Part 99. Identifying information will be removed before sharing summaries and/or results. Depending on the purpose of the survey, surveys may be completed anonymously and have no requirement for any personal identifying information.
- B. The superintendent may choose not to approve any survey that seeks probing personal and/or sensitive information that could result in identifying the survey participant, or is discriminatory in nature based on age, race, color, sex, disability, religion, or national origin.
- C. Surveys containing questions pertaining to the student's or the student's parent(s) or guardian(s) personal beliefs or practices in sex, family life, morality and religion will not be administered to any student unless the parent or guardian of the student is notified in writing that such survey is to be administered and the parent or guardian of the student gives written permission for the student to participate or has the opportunity to opt out of the survey. Any and all documents containing the written permission of a

parent for a student to participate in a survey will be maintained by the school district in a file separate from the survey responses.

- D. The school district must not impose an academic or other penalty on a student who opts out of participating in a student survey.
- E. During events hosted by other organizations or agencies, MSA employees must ensure that students do not participate in surveys or research projects without obtaining parental permission. Students who have reached the age of majority may participate in those surveys.

#### **IV. STUDENT SURVEYS CONDUCTED AS PART OF DEPARTMENT OF EDUCATION PROGRAM AND/OR RESEARCH PROJECTS**

- A. Any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. Department of Education, shall be available for inspection by the parents or guardians of the students. Research Projects that involve surveying and/or collection of information from students must include parental permission prior to implementation of the project.
- B. No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education, without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent, to submit to a survey that reveals information concerning:
  - 1. political affiliations or beliefs of the student or the student's parent;
  - 2. mental and psychological problems of the student or the student's family;
  - 3. sex behavior or attitudes;
  - 4. illegal, antisocial, self-incriminating, or demeaning behavior;
  - 5. critical appraisals of other individuals with whom respondents have close family relationships;
  - 6. legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
  - 7. religious practices, affiliations, or beliefs of the student or the student's parent; or
  - 8. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).
- C. As part of this policy, MSA has established the following expectations for surveys approved by the Department of Education and/or University research projects.
  - 1. The right of a parent to request access to the survey, including evaluation methods, assessment tools, and/or instructional materials prior to the administration of the survey, including granting parent requests for reasonable access within a reasonable period of time.
    - "Parent" means a legal guardian or another person acting *in loco parentis* (in place of a parent), such as a grandparent or

- stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child.
2. Student privacy will be protected in the event of the administration or distribution of a survey, including an evaluation, to a student which contains one or more of the items listed in Section IV.B., above.
  3. Surveys and/or research projects will not include administration of physical examinations or screenings that MSA may administer to a student. This provision does not apply to a survey administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1400, *et seq.*).
  4. MSA will not collect, disclose, or use personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing the information to others for that purpose).
    - “Personal information” means individually identifiable information including a student or parent’s first and last name; a home or other physical address (including street name and the name of the city or town); a telephone number; or a Social Security identification number.
    - This provision does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as:
      - college or other postsecondary education recruitment and/or
      - tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students, or to generate other statistically useful data for the purpose of securing such tests and assessments and the subsequent analysis and public release of the aggregate data from such tests and assessments.

**V. NOTICE**

- A. This policy serves as reasonable notice of the adoption or continued use of surveys and/or research to parents of students enrolled in or served by MSA.
  1. If there is any substantive change in this policy, an updated notice must be shared with parents within a reasonable period of time.
  2. The notice will provide parents with an opportunity to opt out of participation in the survey or research project. The notice provisions shall not be construed to preempt applicable provisions of state law that require parental notification and do not apply to any physical examination or screening that is permitted or required by applicable state law, including physical examinations or screenings that are permitted without parental notification.
  
- B. The school district must inform parents at the beginning of the school year if the district or school has identified specific or approximate dates for

administering surveys and/or research and give parents reasonable notice of planned surveys scheduled after the start of the school year. The school district must give parents direct, timely notice when their students are scheduled to participate in a student survey and offer the option of opting out of such surveys/research.

**Legal References:**

*Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)*

*Minn. Stat. 121A.065 (District Surveys to Collect Student Information: Parent Notice and Opportunity for Opting Out)*

*20 U.S.C. 1232g (Family Educational Rights and Privacy Act)*

*20 U.S.C. 1232h (Protection of Pupil Rights)*

*34 C.F.R. Part 99 (Family Educational Rights and Privacy Act Regulations)*

Policy #: <b>521</b>
Title: <b>STUDENT DISABILITY NONDISCRIMINATION</b>
Date of Initial Approval: 05-03-2007
Revision/Re-authorization Dates:04-19-2018
Reviewers: MSA Human Resources; MSA Superintendent

**I. PURPOSE**

The purpose of this policy is to protect disabled students from discrimination on the basis of disability and to identify and evaluate learners who, within the intent of Section 504 of the Rehabilitation Act of 1973, need special services, accommodations, or programs in order that such learners may receive a free appropriate public education.

**II. GENERAL STATEMENT OF POLICY**

A. Disabled students are protected from discrimination on the basis of a disability

B. It is the responsibility of the Minnesota State Academies to identify and evaluate learners who, within the intent of Section 504 of the Rehabilitation Act of 1973, need special services, accommodations, or programs in order that such learners may receive a free appropriate public education.

C. For this policy, a learner who is protected under Section 504 is one who:

1. has a physical or mental impairment that substantially limits one or more major life activities, including learning; or
2. has a record of such impairment; or
3. is regarded as having such impairment.

D. Learners may be protected from disability discrimination and be eligible for services, accommodations, or programs under the provisions of Section 504 even though they are not eligible for special education pursuant to the Individuals with Disabilities Education Act.

**III. PROCEDURE**

Persons wishing to discuss a concern or complaint regarding possible discrimination on the basis of disability should first contact the director of the campus where the student attends classes. The Director shall document the complaint and work with the MSA Human Resources Director to take steps to document all reports of suspected discrimination and collect all available and applicable evidence. If the Director is not available or is believed to be party to the suspected discrimination, individuals may contact the MSA Human Resources Director directly. The names of the reporting individuals and the accused/suspected of the violation will not be disclosed to anyone who does not have a business need to know. To protect the integrity of the investigation, the

nature and specifics of the suspected violation will be shared only with those with a business need to know.

Generally, the MSA Human Resources director, in consultation with MSA directors, will determine the type of investigation to be performed and the individual(s) who will perform the investigation. The type of investigation and individual(s) involved will be dependent upon the specific nature of the suspected violation. Depending on the nature of the reported violation, MSA may relinquish control of the investigation to another entity such as the Minnesota Department of Management and Business (MMB) or the Attorney General's office.

At the outcome of the investigation, the MSA Human Resources Director or the lead investigator will provide the MSA Superintendent with written notification of the final resolution of the matter within 30 days or as soon as possible after the final determination. If applicable and appropriate, the reporting individual may be notified of the final determination.

Persons who have questions, comments, or complaints should contact the MSA Human Resources Director regarding grievances or hearing requests regarding disability issues. This position serves as the school district's ADA/504 Coordinator.

**Legal References:**

29 U.S.C. § 794 et seq. (*Rehabilitation Act of 1973, § 504*)  
34 C.F.R. Part 104 (*Implementing Regulations*)

**Appendix:**

*Appendix 521A – Student Disability Discrimination Grievance Report Form*

Policy #: <b>526</b>
<b>Title: HAZING PROHIBITION</b>
Date of Initial Approval: 03-17-2004
Revision/Re-authorization Dates: 11-18-2010; 01-23-2014; 06-12-2018
Reviewers: MSA Superintendent; MSAB/MSAD Directors; Director of Student Support Services; MSA Human Resources Office

**I. PURPOSE**

The purpose of this policy is to maintain a safe learning environment for students that is free from hazing. "Hazing" means committing an act against a student, or coercing a student into committing an act, that creates a substantial risk of harm to a person, in order for the student to be initiated into or affiliated with a student organization, or for any other purpose. Hazing activities of any type are inconsistent with the educational goals of the Minnesota State Academies (MSA) and are prohibited at all times.

**II. GENERAL STATEMENT OF POLICY**

- A. No student, teacher, administrator, volunteer, contractor or other employee of MSA shall plan, direct, encourage, aid or engage in hazing.
- B. No teacher, administrator, volunteer, contractor or other employee of MSA shall permit, condone or tolerate hazing.
- C. Apparent permission or consent by a person being hazed does not lessen the prohibitions contained in this policy.
- D. Retaliation against a victim, good faith reporter, or a witness of hazing is prohibited.
- E. A person who engages in an act of hazing, reprisal, retaliation, or false reporting of hazing or permits, condones, or tolerates hazing shall be subject to discipline or other remedial responses for that act in accordance with MSA's policies and procedures.

Consequences for students who commit, tolerate, or are a party to prohibited acts of hazing 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 hazing or engage in an act of reprisal or intentional false reporting of hazing may result in disciplinary action up to and including termination or discharge. Consequences for other individuals engaging in prohibited acts of hazing may include, but not be limited to, exclusion from MSA property and events and/or termination of services and/or contracts.

- F. This policy applies to hazing that occurs during and after school hours, on or off school premises or property, at any school location, at school functions or activities, or on school transportation.
- G. A person who engages in an act that violates MSA policy or law in order to be initiated into or affiliated with a student organization shall be subject to discipline for that act.
- H. MSA will act to investigate all complaints of hazing and will discipline or take appropriate action against any student, teacher, administrator, volunteer, contractor or other employee of MSA who is found to have violated this policy.

### III. DEFINITIONS

- A. "Hazing" means committing an act against a student, or coercing a student into committing an act, that creates a substantial risk of harm to a person, in order for the student to be initiated into or affiliated with a student organization, or for any other purpose. The term hazing includes, but is not limited to:
  - 1. Any type of physical brutality such as whipping, beating, striking, branding, electronic shocking or placing a harmful substance on the body.
  - 2. Any type of physical activity such as sleep deprivation, exposure to weather, confinement in a restricted area, calisthenics or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
  - 3. Any activity involving the consumption of any alcoholic beverage, drug, tobacco product or any other food, liquid, or substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
  - 4. Any activity that intimidates or threatens the student with ostracism, that subjects a student to extreme mental stress, embarrassment, shame or humiliation, that adversely affects the mental health or dignity of the student or discourages the student from remaining in school.
  - 5. Any activity that causes or requires the student to perform a task that involves violation of state or federal law or MSA policies or regulations.
- B. "Student organization" means a group, club or organization having students as its primary members or participants. It includes grade levels, classes, teams, activities or particular school events. A student organization does not have to be an official school organization to come within the terms of this definition.

- C. "School Locations" include any school building or grounds, whether leased, rented, owned, or controlled by the school; locations of school activities or trips; bus stops; school buses or school vehicles; school-contracted vehicles; the area of entrance or departure from school premises or events; all locations where school-related functions are conducted; and any locations or activities where students are under the jurisdiction of MSA.

#### **IV. REPORTING PROCEDURES**

- A. Any person who believes they have been the victim of hazing or any person with knowledge or belief of conduct which may constitute hazing shall report the alleged acts immediately to an appropriate MSA official designated by this policy. A person may report hazing anonymously. However, MSA may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. The campus director or designee is the person responsible for receiving reports of hazing on each campus. Any person may also report hazing directly to the MSA human rights officer or the superintendent. If the complaint involves the campus director or designee, the complaint shall be made or filed directly with the superintendent or the MSA human rights officer by the reporting party or complainant. The person receiving the report shall ensure that this policy and its procedures, practices, consequences, and/or sanctions are fairly and fully implemented.
- C. Teachers, administrators, volunteers, contractors and other employees of MSA shall be particularly alert to possible situations, circumstances or events which might include hazing. Any such person who receives a report of, observes, or has other knowledge or belief of conduct which may constitute hazing shall make reasonable efforts to address and resolve the hazing, and inform the campus director or designee immediately. MSA personnel who fail to inform the campus director or designee of conduct that may constitute hazing in a timely manner may be subject to disciplinary action.
- D. Submission of a good faith complaint or report of hazing will not affect the complainant or reporter's future employment, grades, work assignments, or educational/work environments.
- E. Reports of hazing are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law. MSA 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 MSA's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

**V. MINNESOTA STATE ACADEMIES ACTION**

- A. Upon receipt of a complaint or report of hazing, MSA shall undertake or authorize an investigation by MSA officials or a third party designated by MSA administrators.
- B. MSA may take immediate steps, at its discretion, to protect the target or victim of the hazing, the complainant, the reporter, students, or others pending completion of an investigation of alleged hazing prohibited by this policy.
- C. Upon completion of the investigation that determines hazing has occurred, MSA 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 deter violations and to appropriately discipline prohibited behavior. MSA action taken for violation of this policy will be consistent with the requirements of applicable collective bargaining agreements, applicable statutory authority, including the Minnesota Pupil Fair Dismissal Act, and MSA policies/regulations.
- D. MSA is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student or employee of MSA. MSA officials will notify the parent(s) or guardian(s) of students involved in a hazing incident and the remedial action taken, to the extent permitted by law, based on a confirmed report.
- E. In order to prevent or to respond to hazing committed by or directed against a child with a disability, MSA shall, when determined appropriate by the child's individualized education program (IEP) team, allow the child's IEP to be drafted to address the skills and proficiencies the child needs to respond to or not to engage in hazing.

**VI. RETALIATION OR REPRISAL**

MSA will discipline or take appropriate action against any student, teacher, administrator, volunteer, contractor, or other employee of MSA who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged hazing, who provides information about hazing, who testifies, assists, or participates in an investigation of alleged hazing, or who testifies, assists, or participates in a proceeding or hearing relating to such hazing. 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 prohibited conduct.

**VII. DISSEMINATION OF POLICY**

This policy shall appear in the MSA Parent-Student Handbook and be distributed to each student/family at the beginning of each school year or at the time of enrollment. The director of each campus shall discuss this policy with students and employees annually at the beginning of the school year.

**Legal References:**

*Minn. Stat. § 121A.031 (School Student Bullying Policy)*

*Minn. Stat. § 121A.0311 (Notice of the Rights and Responsibilities of Students and Parents Under the Safe and Supportive Minnesota Schools Act)*

*Minn. Stat. § 121A.40-121A.56 (Pupil Fair Dismissal Act)*

*Minn. Stat. § 121A.69 (Hazing Policy)*

**Cross References:**

*MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)*

*MSBA/MASA Model Policy 413 (Harassment and Violence)*

*MSBA/MASA Model Policy 506 (Student Discipline)*

*MSBA/MASA Model Policy 514 (Bullying Prohibition Policy)*

*MSBA/MASA Model Policy 525 (Violence Prevention [Applicable to Students and Staff])*