



## Policy Committee Meeting

Monday, December 2, 2024 5:00 PM

District Office, 104 - 5th Avenue South, South St Paul, Minnesota 55075

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### I. POLICY REVIEW

I.A. #516 - Student Medication and Telehealth (C. Burckhardt)

I.B. #513 - Student Promotion, Retention, and Program Design (A. Winter)

I.C. #607 - Organization of Grade Levels (A. Winter)

I.D. #614 - School District Testing Plan and Procedure (A. Winter)

I.E. #626 - Assessment Policy (A. Winter)

I.F. #418 - Drug Free Workplace (J. Milteer)

I.G. #419 - Tobacco Free Work Environment (J. Milteer)

I.H. #437 - Student Teaching (J. Milteer)

I.I. #522 - Title IX Sex Nondiscrimination Policy, Grievance Procedure and Process (J. Milteer)

I.J. #722 - Public Data Requests (J. Milteer)

### II. OTHER

II.A. Other Items Deemed Necessary by the Board Policy Committee



Adopted: January 24, 2005

MSBA/MASA Model Policy 516

Orig. 1995

Revised: 7/11/05; 10/23/06; 10/27/08; 11/10/14  
8/8/16; 6/26/1; 6/10/19; 5/26/20; 6/14/21  
6/27/22; 6/26/23

Rev. 2024~~2~~

## 516 STUDENT MEDICATION AND TELEHEALTH

### I. PURPOSE

The purpose of this policy is to set forth the provisions that must be followed when administering non-emergency prescription medication to students at school, and nonprescription over-the-counter (OTC) medication to students during the school day.

### II. GENERAL STATEMENT OF POLICY

The school district acknowledges that some students may require prescribed drugs or medication or telehealth during the school day. The school district's licensed school nurse, trained health staff clerk, principal, or teacher will administer medications, except any form of medical cannabis, in prescription and OTC, in accordance with law and school district procedures.

### III. DRUG AND MEDICATION REQUIREMENTS

#### A. Administration of Drugs and Medicine

1. The administration of Food and Drug Administration (FDA) prescription medication and nonprescription (OTC) medication or drugs at school requires a completed signed request from the student's parent and licensed prescriber. An oral request must be reduced to writing within two school days, provided that the school district may rely on an oral request until a written request is received.
2. Drugs and medicine subject to Minnesota Statutes, 121A.22 must be administered, to the extent possible, according to school board procedures that must be developed in consultation with:
  - A. with a licensed nurse, in a district that employs a licensed nurse under Minnesota Statutes, section 148.171;
  - B. with a licensed school nurse, in a district that employs a licensed school nurse licensed under Minnesota Rules, part 8710.6100;
  - C. with a public or private health-related organization, in a district that contracts with a public or private health or health-related organization, according to Minnesota Statutes, 121A.21; or



D. with the appropriate party, in a district that has an arrangement approved by the Commissioner of the Minnesota Department of Education, according to Minnesota Statutes, 121A.21.

### 3. Exclusions

The provisions on administration of drugs and medicine above do not apply to drugs or medicine that are:

- a. purchased without a prescription;
- b. used by a pupil who is 18 years old or older;
- c. used in connection with services for which a minor may give effective consent;
- d. used in situations in which, in the judgment of the school personnel, including a licensed nurse, who are present or available, the risk to the pupil's life or health is of such a nature that drugs or medicine should be given without delay;
- e. used off the school grounds;
- f. used in connection with athletics or extracurricular activities;
- g. used in connection with activities that occur before or after the regular school day;
- h. provided or administered by a public health agency to prevent or control an illness or a disease outbreak as provided under Minnesota law;
- i. prescription asthma or reactive airway disease medications can be self-administered by a student with an asthma inhaler if:
  - a. the school district has received a written authorization each school year from the pupil's parent permitting the student to self-administer the medication;
  - b. the inhaler is properly labeled for that student; and
  - c. the parent has not requested school personnel to administer the medication to the student.

The school nurse or other appropriate party must assess the student's knowledge and skills to safely possess and use an asthma inhaler in a school setting and enter into the student's school health record a plan to implement safe possession and use of asthma inhalers.



j. epinephrine auto-injectors, consistent with Minnesota Statutes, section 121A.2205, if the parent and prescribing medical professional annually inform the pupil's school in writing that

a. the pupil may possess the epinephrine or

b. the pupil is unable to possess the epinephrine and requires immediate access to epinephrine auto-injectors that the parent provides properly labeled to the school for the pupil as needed.

k. For the purposes of Minnesota Statutes, 121A.22, special health treatments and health functions, such as catheterization, tracheostomy suctioning, and gastrostomy feedings, do not constitute administration of drugs or medicine.

l. Emergency health procedures, including emergency administration of drugs and medicine are not subject to this policy.

## B. Prescription Medication

1. An "Administering Prescription Medications" ~~"Medication Administration Consent"~~ form must be completed annually (once per school year) and/or when a change in the prescription or requirements for administration occurs. Prescription medication as used in this policy does not include any form of medical cannabis as defined in ~~Minn. Stat. §~~ Minnesota Statutes, section 152.22, subdivision ~~Subd.~~ 6.
2. Prescription ~~All~~ medication must come to school in the original container labeled. ~~Further, prescription medication must be labeled~~ for the student by a pharmacist in accordance with law, ~~and~~ must be administered in a manner consistent with the instructions on the label.
3. The ~~licensed~~ school nurse may request to receive further information about the prescription, if needed, prior to administration of the substance.
4. Prescription ~~Medications~~ are not to be carried by the student, but will be left with the appropriate school district personnel. Exceptions to this requirement are: prescription asthma medications self-administered with an inhaler (See Paragraph III.A.3(i) above Part J.5. below), ~~and prescribed anaphylaxis medications self-administered with an epinephrine auto-injector (See part J.8 below)~~, medications administered as noted ~~specified~~ in a written agreement between the school district and the parent or as specified in an IEP (individualized education program), Section 504 plan, or IHP (individual health plan) ~~and nonprescription pain relief medicine for secondary students (see J.7).~~



5. The school must be notified immediately by the parent or student 18 years old or older in writing of any change in the student's prescription medication administration. A new medical authorization and container label with new pharmacy instructions shall be required immediately as well.
6. The school nurse, or other designated person, shall be responsible for the filing of the Administering Prescription Medications form in the health records section of the student file. The school nurse, or other designated person, shall be responsible for providing a copy of such form to the principal and to other personnel designated to administer the medication.
7. For drugs or medicine used by children with a disability, administration may be as provided in the IEP, Section 504 plan or IHP.

~~The licensed school nurse, or other designated person, shall be responsible for the filing of the Administering Prescription Medications Medication Administration Consent form in the health records section of the student file. The licensed school nurse, or other designated person, shall be responsible for providing a copy of such form to the principal and to other personnel designated to administer the medication.~~

~~Procedures for administration of drugs and medicine at school and school activities shall be developed in consultation with a licensed school nurse, or a public or private health organization or other appropriate party (if appropriately contracted by the school district under Minnesota Statutes section 121A.21). The school district administration shall submit these procedures and any additional guidelines and procedures necessary to implement this policy to the school board for approval. Upon approval by the school board, such guidelines and procedures shall be an addendum to this policy.~~

8. If the administration of a drug or medication described in this section requires the school district to store the drug or medication, the parent or legal guardian must inform the school if the drug or medication is a controlled substance. For a drug or medication that is not a controlled substance, the request must include a provision designating the school district as an authorized entity to transport the drug or medication for the purpose of destruction if any unused drug or medication remains in the possession of school personnel. For a drug or medication that is a controlled substance, the request must specify that the parent or legal guardian is required to retrieve the drug or controlled substance when requested by the school.

~~Specific Exceptions:~~

1. ~~Special health treatments and health functions such as catheterization, tracheostomy suctioning, and gastrostomy feedings do not constitute administration of drugs and medicine.~~



2. Emergency health procedures, including emergency administration of drugs and medicine are not subject to this policy;
3. Drugs or medicine provided or administered by a public health agency to prevent or control an illness or a disease outbreak are not governed by this policy;
4. Drugs or medicines used at school in connection with services for which a minor may give effective consent are not governed by this policy;
5. Drugs or medicines that are prescription asthma or reactive airway disease medications can be self-administered by a student with an asthma inhaler if:
  - a) the school district has received a written authorization from the pupil's parent and licensed prescriber permitting the student to self-administer the medication;
  - b) the inhaler is properly labeled for that student; and
  - c) the parent has not requested school personnel to administer the medication to the student.

The parent must submit written authorization for the student to self-administer the medication each school year. In a school that does not have a licensed school nurse or school nursing services, the student's parent or guardian must submit written verification from the prescribing professional which documents that an assessment of the student's knowledge and skills to safely possess and use an asthma inhaler in a school setting has been completed.

If the school district employs a licensed school nurse or provides school nursing services under another arrangement, the licensed school nurse or other appropriate party must assess the student's knowledge and skills to safely possess and use an asthma inhaler in a school setting and enter into the student's school health record a plan to implement safe possession and use of asthma inhalers.

6. Medications:
  - a) that are used off school grounds;
  - b) that are used in connection with athletics or extracurricular activities; or
  - c) that are used in connection with activities that occur before or after the regular school day are not governed by this policy.

### **C. Nonprescription Medication.**

A secondary student may possess and use nonprescription pain relief in a manner consistent with the labeling, if the school district has received written authorization from the student's parent or guardian permitting the student to self-administer the medication. The parent or guardian must submit written authorization for the student to self-administer the medication each school year.



The school district may revoke a student's privilege to possess and use nonprescription pain relievers if the school district determines that the student is abusing the privilege. This provision does not apply to the possession or use of any drug or product containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients. **Except as stated in this paragraph, only prescription medications are governed by this policy.**

#### **D. Possession and Use of Epinephrine Auto-Injectors**

At the start of each school year or at the time a student enrolls in school, whichever is first, a student's parent, school staff, including those responsible for student health care, and the prescribing medical professional must develop and implement an individualized written health plan for a student who is prescribed epinephrine auto-injectors that enables the student to:

- 1) possess epinephrine auto-injectors; or
- 2) if the parent and prescribing medical professional determine the student is unable to possess the epinephrine, have immediate access to epinephrine auto-injectors in close proximity to the student at all times during the instructional day.

**For the purposes of this policy, "instructional day" is defined as six hours and forty-five minutes for each student contact day.**

The plan must designate the school staff responsible for implementing the student's health plan, including recognizing anaphylaxis and administering epinephrine auto-injectors when required, consistent with state law. This health plan may be included in a student's **Section 504** plan.

**Districts and schools may obtain and possess epinephrine auto-injectors to be maintained and administered by school personnel, including a licensed nurse, to a student or other individual if, in good faith, it is determined that person is experiencing anaphylaxis regardless of whether the student or other individual has a prescription for an epinephrine auto-injector. The administration of an epinephrine auto-injector in accordance with Minnesota Statutes, section 121A.2207 is not the practice of medicine.**

**Effective July 1, 2024, registered nurses may administer epinephrine auto-injectors in a school setting according to a condition-specific protocol as authorized under Minnesota Statutes, section 148.235, subdivision 8. Notwithstanding any limitation in Minnesota Statutes, sections 148.171 to 148.285, licensed practical nurses may administer epinephrine auto-injectors in a school setting according to a condition-specific protocol that does not reference a specific patient and that specifies the circumstances under which the epinephrine auto-injector is to be administered, when caring for a patient whose condition falls within the protocol.**



A district or school may enter into arrangements with manufacturers of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair-market, free, or reduced prices. A third party, other than a manufacturer or supplier, may pay for a school's supply of epinephrine auto-injectors.

#### E. Sunscreen

A student may possess and apply a topical sunscreen product during the school day while on school property or at a school-sponsored event without a prescription, physician's note, or other documentation from a licensed health care professional. School personnel are not required to provide sunscreen or assist students in applying sunscreen.

"Parent" for students 18 years old or older is the student. An adult student (age 18 or older) is not required to submit parent/guardian signatures but instead may provide signature for self.

Districts and schools may obtain and possess epinephrine auto-injectors to be maintained and administered by school personnel to a student or other individual if, in good faith, it is determined that person is experiencing anaphylaxis regardless of whether the student or other individual has a prescription for an epinephrine auto-injector. The administration of an epinephrine auto-injector in accordance with this section is not the practice of medicine.

A district or school may enter into arrangements with manufacturers of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair-market, free, or reduced prices. A third party, other than a manufacturer or supplier, may pay for a school's supply of epinephrine auto-injectors.

#### F. Procedures regarding unclaimed drugs or medications.

1. The school district has adopted the following procedure for the collection and transport of unclaimed or abandoned prescription drugs or medications remaining in the possession of school personnel in accordance with this policy. Before the transportation of any prescription drug or medication under this policy, the school district shall make a reasonable attempt to return unused prescription drug or medication to the student's parent or legal guardian. Transportation of unclaimed or unused prescription drugs or medications will occur at least annually, but may occur more frequently at the discretion of the school district.
2. If the unclaimed or abandoned prescription drug is not a controlled substance as defined under Minnesota Statutes, sections 152.01 subdivision 4, or is an over-the-counter medication, the school district will either designate an individual who shall be responsible for transporting the drug or medication to a designated drop-off box or collection site or request that a law enforcement agency transport the drug or medication to a drop-off box or collection site on behalf of the school district.
3. If the unclaimed or abandoned prescription drug is a controlled substance as defined in Minnesota Statutes, sections 152.01, subdivision 4, the school district or school personnel



is prohibited from transporting the prescription drug to a drop-off box or collection site for prescription drugs identified under this paragraph. The school district must request that a law enforcement agency transport the prescription drug or medication to a collection bin that complies with Drug Enforcement Agency regulations, or if a site is not available, under the agency's procedure for transporting drugs.

#### **IV. ACCESS TO SPACE FOR MENTAL HEALTH CARE THROUGH TELEHEALTH**

- A. Beginning October 1, 2024, to the extent space is available, the school district must provide an enrolled secondary school student with access during regular school hours, and to the extent staff is available, before or after the school day on days when students receive instruction at school, to space at the school site that a student may use to receive mental health care through telehealth from a student's licensed mental health provider. A secondary school must develop a plan with procedures to receive requests for access to the space.
- B. The space must provide a student privacy to receive mental health care.
- C. A student may use a school-issued device to receive mental health care through telehealth if such use is consistent with the district or school policy governing acceptable use of the school-issued device.
- D. A school may require a student requesting access to space under this section to submit to the school a signed and dated consent from the student's parent or guardian, or from the student if the student is age 16 or older, authorizing the student's licensed mental health provider to release information from the student's health record that is requested by the school to confirm the student is currently receiving mental health care from the provider. Such a consent is valid for the school year in which it is submitted.

***Legal References:***

- Minn. Stat. § 13.32 (Educational Data)
- Minn. Stat. § 121A.21 (School Health Services Hiring of Health Personnel)
- Minn. Stat. § 121A.216 (Access to Space for Mental Health Care through Telehealth)
- Minn. Stat. § 121A.22 (Administration of Drugs and Medicine)
- Minn. Stat. § 121A.2205 (Possession and Use of Epinephrine Auto-Injectors; Model Policy)
- Minn. Stat. § 121A.2207 (Life-Threatening Allergies in Schools; Stock Supply of Epinephrine Auto-Injectors)
- Minn. Stat. § 121A.221 (Possession and Use of Asthma Inhalers by Asthmatic Students)
- Minn. Stat. § 121A.222 (Possession and Use of Nonprescription Pain Relievers by Secondary Students)
- Minn. Stat. § 121A.223 (Possession and Use of Sunscreen)
- Minn. Stat. § 148.171 (Definitions; Title)
- Minn. Stat. § 151.212 (Label of Prescription Drug Containers)



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Minn. Stat. § 152.01 (Definitions)

Minn. Stat. § 152.22 (~~Medical Cannabis~~ Definitions)

Minn. Stat. § 152.23 (~~Medical Cannabis~~ Limitations)

**Minn. Rule 8710.6100 (School Nurse)**

20 U.S.C. § 1400 *et seq.* Individuals with Disabilities Education Act)

29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)

***Cross References:*** MSBA/MASA Model Policy 418 (Drug-Free Workplace/Drug-Free School)



Adopted: December 13, 2004

MSBA/MASA Model Policy 513

Orig. 1995

Revised: 2/28/05, 6/26/06, 8/27/07, 5/12/08; 10/27/08  
7/27/09; 6/25/12; 7/25/16; 8/14/17; 6/10/19; 7/27/20  
6/14/21; 6/27/22; 6/26/23

Rev. 2024-26

## 513 STUDENT PROMOTION, RETENTION, AND PROGRAM DESIGN

### I. PURPOSE

The purpose of this policy is to provide guidance to professional staff, parents and students regarding student promotion, retention and program design.

### II. GENERAL STATEMENT OF POLICY

The school board expects all students to achieve at an acceptable level of proficiency. Parental assistance, tutorial and remedial programs, counseling and other appropriate services shall be coordinated and utilized to the greatest extent possible to help students succeed in school.

#### A. Promotion

1. Students who achieve at levels deemed acceptable by local and state standards shall be promoted to the next grade level at the completion of each school year.

#### B. Retention

Retention of a student may be considered when professional staff and parents feel that it is in the best interest of the student. Physical development, maturity, and emotional factors shall be considered, as well as scholastic achievement. The superintendent's decision shall be final.

##### ~~1. Kindergarten – 8<sup>th</sup> Grade~~

~~Retention of a student will occur when professional staff feels that it is in the best interest of the student. Prior to the retention of the student, the professional staff must have multiple consultations with the parents and consider the student's physical development, maturity, and emotional factors, along with the student's academic achievement.~~

##### ~~2. 9<sup>th</sup> - 12<sup>th</sup> Grade Students~~

~~These students are on a credit system that requires the completion of a specified number of credits to be eligible for a South St. Paul High School diploma.~~

#### ~~C. Intervention Process~~

- ~~1. Intervention will occur when a student fails to meet grade level benchmarks. The district supports a multi-tiered system of intervention including, but not limited to:~~



- a) ~~Teacher/Parent Contact~~
- b) ~~Access to Intervention Courses~~
- c) ~~Enrollment in Targeted Services (school year & summer school)~~
- d) ~~Referral to Student Intervention Team~~
- e) ~~Referral to Child Study~~

~~D.~~ C. Program Design

1. The superintendent, with participation of the professional staff and parents, shall develop and implement programs to challenge students that are consistent with the needs of students at every level. A process to assess and evaluate students for program assignment shall be developed in coordination with such programs. Opportunities for special programs and placement outside of the school district shall also be developed as additional options. All programs will be aligned with creating comprehensive achievement and civic readiness. ~~the world's best workforce.~~
2. The school district may identify students, locally develop programs and services addressing instructional and affective needs, provide staff development, and evaluate programs to provide gifted and talented students with challenging and appropriate educational programs and services.
3. The school district ~~must~~ will adopt guidelines for assessing and identifying students for participation in gifted and talented programs and services consistent with Minnesota Statutes, section 120B.11. The guidelines should include the use of:
  - a) Multiple objective criteria; and
  - b) Assessments and procedures that are valid and reliable, fair, and based on current theory and research. Assessments and procedures should be sensitive to under-represented groups, including, but not limited to, low-income, minority, twice exceptional, and English Learners.
4. The school district ~~must~~ will adopt procedures for the academic acceleration of gifted and talented students. These procedures will include how the school district will:
  - a) Assess a student's readiness and motivation for acceleration; and
  - b) Match the level, complexity, and pace of the curriculum to a student to achieve the best type of academic acceleration for that student.
5. The school district will ~~must~~ adopt procedures, consistent with Minnesota Statutes, section 124D.02 for early admission to kindergarten or first grade of gifted or talented learners consistent with Minnesota Statutes, section 120B.11, subdivision 2, clause (2).



which describe the comprehensive evaluation in cognitive, social, and emotional development domains to help determine a child's ability to meet kindergarten grade expectations and progress to first grade in the subsequent year for early admission to kindergarten or first grade of gifted and talented learners. The comprehensive evaluation must use valid and reliable instrumentation, be aligned with state kindergarten expectations, and include a parental report and teacher observations of the child's knowledge, skills, and abilities. The procedures must be sensitive to under-represented groups.

**Legal References:** Minn. Stat. § 120B.15 (Gifted and Talented Students Program)  
Minn. Stat. § 123B.143, Subd. 1 (Superintendent)

**Cross References:** MSBA/MASA Model Policy 613 (Graduation Requirements)  
MSBA/MASA Model Policy 614 (School District Testing Plan and Procedure)  
MSBA/MASA Model Policy 615 (Testing; Accommodations, Modifications, and Exemptions for IEPs, Section 504 Plans, and LEP Students)  
MSBA/MASA Model Policy 617 (School District Ensurance of Preparatory and High School Standards)  
MSBA/MASA Model Policy 618 (Assessment of Student Achievement)  
MSBA/MASA Model Policy 620 (Credit for Learning)



Adopted: August 9, 2004

MSBA/MASA Model Policy 607

Orig. 1995

Revised: 8/28/06; 8/24/15; 6/26/17; 7/22/24

Rev. 2024

## 607 ORGANIZATION OF GRADE LEVELS

### I. PURPOSE

- A. The purpose of this policy is to address the grade level organization of schools within the school district.

### II. GENERAL STATEMENT OF POLICY

- A. The policy of the school district is to address the groupings of grade levels as recognized in Minnesota Statutes section 120A.05, as follows:

*1. Elementary: Grades pre kindergarten through 5*

*2. Secondary: Grades 6 through 12*

- B. The superintendent may seek school board approval to administer certain programs on a nongraded basis or a design different from that indicated. Program proposals that seek school board approval must meet all state requirements and reflect the rationale for the modification.

- C. The school district may request documentation that verifies a student falls within the school's minimum and maximum age requirements for admission to publicly funded Prekindergarten, preschool, kindergarten, or grades 1 through 12. Documentation may include a passport, a hospital birth record or physician's certificate, a baptismal or religious certificate, an adoption record, health records, immunization records, immigration records, previously verified school records, early childhood screening records, Minnesota Immunization Information Connection records, or an affidavit from a parent.

### III. DEFINITIONS

- A. "Kindergarten" means a program designed for students five years of age on September 1 of the calendar year in which the school year commences that prepares students to enter first grade the following school year.
- B. "Prekindergarten" means a program designed for students younger than five years of age on September 1 of the calendar year in which the school year commences that prepares students to enter kindergarten the following school year.

**Legal References:** Minn. Stat. § 120A.05, Subds. 9, 10a, 11, 13, 17 (Definitions)

Minn.Stat. § 120A.20, Subd. 4 (Admission to Public School)

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

***Cross References:*** **None**

Adopted: June 22, 1998

MSBA/MASA Model Policy 614

Orig. 1997

Revised: 8/9/04, 7/11/05; 8/14/17

Rev. 2024/5

## 614 SCHOOL DISTRICT TESTING PLAN AND PROCEDURE

### I. PURPOSE

The purpose of this policy is to set forth the school district's testing plan and procedure.

### II. GENERAL STATEMENT OF POLICY

The policy of the school district is to implement procedures for testing, test security, documentation, and record keeping.

### III. DUTIES OF SCHOOL DISTRICT PERSONNEL REGARDING TEST ADMINISTRATION

#### A. Superintendent

##### 1. Responsibilities before testing.

- a) Designate a district assessment coordinator and district technology coordinator.
- b) The superintendent, or a designee who has been authorized to be the identified official with authority by the school board, preauthorizes staff access for applicable Minnesota Department of Education (MDE) secure systems.
- c) Annually review and recertify staff who have access to MDE secure systems.
- d) Read and complete the *Assurance of Test Security and NonDisclosure*.
- e) Establish a culture of academic integrity.
- f) Fully cooperate with MDE representatives conducting site visits or Minnesota Test of Academic Skills (MTAS) audits during testing.
- g) Ensure student information is current and accurate.
- h) Ensure that a current district test security procedure is in place and that all relevant staff have been provided district training on test administration and test security.
- i) Ensure that a current process is included for tracking which students tested with which test monitors and any other adult(s) who were present in the testing room (e.g., staff providing assistance, paraprofessionals, etc.).



- j) Confirm the district assessment coordinator has current information and training specific to test security and the administration of statewide assessments.
- k) Confirm the district assessment coordinator completes Pre-test Editing in the Test Web Edit System (WES).
- l) Post on the school district website the complete Parent/Guardian Guide and Refusal for Student Participation in Statewide Testing form.

2. Responsibilities after testing.

- a) Confirm the district assessment coordinator and Minnesota Automated Reporting Student System (MARSS) coordinator complete Post-test Editing in Test WES.
- b) Verify with the district assessment coordinator that all test security issues have been reported to MDE and are being addressed.
- c) Confirm the MARSS coordinator has updated all student records for Post-test Editing.
- d) Confirm the district assessment coordinator has finalized the district's assessment information prior to the close of Post-test Editing in Test WES.
- e) Confirm the district assessment coordinator, or designee, has access to the Graduation Requirements Records (GRR) system and enters necessary information.
- f) Discuss assessment results with the district assessment coordinator and school administrators.

B. District Assessment Coordinator

1. Responsibilities before testing.

- a) Serve as primary contact with MDE regarding policy and procedure questions related to test administration.
- b) Read and complete the *Assurance of Test Security and NonDisclosure*.
- c) Confirm all staff who handle test materials, administer tests, or have access to secure test content have completed the *Assurance of Test Security and Non-Disclosure*.

- (1) Maintain the completed *Assurance of Test Security and Non-Disclosure* for two years after the end of the academic school year in which testing took place.



- d) Review with all staff the *Assurance of Test Security and NonDisclosure* and their responsibilities thereunder.
- e) Identify appropriate tests for students and ensure student data sent to service providers for testing are correct.
- f) Establish district testing schedule within the testing windows specified by the MDE and service providers.
- g) Prepare testing conditions, including user access to service provider websites, preparing readiness for online testing, preparing a plan for tracking which students test on which computers or devices, ensure accommodations are indicated as necessary, providing students with opportunity to become familiar with test format, item types, and tools prior to test administration; establishing process for inventorying and distributing secure test materials where necessary; preparing procedures for expected and unexpected situations occurring during testing; planning for addressing technical issues while testing; identify staff who will enter student responses from paper accommodated test materials and scores from MTAS administration online.
- h) Train school assessment coordinators, test monitors, MTAS test administrators, and ACCESS (test for English language learners) and Alternate ACCESS test administrators.
  - (1) Provide training on proper test administration and test security (Pearson's Learning Management System).
  - (2) Verify staff complete any and all test-specific training.
- i) Maintain security of test content, test materials, and record of all staff involved.
  - (1) Receive secure paper test materials from the service provider and immediately lock them in a previously identified secure area, inventory same, and contact service provider with any discrepancies.
  - (2) Organize secure test materials for online administrations and keep them secure.
  - (3) Define chain of custody for providing test materials to test monitors and administrators. The chain of custody must address the process for providing test materials on the day of testing, distributing test materials to and collecting test materials from students at the time of testing, keeping test materials secure between testing sessions, and returning test materials after testing is completed.
- j) Confirm that all students have appropriate test materials.



2. Responsibilities on testing day(s).
  - a) Conduct random, unannounced visits to testing rooms to observe staff adherence to test security and policies and procedures.
  - b) Fully cooperate with MDE representatives conducting site visits or MTAS audits.
  - c) Contact the MDE assessment contact within 24 hours of a security breach and submit the *Test Security Notification* in Test WES within 48 hours.
  - d) Address invalidations and test or accountability codes.
3. Responsibilities after testing.
  - a) Ensure that student responses from paper accommodated test materials and MTAS scores are entered.
  - b) Arrange for secure disposal of all test materials that are not required to be returned within 48 hours after the close of the testing window.
  - c) Return secure test materials as outlined in applicable manuals and resources.
  - d) Collect security documents and maintain them for two years from the end of the academic school year in which testing took place.
  - e) Review student assessment data and resolve any issues.
  - f) Distribute Individual Student Reports no later than fall parent/teacher conferences.
  - g) Enter Graduation Requirements Records in the GRR system.

C. School Principal

1. Responsibilities before testing.
  - a) Designate a school assessment coordinator and technology coordinator for the building.
  - b) Be knowledgeable about proper test administration and test security as outlined in manuals and directions.
  - c) Read and complete the *Assurance of Test Security and NonDisclosure*.
  - d) Communicate the importance of test security and expectation that staff will keep test content secure and act with honesty and integrity during test administration.



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- e) Provide adequate secure storage space for secure test materials before, during, and after testing until they are returned to the service provider or securely disposed of.
  - f) Ensure adequate computers and/or devices are available and rooms appropriately set up for online testing.
  - g) Verify that all test monitors and test administrators receive proper training for test administration.
  - h) Ensure students taking specified tests have opportunity to become familiar with test format, item types, and tools prior to test administration.
  - i) Include the complete Parent/Guardian Guide and Refusal for Student Participation in Statewide Testing form in the student handbook.
2. Responsibilities on testing day(s).
- a) Ensure that test administration policies and procedures and test security requirements in all manuals and directions are followed.
  - b) Fully cooperate with MDE representatives conducting site visits or MTAS audits.
3. Responsibilities after testing.
- a) Ensure all secure test materials are collected, returned, and/or disposed of securely as required in any manual.
  - b) Ensure requirements for embargoed final assessment results are followed.

D. School Assessment Coordinator

1. Responsibilities before testing.
- a) Implement test administration and test security policies and procedures.
  - b) Read and complete the *Assurance of Test Security and NonDisclosure*.
  - c) Ensure all staff who handle test materials, administer tests, or have access to secure test content read and complete the *Assurance of Test Security and Non-Disclosure*.
  - d) Identify appropriate tests for students and ensure student data sent to service providers for testing are correct.
  - e) Prepare testing conditions, including the following: schedule rooms and computer labs; arrange for test monitors and administrators; arrange for additional staff to assist with unexpected situations; arrange for technology staff



to assist with technical issues; develop a plan for tracking which students test on which computers or devices; plan seating arrangements for students; ensure preparations are completed for Optional Local Purpose Assessment (OLPA), Minnesota Comprehensive Assessment (MCA), and ACCESS online testing; ensure accommodations are properly reported; confirm how secure paper test materials will arrive and quantities to expect; address accommodations and specific test administration procedures; determine staff who will enter the student responses from paper accommodated test materials and scores from MTAS administrations online.

- f) Train staff, including all state-provided training materials, policies and procedures, and test-specific training.
- g) Maintain security of test content and test materials.
  - (1) Receive secure paper test materials from the service provider and immediately lock them in a previously identified secure area, inventory same, and contact service provider with any discrepancies.
  - (2) Organize secure test materials for online administrations and keep them secure.
  - (3) Follow chain of custody for providing test materials to test monitors and administrators. The chain of custody must address the process for providing test materials on the day of testing, distributing test materials to and collecting test materials from students at the time of testing, keeping test materials secure between testing sessions, and returning test materials after testing is completed.
  - (4) Identify need for additional test materials to district assessment coordinator.
  - (5) Provide MTAS student data collection forms if necessary.
  - (6) Distribute applicable ACCESS and Alternate ACCESS *Test Administrator Scripts* and *Test Administration Manuals* to test administrators so they can become familiar with the script and prepare for test administration.
  - (7) Confirm that all students taking ACCESS and Alternate ACCESS have appropriate test materials and preprinted student information on the label is accurate.

2. Responsibilities on testing day(s).



- a) Distribute materials to test monitors and ACCESS test administrators and ensure security of test materials between testing sessions and that district procedures are followed.
  - b) Ensure *Test Monitor and Student Directions* and *Test Administrator Scripts* are followed and answer questions regarding same.
  - c) Fully cooperate with MDE representatives conducting site visits or MTAS audits, as applicable.
  - d) Conduct random, unannounced visits to testing rooms to observe staff adherence to test security and test administration policies and procedures.
  - e) Report testing irregularities to district assessment coordinator using the *Test Administration Report*.
  - f) Report security breaches to the district assessment coordinator as soon as possible.
3. Responsibilities after testing.
- a) Ensure that all paper test materials are kept locked and secure and security checklists completed.
  - b) Ensure that student responses from paper accommodated test materials and MTAS scores are entered.
  - c) Arrange for secure disposal of all test materials that are not required to be returned within 48 hours after the close of the testing window.
  - d) Return secure test materials as outlined in applicable manuals and resources.
  - e) Prepare materials for pickup by designated carrier on designated date(s). Maintain security of all materials.
  - f) Ensure requirements for embargoed final assessment results are followed.

E. Technology Coordinator

1. Ensure that district is prepared for online test administration and provide technical support to district staff.
2. Acquire all necessary user identifications and passwords.
3. Read and complete the *Assurance of Test Security and Non-Disclosure*.
4. Fully cooperate with MDE representatives conducting site visits or MTAS audits.
5. Attend district training and any service provider technology training.



6. Review, use, and be familiar with all service provider technical documentation.
7. Prepare computers and devices for online testing.
8. Confirm site readiness.
9. Provide all necessary accessories for testing, technical support/troubleshooting during test administration and contact service provider help desks as needed.

F. Test Monitor

1. Responsibilities before testing.
  - a) Read and complete the *Assurance of Test Security and NonDisclosure*.
  - b) Attend trainings related to test administration and security.
  - c) Complete required training course(s) for tests administering.
  - d) Be knowledgeable about how to contact the school assessment coordinator during testing, where to pick up materials on day of test, and plan for securing test materials between test sessions.
  - e) Be knowledgeable regarding student accommodations.
  - f) Remove or cover any instructional posters or visual materials in the testing room.
2. Responsibilities on testing day(s).
  - a) Before test.
    - (1) Receive and maintain security of test materials.
    - (2) Verify that all test materials are received.
    - (3) Ensure proper number of computers/devices or paper accommodated test materials are present.
    - (4) Verify student testing tickets and appropriate allowable materials.
    - (5) Assign numbered test books to individual students.
    - (6) Complete information as directed.
    - (7) Record extra test materials.
  - b) During test.



- (1) Verify that students are logged in and taking the correct test or using the correct grade-level and tier test booklet for students with paper accommodated test materials.
  - (2) Follow all directions and scripts exactly.
  - (3) Follow procedures for restricting student access to cell phones and other electronic devices.
  - (4) Stay in testing room and remain attentive during entire test session. Practice active monitoring by circulating throughout the room during testing.
  - (5) Be knowledgeable about responding to emergency or unusual circumstances and technology issues.
  - (6) Do not review, discuss, capture, email, post, or share test content in any format.
  - (7) Ensure all students have been provided the opportunity to independently demonstrate their knowledge.
  - (8) Fully cooperate with MDE representatives conducting site visits or MTAS audits.
  - (9) Document the students who tested with the test monitor and any other adult(s) who were present in the testing room (e.g., staff providing assistance, paraprofessionals, etc.).
  - (10) Document students who require a scribe or translated directions or any unusual circumstances and report to school assessment coordinator.
  - (11) Report any possible security breaches as soon as possible.
- c) After test.
- (1) Follow directions and scripts exactly.
  - (2) Collect all materials and keep secure after each session. Upon completion return to the school assessment coordinator.
  - (3) Immediately report any missing test materials to the school assessment coordinator.

G. MTAS Test Administrator

1. Before testing.



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- a) Read and complete the *Assurance of Test Security and NonDisclosure*.
  - b) Attend trainings related to test administration and security.
  - c) Complete required training course(s) for tests administering.
  - d) Be knowledgeable as to when and where to pick up MTAS materials and the school's plan for keeping test materials secure.
  - e) Prepare test materials for administration, including objects and manipulatives, special instructions, and specific adaptations for each student.
2. Responsibility on testing day(s).
- a) Before the test.
    - (1) Maintain security of materials.
    - (2) Confirm appropriate MTAS materials are available and prepared for student.
  - b) During the test.
    - (1) Administer each task to each student and record the score.
    - (2) Be knowledgeable about how to contact the district or school assessment coordinator, if necessary, and responding to emergency and unusual circumstances.
    - (3) Fully cooperate with MDE representatives conducting site visits or MTAS audits.
    - (4) Document and report and unusual circumstances to district or school assessment coordinator.
  - c) After the test.
    - (1) Keep materials secure.
    - (2) Return all materials.
    - (3) Return objects and manipulatives to classroom.
    - (4) Enter MTAS scores online or return data collection forms to the district or school assessment coordinator.

H. MARSS Coordinator

1. Responsibilities before testing.



- a) Confirm all eligible students have unique state student identification (SSID) or MARSS numbers.
  - b) Ensure English language and special education designations are current and correct for students testing based on those designations.
  - c) Submit MARSS data on an ongoing basis to ensure accurate student demographic and enrollment information.
2. Responsibilities after testing.
- a) Ensure accurate enrollment of students in schools during the accountability windows.
  - b) Ensure MARSS identifying characteristics are correct, especially for any student not taking an accountability test.
  - c) Work with district assessment coordinator to edit discrepancies during the Post-test Edit window in Test WES.

#### IV. TEST SECURITY

A. Test Security Procedures will be adopted by school district administration.

B. Students will be informed of the following:

1. The importance of test security;
2. Expectation that students will keep test content secure;
3. Expectation that students will act with honesty and integrity during test administration;
4. Expectation that students will not access cell phones, wearable technology (e.g., smart watches, fitness trackers), or other devices that can electronically send or receive information. The test of a student who wears a device during testing must be invalidated.  
  
If a student completes testing and then accesses a cell phone or other prohibited device (including wearable technology), the school district must take further action to determine if the test should be invalidated, rather than automatically invalidating the test.
5. Availability of the online Test Security Tip Line on the MDE website for reporting suspected incidents of cheating or other improper or unethical behavior.

C. Staff will be informed of the following:

1. Availability of the online Test Security Tip Line on the MDE website for reporting suspected incidents of cheating or other improper or unethical behavior.
2. Other contact information and options for reporting security concerns.



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## V. REQUIRED DOCUMENTATION FOR PROGRAM AUDIT

- A. The school district shall maintain records necessary for program audits conducted by MDE. The records must include documentation consisting of the following:
1. Signed *Assurance of Test Security and Non-Disclosure* forms must be maintained for two years after the end of the academic year in which the testing took place.
  2. School district security checklists provided in the test materials shipment must be maintained for two years after the end of the academic school year in which testing took place.
  3. School security checklists provided in the test materials shipment must be maintained for two years after the end of the academic school year in which testing took place.
  4. Test Monitor Test Materials Security Checklist provided for each group of students assigned to a test monitor must be maintained for two years after the end of the academic school year in which testing took place.
  5. School district test monitor tracking documentation must be maintained for two years after the end of the academic year in which the tracking took place.
  6. ACCESS and Alternate ACCESS Packing List and Security Checklist provided in the test materials shipment must be maintained for two years after the end of the academic school year in which testing took place.
  7. Documentation of school district staff training on test administration and test security must be maintained for two years after the end of the academic school year in which testing took place.
  8. *Test Security Notification* must be maintained for two years after the end of the academic school year in which testing took place.
  9. *Test Administration Report* must be maintained for one year after the end of the academic school year in which testing took place.
  10. Record of staff trainings and test-specific trainings must be maintained for one year after the end of the academic year in which testing took place.

## VI. RETALIATION PROHIBITED

An employee who discloses information to the MDE Commissioner or a parent or guardian about service disruptions or technical interruptions related to administering assessments under this section is protected under section 181.932, governing disclosure of information by employees.

**Legal References:** Minn. Stat. § 13.34 (Examination Data)



Minn. Stat. § 120B.11 (School District Process for Reviewing Curriculum Instruction, and Student Achievement Goals; Striving for Comprehensive Achievement and Civic Readiness ~~the World's Best Workforce~~)  
Minn. Stat. § 120B.30 (Statewide Testing and Reporting System)  
Minn. Stat. § 120B.36, Subd. 2 (School Accountability Adequate Yearly Progress)  
~~Minn. Rules Parts 3501.0010-3501.0180 (Graduation Standards — Mathematics and Reading) (repealed Minn. L. 2013, Ch. 116, Art. 2, § 22)~~  
~~Minn. Rules Parts 3501.0200-3501.0290 (Graduation Standards — Written Composition) (repealed Minn. L. 2013, Ch. 116, Art. 2, § 22)~~  
Minn. Rules Parts 3501.0640-3501.0655 (Academic Standards for Language Arts)  
Minn. Rules Parts 3501.0700-3501.0745 (Academic Standards for Mathematics)  
Minn. Rules Parts 3501.0802-~~3501.0815~~ (Academic Standards for the Arts)  
Minn. Rules Parts 3501.0900-3501.0955 (Academic Standards in Science)  
~~Minn. Rules Parts 3501.1000-3501.1190 (Graduation Required Assessment for Diploma) (repealed Minn. L. 2013, Ch. 116, Art. 2, § 22)~~  
Minn. Rules Parts 3501.1300-3501.1345 (Academic Standards for Social Studies)  
Minn. Rules Parts 3501.1400-3501.1410 (Academic Standards for Physical Education)  
20 U.S.C. § 6301, *et seq.* (Every Student Succeeds Act)

***Cross References:***

MSBA/MASA Model Policy 601 (School District Curriculum and Instruction Goals)  
MSBA/MASA Model Policy 613 (Graduation Requirements)  
MSBA/MASA Model Policy 615 (Testing Accommodations, Modifications, and Exemptions for IEPs, Section 504 Plans, and LEP Students)  
MSBA/MASA Model Policy 616 (School District System Accountability)  
Minnesota PearsonAccess Next Resources and Forms:  
<http://minnesota.pearsonaccessnext.com/policies-and-procedures/>

Adopted: January 23, 2012

Revised: 2024

## 626 ASSESSMENT POLICY

### I. PURPOSE

The purpose of this policy is to define assessment practices in South St. Paul Public Schools.

### II. GENERAL STATEMENT OF POLICY

Each building will establish appropriate assessment strategies and tools to use at grade levels and within departments. These strategies and tools will follow the guidelines set forth below.

### III. DEFINITIONS

These definitions are given by the International Baccalaureate organization.

#### A. Summative assessment

The culmination of the teaching and learning process, and measures achievement of learning goals. A summative assessment can assess several elements simultaneously and provide a wealth of information to document achievement. It measures student understanding of the central ideas well as several curriculum objectives.

Aimed at determining a student's achievement level, generally at the end of a course of study or unit of work.

#### B. Formative assessment

The process of gathering information during instruction and provides information that is used to target needs of individual students. Formative assessment aims to promote learning by giving regular and specific feedback. Information provided to students during the learning process promotes reflection, and allows them to recognize the criteria for success. Aimed at identifying the learning needs of students and forming part of the learning process itself.

C. Evaluation is the process of assigning a value to the quality of student work based on identified criteria to represent the level of achievement.

D. Diagnostic Assessment is the process of gathering information prior to instruction and at periodic intervals in order to plan for instruction and for individualizing program delivery. These tests give us data to better understand individual student achievement as well as to reflect upon the progress of classrooms, grade levels and the entire.



- E. Standardized Assessment is required by State law in order to measure the effectiveness of instruction at our school. These assessments have specific consequences and are publicly reported. Individual students receive feedback from the State after several months.
- F. Achievement level: The level given when student work reflects the corresponding descriptor. Achievement levels are shown in the left-hand column of the assessment criteria.
- G. Assessment criteria: Criteria against which a student's performance is measured as evidenced by work produced. Subject guides provide assessment criteria to be used for final assessment for each subject group, and for the personal project.
- H. Assessment rubric: A matrix used to assess a student's performance according to specific criteria. Rubrics consist of a fixed number of levels and specific descriptors of performance for each level.
- I. Assessment task: A teacher-designed assignment used to measure student success with meeting objectives. The task will generate work that can be assessed using previously agreed assessment criteria.
- J. Criterion-referenced assessment: An assessment process based on awarding grades against previously agreed criteria. MYP assessment is criterion referenced.
- K. Descriptors: These describe the achievement levels that are assessed within each criterion.
- L. Internal assessment: The assessment of a student's work that is carried out by the student's teacher.
- M. Internal standardization: The process by which teachers of one subject or subject group in a school ensure a common understanding and application of criteria and descriptors.

#### IV. PURPOSE OF ASSESSMENT

The primary purpose of assessment is to inform. Assessment informs teachers of what students understand, guides classroom instruction, shows which topics need to be retaught, and where there may be gaps in curriculum. Assessment provides student's feedback on their learning, identifies areas of strength and weakness, and allows them to set goals for future learning. Assessment provides parents an understanding of their child's progress and helps them better support and celebrate their child's learning. It should also tell parents about student progress against a given standard.

#### V. PRINCIPLES OF ASSESSMENT

Assessments are varied in type and serve different purposes. They allow students multiple opportunities of showing their understanding. Assessment is an ongoing process and does not happen just at the end of learning. Results inform both students and teachers and are easily understood by all stakeholders. There is an emphasis on both formative and summative assessments. Regardless of the purpose of an assessment, high quality assessments share specific characteristics:

1. They assess what is intended by the teacher.
2. Clear criteria are given to students prior to an assessment.
3. They allow students to reflect on their learning.



4. They provide students with an understanding of areas they need to grow and improve.
5. They provide an opportunity for students to share their learning with others.
6. They are differentiated.
7. They give timely feedback to students.
8. Modifications are made when necessary.

## VI. ASSESSMENT RIGHTS AND RESPONSIBILITIES

- A. Assessment is an ongoing process of gathering, analysing, reflecting and acting on evidence of student learning to inform teaching.
- B. Assessment involves teachers and students collaborating to monitor, document, measure, report and adjust learning.
- C. Students actively engage in assessing and reflecting on their learning, acting on feedback from peers and teachers to feed forward to next steps in learning.
- D. Fostering an assessment culture involves the development of assessment capability among all members of the learning community.
- E. Learning goals and success criteria are co-constructed and clearly communicated.
- F. Both learning outcomes and the learning process are assessed.
- G. Assessment design is both backward and forward looking.

## VII. DISTRICT ASSESSMENT REQUIREMENTS

Each building will administer the required district assessments for their grade levels and departments. These will include, but are not limited to, assessments mandated by the district and the state.

## VIII. REVIEW OF ASSESSMENT POLICY AND PRACTICES

Grade levels and departments will review their assessment practices annually. The purpose of this will be to examine and revise the documents as needed. A committee will be formed annually to review the assessment policy. The committee will be made up of the building principals, IB coordinators, Instructional Coaches, and representatives from each building leadership team. The purpose of this committee will be to review the current assessment policy, revise the policy as needed, and plan how to communicate our assessment policy to staff.

## IX. RELATED POLICIES

- A. 601 School District Curriculum Instructional Goals
- B. 613 Graduation Requirements

- C. 618 Assessment of Standard Achievement
- D. 619 Staff Development



Adopted: October 28, 1996

MSBA/MASA Model Policy 418

Orig. 1995

Revised: 6/14/04; 10/27/08, 11/23/15; 11/26/18  
6/10/19; 5/26/20; 6/14/21; 6/27/22; 4/26/23  
6/26/23; 12/11/23

Rev. 2023

## **418 DRUG FREE WORKPLACE/DRUG FREE SCHOOL**

### **I. PURPOSE**

The purpose of this policy is to maintain a safe and healthful environment for employees and students by prohibiting the use of alcohol, toxic substances, medical cannabis, non intoxicating cannabinoids, edible cannabinoid products, and controlled substances without a physician's prescription.

### **II. GENERAL STATEMENT OF POLICY**

- A. Use of alcohol, toxic substances, medical cannabis, non intoxicating cannabinoids, edible cannabinoid products, and controlled substances before, during, or after school hours, at school or in any other school location, is prohibited as general policy. Paraphernalia associated with controlled substances is prohibited.
- B. A violation of this policy occurs when any student, teacher, administrator, other school district personnel, or member of the public uses or possesses alcohol, toxic substances, medical cannabis, non intoxicating cannabinoids, edible cannabinoid products, or controlled substances in any school location.
- C. An individual may not use or possess cannabis flower, cannabis products, lower potency hemp edibles, or hemp-derived consumer products in a public school, as defined in Minnesota Statutes, section 120A.05, subdivisions 9, 11, and 13, including all facilities, whether owned, rented, or leased, and all vehicles that the school district owns, leases, rents, contracts for, or controls.
- D. The school district will act to enforce this policy and to discipline or take appropriate action against any student, teacher, administrator, school personnel, or member of the public who violates this policy.

### **III. DEFINITIONS**

- A. "Alcohol" includes any alcoholic beverage containing more than one-half of one percent alcohol by volume.
- B. "Controlled substances" include narcotic drugs, hallucinogenic drugs, amphetamines, barbiturates, marijuana, anabolic steroids, or any other controlled substance as defined in



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Schedules I through V of the Controlled Substances Act, 21 United States Code section 812, including analogues and look-alike drugs.

- C. “Edible cannabinoid product” means any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in combination with food ingredients, and is not a drug.
- D. “Nonintoxicating cannabinoid” means substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by injection, inhalation, ingestion, or by other immediate means.
- E. “Medical cannabis” means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of: (1) liquid, including but not limited to, oil; (2) pill; (3) vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form; or (4) combustion with use of dried, raw cannabis; or (5) any other method, approved by the commissioner.
- F. “Possess” means to have on one’s person, in one’s effects, or in an area subject to one’s control.
- G. “School location” includes any school building or on any school premises; in any school-owned vehicle or in any other school-approved vehicle used to transport students to and from school or school activities; off school property at any school sponsored or school-approved activity, event, or function, such as a field trip or athletic event, where students are under the jurisdiction of the school district; or during any period of time such employee is supervising students on behalf of the school district or otherwise engaged in school district business.
- H. “Sell” means to sell, give away, barter, deliver, exchange, distribute or dispose of to another, or to manufacture; or to offer or agree to perform such an act, or to possess with intent to perform such an act.
- I. “Toxic substances” includes: (1) glue, cement, aerosol paint, containing toluene, benzene, xylene, amyl nitrate, butyl nitrate, nitrous oxide, or containing other aromatic hydrocarbon solvents, but does not include glue, cement, or paint contained in a packaged kit for the construction of a model automobile, airplane, or similar item; (2) butane or a butane lighter; or (3) any similar substance declared to be toxic to the central nervous system and to have a potential for abuse, by a rule adopted by the commissioner of health.
- J. “Use” means to sell, buy, manufacture, distribute, dispense, be under the influence of, or consume in any manner, including, but not limited to, consumptions by injection, inhalation, ingestion, or by any other immediate means.

#### IV. EXCEPTIONS



- A. A violation of this policy does not occur when a person brings onto a school location, for such person's own use, a controlled substance, except medical cannabis, non intoxicating cannabinoids, or edible cannabinoid products, which has a currently accepted medical use in treatment in the United States and the person has a physician's prescription for the substance. The person shall comply with the relevant procedures of this policy.
- B. A violation of this policy does not occur when a person possesses an alcoholic beverage in a school location when the possession is within the exceptions of Minnesota Statutes section 624.701, Subdivision 1a (experiments in laboratories; pursuant to a temporary license to sell liquor issued under Minnesota laws or possession after the purchase from such a temporary license holder).
- C. A violation of this policy does not occur when a person uses or possesses a toxic substance unless they do so with the intent of inducing or intentionally aiding another in inducing intoxication, excitement, or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor.
- D. The school district may not refuse to enroll or otherwise penalize a patient or person enrolled in the Minnesota Patient Registry Program as a pupil solely because the patient or person is enrolled in the registry program, unless failing to do so would violate federal law or regulations or cause the school to lose a monetary or licensing-related benefit under federal law or regulations.

## V. PROCEDURES

- A. Students who have a prescription from a physician for medical treatment with a controlled substance, except medical cannabis, non intoxicating cannabinoids, or edible cannabinoid products, must comply with the school district's student medication policy.
- B. Employees who have a prescription from a physician for medical treatment with a controlled substance, except medical cannabis, non intoxicating cannabinoids, or edible cannabinoid products, are permitted to possess such controlled substances and associated necessary paraphernalia, such as an inhaler or syringe. The employee must inform his or her supervisor. The employee may be required to provide a copy of the prescription.
- C. New employees shall be provided with a written summary of this Drug-Free Workplace/Drug-Free School policy and shall be required to acknowledge that he or she has received the policy summary. Policies are accessible to all employees on the school districts' website.
- D. Employees are subject to the school district's drug and alcohol testing policies and procedures.



- E. Members of the public are not permitted to possess controlled substances, non intoxicating cannabinoids, or edible cannabinoid products, in a school location except with the express permission of the superintendent.
- F. No person is permitted to possess or use medical cannabis, non intoxicating cannabinoids, or edible cannabinoid products, on a school bus or van; or on the grounds of any preschool or primary or secondary school; or on the grounds of any childcare facility. This prohibition includes (1) vaporizing or combusting medical cannabis on any form of public transportation where the vapor or smoke could be inhaled by a minor child or in any public place, including indoor or outdoor areas used by or open to the general public or place of employment; and (2) operating, navigating, or being in actual physical control of any motor vehicle or working on transportation property, equipment or facilities while under the influence of medical cannabis, non intoxicating cannabinoids, or edible cannabinoid products.
- G. Possession of alcohol on school grounds pursuant to the exceptions of Minnesota Statutes 624.701, Subdivision 1a, shall be by permission of the school board only. The applicant shall apply for permission in writing and shall follow the school board procedures for placing an item on the agenda.

## **VI. SCHOOL PROGRAMS**

- A. Starting in the 2026-2027 school year, the school district must implement a comprehensive education program on cannabis use and substance use, including but not limited to the use of fentanyl or mixtures containing fentanyl, for students in middle school and high school. The program must include instruction on the topics listed in Minnesota Statutes, section 120B.215, subdivision 1 and must:
  - 1. respect community values and encourage students to communicate with parents, guardians, and other trusted adults about cannabis use and substance use, including but not limited to the use of fentanyl or mixtures containing fentanyl; and
  - 2. refer students to local resources where students may obtain medically accurate information about cannabis use and substance use, including but not limited to the use of fentanyl or mixtures containing fentanyl, and treatment for a substance use disorder.
- B. School district efforts to develop, implement, or improve instruction or curriculum as a result of the provisions of this section must be consistent with Minnesota Statutes, sections 120B.10 and 120B.11.
- C. Notwithstanding any law to the contrary, the school district shall have a procedure for a parent, a guardian, or an adult student 18 years of age or older to review the content of the instructional materials to be provided to a minor child or to an adult student pursuant to this article. The district must allow a parent or adult student to opt out of instruction under this article with no academic or other penalty for the student and must inform parents and adult students of this right to opt out.



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## VII. ENFORCEMENT

### A. Students

1. Students may be required to participate in programs and activities that provide education against the use of alcohol, tobacco, marijuana, smokeless tobacco products, and electronic cigarettes, and nonintoxicating cannabinoids; and edible cannabinoid products.
2. Students may be referred to drug or alcohol assistance or rehabilitation programs; school based mental health services, mentoring and counseling, including early identification of mental health symptoms, drug use and violence and appropriate referral to direct individual or group counseling service. which may be provided by school based mental health services providers; and/or referral to law enforcement officials when appropriate.
3. A student who violates the terms of this policy shall be subject to discipline in accordance with the school district's discipline policy. Such discipline may include suspension or expulsion from school.

### B. Employees

1. As a condition of employment in any federal grant, each employee who is engaged either directly or indirectly in performance of a federal grant shall abide by the terms of this policy and shall notify his or her supervisor in writing of his or her conviction of any criminal drug statute for a violation occurring in any of the places listed above on which work on a school district federal grant is performed, no later than five (5) calendar days after such conviction. Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
2. An employee who violates the terms of this policy is subject to disciplinary action, including nonrenewal, suspension, termination, or discharge as deemed appropriate by the school board.
3. In addition, any employee who violates the terms of this policy may be required to satisfactorily participate in a drug and/or alcohol abuse assistance or rehabilitation program approved by the school district. Any employee who fails to satisfactorily participate in and complete such a program is subject to nonrenewal, suspension, or termination as deemed appropriate by the school board.
4. Sanctions against employees, including nonrenewal, suspension, termination, or discharge shall be pursuant to and in accordance with applicable statutory authority, collective bargaining agreements, and school district policies.

### C. The Public



1. A member of the public who violates this policy shall be informed of the policy and asked to leave. If necessary, law enforcement officials will be notified and asked to provide an escort.

***Legal References:***

Minn. Stat. § 120B.215 (Education on Cannabis Use and Substance Use)  
Minn. Stat. § 121A.22 (Administration of Drugs and Medicine)  
Minn. Stat. § 121A.40-§ 121A.56 (Pupil Fair Dismissal Act)  
Minn. Stat. § 151.72 (Sale of Certain Cannabinoid Products)  
Minn. Stat. § 152.01, Subd. 15a (Definitions)  
Minn. Stat. § 152.0264 (Cannabis Sale Crimes)  
Minn. Stat. § 152.22, subd. 6 Definitions; Medical Cannabis)  
Minn. Stat. § 152.23 (Limitations; Medical Cannabis)  
Minn. Stat. § 169A.31 (Alcohol-Related School Bus or Head Start Bus Driving)  
Minn. Stat. § 340A.101 (Definitions; Alcoholic Beverage)  
Minn. Stat. § 340A.403 (3.2 Percent Malt Liquor Licenses)  
Minn. Stat. § 340A.404 (Intoxicating Liquor; On-Sale Licenses)  
Minn. Stat. § 342.09 (Personal Adult Use of Cannabis)  
Minn. Stat. § 342.56 (Limitations)  
Minn. Stat. § 609.684 (Abuse of Toxic Substances)  
Minn. Stat. § 624.701 (Alcohol in Certain Buildings or Grounds)  
41 U.S.C. §§ 8101-8106 (Drug-Free Workplace Act)  
20 U.S.C. § 7101-7122 (Student Support and Academic Enrichment Grants)  
21 U.S.C. § 812 (Schedules of Controlled Substances)  
21 C.F.R. §§ 1308.11-1308.15 (Controlled Substances)  
34 C.F.R. Part 84 (Government-Wide Requirements for Drug-Free Workplace)

***Cross References:***

MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)  
MSBA/MASA Model Policy 416 (Drug and Alcohol Testing)  
MSBA/MASA Model Policy 417 (Chemical Use and Abuse)  
MSBA/MASA Model Policy 419 (Tobacco-Free Environment; Possession and use of Tobacco, Tobacco-Related Devices, and Electronic Delivery Devices; Vaping Awareness and Prevention Instruction)  
MSBA/MASA Model Policy 506 (Student Discipline)  
MSBA/MASA Model Policy 516 (Student Medication)



Adopted: June 14, 2004

MSBA/MASA Model Policy 419

Orig. 1995

Revised: 5/10/10; 11/23/15; 11/26/18

Rev. 2023

6/10/19; 5/26/20; 6/14/21; 6/27/22; 6/26/23

12/11/23

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

**I. PURPOSE**

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

**II. GENERAL STATEMENT OF POLICY**

- A. A violation of this policy occurs when any student, teacher, administrator, other school personnel of the school district or person smokes or uses tobacco or tobacco-related devices, or carries or uses an activated electronic delivery device in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls. In addition, this prohibition includes vehicles used, in whole or in part, for work purposes, during hours of school operation, if more than one person is present. This prohibition includes all school district property and all off-campus events sponsored by the school district.
- B. A violation of this policy occurs when any elementary school, middle school, or secondary school student possesses any type of tobacco or tobacco-related devices, or electronic delivery devices in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls and includes vehicles used, in whole or in part, for work purposes, during hours of school operation, if more than one person is present. This prohibition includes all school district property and all off-campus events sponsored by the school district.
- C. The school district will act to enforce this policy and to discipline or take appropriate action against any student, teacher, administrator, school personnel, or person who is found to have violated this policy.
- D. The school district will not solicit or accept any contributions or gifts of money, curricula, materials, or equipment from companies that directly manufacture and are identified with tobacco products, tobacco-related devices, or electronic delivery devices. The school district will not promote or allow promotion of tobacco products or electronic delivery devices on school property or at school sponsored events.



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### III. DEFINITIONS

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

### IV. EXCEPTIONS

- A. A violation of this policy does not occur when an American Indian adult lights tobacco on school district property as a part of a traditional American Indian spiritual or cultural ceremony. An American Indian student may carry a medicine pouch containing loose tobacco intended as



observance of traditional spiritual or cultural practices. An American Indian is a person who is a member of an Indian tribe as defined under Minnesota law.

- B. A violation of this policy does not occur when an adult non-student possesses a tobacco or nicotine product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. Nothing in this exception authorizes smoking or use of tobacco, tobacco-related devices, or electronic delivery devices on school property or at off-campus events sponsored by the school district.
- C. An American Indian student or staff member may use tobacco, sage, sweetgrass, and cedar to conduct individual or group smudging in a public school. The process for conducting smudging is determined by the building or site administrator. Smudging must be conducted under the direct supervision of an appropriate staff member, as determined by the building or site administrator.

## V. VAPING PREVENTION INSTRUCTION

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

## VI. ENFORCEMENT

- A. All individuals on school premises shall adhere to this policy.
- B. Students who violate this tobacco-free policy shall be subject to school district discipline procedures.
- C. School district administrators and other school personnel who violate this tobacco-free policy shall be subject to school district discipline procedures.
- D. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota or federal law, and school district policies.



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

## VII. DISSEMINATION OF POLICY

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

**Legal References:** Minn. Stat. § 120B.238 (Vaping Awareness and Prevention)  
**Minn. Stat. § 121A.08 (Smudging Permitted)**  
Minn. Stat. § 144.411 – 144.417 (Minnesota Clean Indoor Air Act)  
Minn. Stat. § 609.685 (Sale of Tobacco to Persons Under Age 21)  
2007 Minn. Laws Ch. 82 (Freedom to Breathe Act of 2007)

**Cross References:** MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)  
MSBA/MASA Model Policy 506 (Student Discipline)



Adopted: November 26, 2007

Revised: 9/22/08; 12/11/17; 6/10/19; 5/26/20; 6/14/21  
6/27/22; 6/26/23

## 437 STUDENT TEACHING

### I. PURPOSE

This policy defines and supports the student teacher program in South St. Paul Public Schools.

### II. GENERAL STATEMENT OF POLICY

The school district is committed to advancing the future of educators by participating in student teaching with cooperating colleges, universities and technical schools. The district's teachers are encouraged to serve in a supervisory role for future educators. District teachers will remain accountable for the learning, assessment and grading that occurs in the classroom when a student teacher is present.

### III. DEFINITIONS

- A. Observation is defined as a student conducting observations in a school setting.
- B. Field Experience is defined as student tutors individuals or small groups and provides assistance as requested in a school setting
- C. Student Teaching/Advanced Practicum is defined as a student who provides tutoring, completes classroom duties, and develops or delivers lesson plans. Counselors or school psychologists perform specific duties based on course requirements. Student teachers are those who have completed at least two years of an approved teacher preparation program. The building principal and/or department leader will determine the number of student teachers to be placed in the schools at any one time.

### IV. COOPERATIVE AGREEMENTS

- A. Colleges, universities and technical schools are required to regularly renew their district cooperative agreement (Appendix II) for student teaching supervision with South St. Paul Public Schools. The director of human resources will bring such agreements to the school board for action.
- B. The director of human resources will ensure the agreement requirements are met and give district approval for the mutual agreements with the college, university or technical school.



- C. For the school district to participate in a cooperative agreement, the postsecondary institution's teacher preparation program must meet the standards established by the State of Minnesota. Exceptions to this requirement may be considered based on the recommendation of the Minnesota Department of Education.
- D. Requests from postsecondary institutions are processed through the Human Resources Department. The district will follow all terms of the cooperative's agreement that do not conflict with district policies.

## V. OTHER TEACHER PREPARATION EXPERIENCES IN SCHOOLS

### A. Approval of Other Experiences

The building administrator may approve other classroom experiences with postsecondary institutions' teacher education programs for other teacher preparation opportunities in the classroom. These experiences may include, but are not limited to:

- a) Classroom observation
- b) Field experience

### B. Teacher Supervision

The district supervising teacher is responsible at all times for the supervision of the classroom and has the responsibility to advise and guide the student from the postsecondary institution. During those times the student teacher is to have lead teaching responsibilities in class, the district supervising teacher is required to remain in the classroom. The district teacher is responsible for all learning, assessment and grading that occurs in the classroom.

**Legal References:** Minn. Stat. § 122A.09 (Duties)  
Minn. Stat. § 122A.40 (Employment, Contracts, Termination) Minn. Stat. § 122A.69  
(Practice or Student Teachers)

**Cross Reference:** MSBA/MASA Model Policy 403 (Employee-Student Relationship)  
MSBA/MASA Model Policy 404 (Employee Background Checks)



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## Appendix I to Policy 437 - Student Teaching

### I. ROLES & RESPONSIBILITIES

- A. Building administrator approval is required for all placements and will notify families when a classroom has been assigned a student teacher. Building administrators will conduct a formal observation with student teachers.
- B. Teachers are responsible at all times for supervision of the classroom and have responsibility to guide student teachers in their work. The teachers are also responsible for learning, assessment and grading that occurs in the classroom. Teachers may supervise student teachers only once each year.
- C. The sponsoring postsecondary institution must have a supervisor who will remain in regular contact with the student teacher and supervising teacher throughout the student teaching experience.
- D. Criminal background checks must be completed through the Human Resources Department on all student teachers at the expense of the student teacher or the postsecondary institution. The criminal background check must be completed no more than six months prior to the student teaching assignment. All student teaching candidates must submit their background information at least two weeks prior to their teaching experience in the school setting.

### II. TEACHER STIPEND

- A. Teachers may accept a stipend directly from a postsecondary institution for the extra effort in supervising student teachers, as set forth in the cooperative agreement.
- B. This stipend and any requirements to receive the stipend are set by each institution and teachers must be able to document the additional time beyond the regular workday for receiving this stipend.

### III. PLACEMENT

- A. Student teacher placement will be coordinated through the postsecondary institution and the Human Resources Department. Placement requests are not to be completed by the supervising teacher. The Human Resources Department will coordinate placements with the building administrator/designee.
- B. A student teacher must be placed with a cooperating licensed teacher who has at least three years of teaching experience and is not in the improvement process under section 122A.40, subdivision 8.
- C. The building principal, the designee of the principal, the district teacher who has accepted a student teacher, or the teacher preparation program has the right and responsibility to terminate placement if the well-being of South St. Paul Schools is not served.



D. Procedure

Except in a team teaching situation, the following conditions control the placement of student teachers during the course of the year:

1. No class should have more than one student teacher during the course of a school year.
2. Teachers who have completed the “Preparing for a Student Teacher” staff development course will be eligible to be considered to supervise student teachers. Completion of the course does not guarantee the assignment of a student teacher. Teachers must update themselves every five years with the refresher version of this course to be considered to supervise student teachers.
3. All student teachers will receive an orientation conducted by the Human Resources Department and the Department of Educational Services, unless school district administration, at its discretion, determines that such an orientation is not necessary due to the length of the placement.

E. Length of Placement

Student teachers will be placed with a supervising teacher for a period of time to be determined by the cooperating agreement.



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**Appendix II to Policy 437 – Student Teaching**

**MUTUAL AGREEMENT FOR STUDENT TEACHING  
BETWEEN  
COLLEGE/UNIVERSITY  
EDUCATION DEPARTMENT  
CITY, STATE  
AND  
SOUTH ST. PAUL PUBLIC SCHOOLS 20XX-20XX**

This agreement is entered into between South St. Paul Public Schools, South St. Paul, Minnesota (the “District”) and COLLEGE/UNIVERSITY, CITY, STATE (the “College/University”). The purpose of this Agreement is to outline the terms of the training/student teaching experience for the student of the College/University and to identify the responsibilities of the College/University and the District.

The following conditions are made a part of the agreement:

**(College/University) agrees to:**

1. Place at the District only student teachers who are eligible for such placement under state and College/University rules, and School Board regulations. All student teacher placements will be initiated through and approved by the District through its department of human resources.
2. Inform its faculty and students of the District’s policies and regulations that relate to the placement at the District.
3. Provide District with College/University student teaching expectations/requirements.
4. Pay stipend to the cooperating teacher of the District based on College/University policy for each student teacher placed.
5. Provide regular student teaching supervision by a qualified designee(s) of the College/University.
6. Cooperate with the District in the development and implementation of the District’s Student Teaching Program.
7. Notify the District in the event a student teacher placed at the District is no longer enrolled in the College/University’s program.

**The District agrees to:**

1. Supply to the student teacher so placed by College/University an opportunity to work in a teaching-learning situation under the supervision of a practicing teacher who holds a continuing license and has at least three years total teaching experience.



2. Cooperate with College/University in the development and implementation of the District's Student Teaching Program.
3. Ensure that all student teachers placed at the District complete a criminal background check, at the expense of the student teacher or College/University, prior to the student teacher beginning at the District.
4. Provide appropriate supervision of the student teacher while at the District pursuant to rules promulgated by its Board. Such rules may not conflict with any minimum requirements established by the State or College/University with regard to the Student Teaching Program.
5. Immediately notify College/University if there is a change in the licensure status of any cooperating teacher providing supervision to any student teacher assigned hereunder.
6. Not replace any of its employees nor fill any vacancies normally filled by an employee with a student teacher assigned under this agreement. Therefore, a student teacher will not act as a substitute teacher.
7. Provide the College/University with copies of all policies and regulations applicable to student teachers.
8. Provide emergency medical care to the student teacher or College/University faculty member, at the District (if available) in case of injury or illness, or obtain other appropriate treatment as they choose. Any hospital or medical costs arising from such injury or illness will be the sole responsibility of the College/University faculty member or student teacher who received the treatment and not the District.
9. Reserve the right to deny a student teaching opportunity to an applicant and to terminate a student teaching assignment at any time, due to a lack of funding or for any other reason.
10. Recognize that it is the policy of both the District and the College/University to prohibit discrimination and ensure equal opportunities in its educational programs, activities, and all aspects of employment for all individuals regardless of race, color, creed, religion, gender, national origin, sexual orientation, veteran's status, marital status, age, disability, status with regard to public assistance, or inclusion in any group or class against which discrimination is prohibited by federal, state, or local laws and regulations. The District agrees to adhere to this policy in implementing this agreement.

**Liability:**

Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by law and will not be responsible for the acts of the other party and the results thereof. The College/University's liability will be governed by the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, as amended, and by this Agreement or any other laws applicable to the College/University. The District's liability will be governed by Minnesota Statutes Section 466.04, as amended.

**Term of Agreement:**

This agreement will commence on July 1, 20XX and end on June 30, 20XX. This Agreement may be terminated by either party at any time upon 60 days' written notice to the other party. Termination by the District will not automatically become effective with respect to student teachers then participating in the learning experience program, and said student teachers may be allowed to continue at the sole option of the District.



**General Provisions:**

1. Neither the District nor the College/University will assign or transfer any rights or obligations under this agreement without the prior written consent of the other party.
2. Any amendments to this agreement will be in writing and signed by authorized representatives from each party.
3. The parties agree that in fulfilling the duties of this agreement, they are responsible for complying with the Americans with Disabilities Act, 42 U.S.C. Chapter 12101, et seq., and any regulations promulgated by the Act.
4. Student teachers are participants in an educational program, and for purposes of this agreement, shall not be considered employees of either the College/University or the District, except as provided for in Minnesota Statutes Section 122A.69. Student teachers shall not be entitled or eligible to participate in any benefits or privileges given or extended to employees of the College/University or the District, except as provided by Minnesota Statutes Section 122A.69.
5. The State of Minnesota has laws (the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (the “MGDPA”)) that classify the College/University’s written and electronic information as public, private, or confidential. Except as otherwise provided in law or College/University policy, data on students is private and may not be shared with any other party. If the District receives a request from a third party for any data provided to the District by the College/University, the District agrees to immediately notify the College/University. The parties additionally acknowledge that the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and 34 C.F.R. § 99, apply to the use and disclosure of education records that are created or maintained under this agreement.
6. Student teachers assigned to the learning experience program at the District under this agreement will be required to sign a Student Teaching Program Agreement before the student teacher begins the Student Teaching Program at the District.

**Approved:** Signed for (Insert College/University)

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signed for South St. Paul Public Schools

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 522

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2024

## **522 TITLE IX SEX NONDISCRIMINATION POLICY, GRIEVANCE PROCEDURE AND PROCESS**

**[NOTE: In 2024, the U.S. Department of Education, Office of Civil Rights (OCR), released the latest version of the Final Rule amending Title IX regulations at 34 Code of Federal Regulations, part 106. These regulations have an effective date of August 1, 2024.]**

### **I. GENERAL STATEMENT OF POLICY**

- A. The school district does not discriminate on the basis of sex, including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, in any education program or activity that it operates, including in admission and employment. The school district does not discriminate in such a manner in its implementing regulations. The school district is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.
- B. Except as provided elsewhere under Title IX or its regulations, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the school district.
- C. The school district prohibits sex-based discrimination or sexual harassment that occurs within its education programs and activities. The school district shall promptly respond in a manner that is prompt and effective.
- D. Except as provided therein, Title IX and its regulations apply to all sex discrimination occurring under a school district's education program or activity in the United States. For the purpose of this paragraph, conduct that occurs under the school district's education program or activity includes but is not limited to conduct that is subject to the school district's disciplinary authority. The school district has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the school district's education program or activity or outside the United States.
- E. The school district has adopted, published, and implemented grievance procedures consistent with the requirements of 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46, that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in the school district's education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or its regulations.
- F. The school district's obligation to comply with Title IX and its regulations is not obviated or alleviated by the Federal Educational Rights and Privacy Act (FERPA), 20 United States Code, section 1232g, or its implementing regulations, 34 Code of Federal Regulations, part 99, or any state law or local law. The obligation to comply is not obviated or alleviated by any rule or regulation of any organization, club, athletic or

other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by the school district and which receives Federal financial assistance.

- G. The school district has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the school district's education program or activity or outside the United States.
- H. Nothing in Title IX or its regulations may be read in derogation of any legal right of a parent, guardian, or other authorized legal representative to act on behalf of a complainant, respondent, or other person, subject to Paragraph F of this section, including but not limited to making a complaint through the school district's grievance procedures for complaints of sex discrimination.
- I. In the limited circumstances in which Title IX or its regulations permits different treatment or separation on the basis of sex, the school district must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted by 20 United States Code, section 1681(a)(1) through (9) and the corresponding regulations sections 106.12 through 106.15, 20 United States Code, section 1686 and its corresponding regulation section 106.32(b)(1), or section 106.41(b). Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex.
- J. Any student, parent, or guardian having questions regarding the application of Title IX and its regulations and/or this policy and grievance process should discuss them with the Title IX Coordinator. The school district's Title IX Coordinator(s) is/are:

**[INSERT: NAME(S) TITLE(S) PHONE NUMBER(S) OFFICE ADDRESS(ES) EMAIL ADDRESS(ES)]**

Inquiries about Title IX and its regulations may be referred to the Title IX Coordinator(s), the United States Department of Education's Office for Civil Rights, or both.

- K. To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to **[INSERT: LINK TO LOCATION(S) ON WEBSITE OR OTHERWISE DESCRIBE LOCATION(S)]**
- L. The effective date of this policy is August 1, 2024, and applies to alleged violations of this policy occurring on or after August 1, 2024.

## **II. DEFINITIONS**

- A. "Admission" means selection for part-time, full-time, special, associate, transfer, exchange or any other enrollment, membership, or matriculation in or at an education program or activity operated by the school district.
- B. "Complainant" means
  - 1. a student or employee of the school district who is alleged to have been

subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or

2. a person other than a student or employee of the school district who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in a school district education program or activity at the time of the alleged sex discrimination.

C. "Complaint" means an oral or written request to the school district that objectively can be understood as a request for the school district to investigate and make a determination about alleged discrimination under Title IX or its regulations.

1. A person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 Code of Federal Regulations, section 106.44(f)(1)(v).

2. The following individuals have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the school district investigate and make a determination about alleged discrimination under Title IX:

- a. a complainant;
- b. a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- c. the school district's Title IX Coordinator.

**[NOTE: When a Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination under Title IX (and in the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process), the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination as required under Title IX. The requirements for such a fact-specific determination are set forth in 34 Code of Federal Regulations, section 106.44(f)(1)(v).]**

3. With respect to complaints of sex discrimination other than sex-based harassment, in addition to the persons listed above, the following persons have a right to make a complaint:

- a. any school district student or employee; or
- b. any person other than a school district student or employee who was participating or attempting to participate in a school district education program or activity at the time of the alleged sex discrimination.

D. "Confidential employee" means

1. A school district employee whose communications are privileged or confidential

under Federal or Minnesota law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or

2. A school district employee whom the school district has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.
- E. "Day" or "days" means, unless expressly stated otherwise, business days (i.e. day(s) that the school district office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).
- F. "Disciplinary sanctions" means consequences imposed on a respondent following a determination under Title IX that the respondent violated the school district's prohibition on sex discrimination.
- G. "Parental status" as used in Title IX and its regulations means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:
1. A biological parent;
  2. An adoptive parent;
  3. A foster parent;
  4. A stepparent;
  5. A legal custodian or guardian;
  6. In loco parentis with respect to such a person; or
  7. Actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- H. "Party" means a complainant or respondent.
- I. "Peer retaliation" means retaliation by a student against another student.
- J. "Pregnancy or related conditions" means:
1. Pregnancy, childbirth, termination of pregnancy, or lactation;
  2. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
  3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- K. "Program or activity" and "program" means all of the operations of a local education

agency as defined in 20 United States Code, section 8801, a special purpose district, a system of vocational education, or other school system.

- L. "Relevant" means related to the allegations of sex discrimination under investigation as part of the grievance procedures under Title IX and 34 Code of Federal Regulations, section 106.44. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- M. "Remedies" means measures provided, as appropriate, to a complainant or any other person the school district identifies as having had their equal access to the school district's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the school district's education program or activity after a school district determines that sex discrimination occurred.
- N. "Respondent" means a person who is alleged to have violated the school district's prohibition on sex discrimination.
- O. "Retaliation" means intimidation, threats, coercion, or discrimination against any person by the school district, a student, or an employee or other person authorized by the school district to provide aid, benefit, or service under the school district's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.
- P. "Sex-based harassment" prohibited by Title IX and its regulations is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:
  - 1. *Quid pro quo harassment.*

An employee, agent, or other person authorized by the school district to provide an aid, benefit, or service under the school district's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
  - 2. *Hostile environment harassment.*

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the school district's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
    - a. The degree to which the conduct affected the complainant's ability to access the school district's education program or activity;
    - b. The type, frequency, and duration of the conduct;

- c. The parties' ages, roles within the school district's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - d. The location of the conduct and the context in which the conduct occurred; and
  - e. Other sex-based harassment in the school district's education program or activity; or
3. *Specific offenses.*
- a. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
  - b. Dating violence meaning violence committed by a person:
    - i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      - (a) The length of the relationship;
      - (b) The type of relationship; and
      - (c) The frequency of interaction between the persons involved in the relationship;
  - c. Domestic violence meaning felony or misdemeanor crimes committed by a person who:
    - i. is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the state of Minnesota, or a person similarly situated to a spouse of the victim;
    - ii. is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
    - iii. shares a child in common with the victim; or
    - iv. commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
  - d. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    - i. Fear for the person's safety or the safety of others; or
    - ii. Suffer substantial emotional distress.

- Q. "Student" means a person who has gained admission.
- R. "Student with a disability" means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, or a child with a disability as defined in the Individuals with Disabilities Education Act.
- S. "Supportive measures" means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:
  1. Restore or preserve that party's access to the school district's education program or activity, including measures that are designed to protect the safety of the parties or the school district's educational environment; or
  2. Provide support during the school district's grievance procedures or during the informal resolution process.

The school district will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the school district's education program or activity or provide support during the school district's Title IX grievance procedures or during the informal resolution process.
- T. "Title IX" means Title IX of the Education Amendments of 1972, as amended.

**III. DESIGNATION OF TITLE IX COORDINATOR AND DESIGNEES**

- A. The school district must designate and authorize at least one employee, referred to as a Title IX Coordinator, to coordinate its efforts to comply with its obligations under Title IX and its regulations. If a school district has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight over the responsibilities and ensure the school district's consistent compliance with its responsibilities under Title IX and its regulations.
- B. As appropriate, the school district may delegate, or permit a Title IX Coordinator to delegate, specific duties to one or more designees.

**IV. PARENTAL, FAMILY, OR MARITAL STATUS; PREGNANCY OR RELATED CONDITIONS**

- A. Status Generally

The school district must not adopt or implement any policy, practice, or procedure concerning a student's current, potential, or past parental, family, or marital status that treats students differently on the basis of sex.
- B. Pregnancy or Related Conditions
  1. Nondiscrimination

The school district must not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. The school district does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its

education program or activity provided the school district ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

2. Responsibility to Provide Title IX Coordinator Contact and Other Information

The school district must ensure that when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee promptly provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the school district's education program or activity.

3. Specific Actions to Prevent Discrimination and Ensure Equal Access

The school district must take specific actions below to promptly and effectively prevent sex discrimination and ensure equal access to the school district's education program or activity once the student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. The Title IX Coordinator must coordinate these actions.

a. Responsibility to provide information about school district obligations.

The school district must inform the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of the school district's obligations under 34 Code of Federal Regulations, section 106.31, paragraphs (b)(1) through (5) and section 106.44(j) and provide the school district's notice of nondiscrimination under section 106.8(c)(1)

b. Reasonable modifications

i. The school district must make reasonable modifications to the school district's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the school district's education program or activity. Each reasonable modification must be based on the student's individualized needs. In determining what modifications are required under this paragraph, the school district must consult with the student. A modification that a school district can demonstrate would fundamentally alter the nature of its education program or activity is not a reasonable modification.

ii. The student has discretion to accept or decline each reasonable modification offered by the school district. If a student accepts the school district's offered reasonable modification, the school district must implement it.

iii. Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or

attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

c. Voluntary access to separate and comparable portion of program or activity

The school district must allow the student to voluntarily access any separate and comparable portion of the school district's education program or activity under Paragraph A. above.

d. Voluntary leaves of absence

The school district must allow the student to voluntarily take a leave of absence from the school district's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent that a student qualifies for leave under a leave policy maintained by the school district that allows a greater period of time than the medically necessary period, the school district must permit the student to take voluntary leave under that policy instead if the student so chooses. When the student returns to the school district's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

e. Lactation space

The school district must ensure that the student can access a lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

f. Limitation on supporting documentation

The school district must not require supporting documentation under Paragraph B.3, subparagraphs b. through e. unless the documentation is necessary and reasonable for the school district to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action under Paragraph C. subparagraphs 3 through 5 is obvious, such as when a student who is pregnant needs a bigger uniform; when the student has previously provided the school district with sufficient supporting documentation; when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry

or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the specific action under Paragraph C. subparagraphs 3 through 5 is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

4. Comparable Treatment to Other Temporary Medical Conditions

To the extent consistent with Paragraph B.3 above, the school district must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the school district administers, operates, offers, or participates in with respect to students admitted to the school district's education program or activity.

5. Certification to Participate

The school district must not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the school district's class, program, or extracurricular activity unless:

- a. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- b. The school district requires such certification of all students participating in the class, program, or extracurricular activity; and
- c. The information obtained is not used as a basis for discrimination prohibited by this part.

**V. REPORTING PROHIBITED CONDUCT**

A. Any student who believes they have been the victim of unlawful sex discrimination or sexual harassment, or any person (including the parent of a student) with actual knowledge of conduct which may constitute unlawful sex discrimination or sexual harassment toward a student should report the alleged acts as soon as possible to the Title IX Coordinator.

B. The school district requires all employees who are not confidential employees to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations. This requirement does not apply to an employee who has personally been subject to conduct that reasonably may constitute sex discrimination under Title IX or its regulations.

C. Confidential Employee Requirements

1. The school district must notify all participants in the school district's education program or activity of how to contact its confidential employees, if any.
2. The school district must require a confidential employee to explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination under Title IX or its regulations:

- a. The employee's status as confidential for purposes of this part, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
  - b. How to contact the school district's Title IX Coordinator and how to make a complaint of sex discrimination; and
  - c. That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.
- D. Any employee of the school district who has experienced, has knowledge of, or has witnessed unlawful sex discrimination, including sexual harassment, or who otherwise becomes aware of unlawful sex discrimination, including sexual harassment, must promptly report the allegations to the Title IX Coordinator without screening or investigating the report or allegations.
- E. A report of unlawful sex discrimination or sexual harassment may be made at any time, including during nonbusiness hours, and may be made in person, by mail, by telephone, or by email using the Title IX Coordinator's contact information. A report may also be made by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
- F. Sexual harassment may constitute both a violation of this policy and criminal law. To the extent the alleged conduct may constitute a crime, the school district may report the alleged conduct to law enforcement authorities. The school district encourages complainants to report criminal behavior to the police immediately.

## **VI. SCHOOL DISTRICT'S RESPONSE TO SEXUAL HARASSMENT**

### A. General

Upon knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity, the school district must respond promptly and effectively. The school district must also comply with 34 Code of Federal Regulations, section 106.44 to address sex discrimination in its education program or activity.

### B. Barriers to Reporting

The school district must require its Title IX Coordinator to:

- 1. Monitor the school district's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations; and
- 2. Take steps reasonably calculated to address such barriers.

### C. Title IX Coordinator Requirements

- 1. The Title IX Coordinator is responsible for coordinating the school district's compliance with its obligations under Title IX and its regulations. The school district must require its Title IX Coordinator, when notified of conduct that

reasonably may constitute sex discrimination under Title IX or its regulations, to take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:

- a. Treat the complainant and respondent equitably;
- b. Offer and coordinate supportive measures, as appropriate, for the complainant. In addition, if the school district has initiated grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures, as appropriate, for the respondent;
- c. Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the grievance procedures and if applicable and the informal resolution process, if available and appropriate. If a complaint is made, notify the respondent of the grievance procedures and the informal resolution process, if available and appropriate;
- d. In response to a complaint, initiate the grievance procedures or the informal resolution process, if available and appropriate and requested by all parties;
- e. In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures.
  - i. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:
    - [a] The complainant's request not to proceed with initiation of a complaint;
    - [b] The complainant's reasonable safety concerns regarding initiation of a complaint;
    - [c] The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
    - [d] The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
    - [e] The age and relationship of the parties, including whether the respondent is an employee of the school district;
    - [f] The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have

impacted multiple individuals;

[g] The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and

[h] Whether the school district could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

ii. If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the school district from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint

f. If initiating a complaint under Subparagraph e. above, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures; and

g. Regardless of whether a complaint is initiated, take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within the school district's education program or activity.

2. The Title IX Coordinator is not required to comply with Paragraph C.1, subparagraphs a. through g. above upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or its regulations.

D. Supportive Measures

Under the *Title IX Coordinator Requirements* above, the school district must offer and coordinate supportive measures, as appropriate, as described below. For allegations of sex discrimination other than sex-based harassment or retaliation, the school district's provision of supportive measures does not require the school district, its employee, or any other person authorized to provide aid, benefit, or service on the school district's behalf to alter the alleged discriminatory conduct for the purpose of providing a supportive measure.

1. Supportive measures may vary depending on what the school district deems to be reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

2. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the school district's educational environment, or to provide support during the school district's grievance procedures, or during the informal resolution process. The school district must not impose such measures for punitive or disciplinary reasons.
3. The school district may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process, or the school district may continue them beyond that point.
4. The school district must provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the school district's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures. The school district must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.
5. The school district must not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception in 34 Code of Federal Regulations section 106.44(j)(1) through (5) applies.
6. The school district must require the Title IX Coordinator to consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 Code of Federal Regulations, section 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, and Section 504 of the Rehabilitation Act of 1973 in the implementation of supportive measures.

E. Students with Disabilities

If a complainant or respondent is an elementary or secondary student with a disability, the school district must require the Title IX Coordinator to consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 Code of Federal Regulations, section 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973 throughout the school district's implementation of grievance procedures under 34 Code of Federal Regulations, section 106.45.

F. Emergency Removal

Nothing in Title IX or its regulations precludes the school district from removing a

respondent from the school district's education program or activity on an emergency basis, provided that the school district undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision must not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990.

G. Administrative Leave

Nothing in Title IX or its regulations precludes the school district from placing an employee respondent on administrative leave from employment responsibilities during the pendency of the school district's grievance procedures. This provision must not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

H. Prohibited Disclosures of Personally Identifiable Information

The school district must not disclose personally identifiable information obtained in the course of complying with this part, except in the following circumstances:

1. When the school district has obtained prior written consent from a person with the legal right to consent to the disclosure;
2. When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
3. To carry out the purposes of 34 Code of Federal Regulations, section 106, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the school district's education program or activity;
4. As required by federal law, federal regulations, or the terms and conditions of a Federal award, including a grant award or
5. To the extent such disclosures are not otherwise in conflict with Title IX or its regulations, when required by Minnesota or local law or when permitted under FERPA or its implementing regulations.

**VII. GRIEVANCE PROCEDURES FOR THE PROMPT AND EQUITABLE RESOLUTION OF COMPLAINTS OF SEX DISCRIMINATION**

A. General

The school district's grievance procedures for the prompt and equitable resolution of complaints of sex discrimination must be in writing and include provisions that incorporate the requirements of this section. The requirements related to a respondent apply only to sex discrimination complaints alleging that a person violated the school district's prohibition on sex discrimination. When a sex discrimination complaint alleges that a school district's policy or practice discriminates on the basis of sex, the school

district is not considered a respondent.

B. Basic Requirements for Grievance Procedures

The school district's grievance procedures must:

1. Treat complainants and respondents equitably;
2. Require that any person designated as a Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator;
3. Include a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the school district's grievance procedures for complaints of sex discrimination;
4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. Major stages include, for example, evaluation (i.e., the school district's decision whether to dismiss or investigate a complaint of sex discrimination); investigation; determination; and appeal, if any;

**[NOTE: The Title IX regulations require reasonably prompt timeframes for major stages of the grievance procedures, but do not specify any particular timeframes. School districts may establish their own district-specific timeframes. A sample set of provisions is offered below.]**

- a. Any informal resolution process must be completed within thirty (30) calendar days following the parties' agreement to participate in such informal process.
- b. An appeal of a determination of responsibility or of a decision dismissing a formal complaint must be received by the school district within five (5) days of the date the determination of responsibility or dismissal was provided to the parties.
- c. Any appeal of a determination of responsibility or of a dismissal will be decided within thirty (30) calendar days of the day the appeal was received by the school district.
- d. The school district will seek to conclude the grievance process, including any appeal, within 120 calendar days of the date the formal complaint was received by the school district.
- e. Although the school district strives to adhere to the timelines described above, in each case, the school district may extend the time frames for good cause. Good cause may include, without limitation: the complexity of the allegations; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other

evidence (e.g., forensic evidence) involved; the availability of the parties, advisors, witnesses, and evidence (e.g., forensic evidence); concurrent law enforcement activity; intervening school district holidays, breaks, or other closures; the need for language assistance or accommodation of disabilities; and/or other unforeseen circumstances.

- f. The school district has established the following process for reasonable extension of timeframes on a case-by-case basis for good cause as set forth above. The process includes notice to the parties and the reason for the delay:

**[NOTE: The school district should set forth its process for determining a reasonable extension of a timeframe.]**

- 5. Require the school district to take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the school district's grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, subject to the prohibition against retaliation; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures;
- 6. Require an objective evaluation of all evidence that is relevant, as defined in Article II, and not otherwise impermissible—including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person's status as a complainant, respondent, or witness;
- 7. Exclude the following types of evidence, and questions seeking that evidence, as impermissible (i.e., must not be accessed or considered, except by the school district to determine whether an exception in subparagraphs (a) through (c) applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant:
  - a. Evidence that is protected under a privilege as recognized by federal or Minnesota law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
  - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the school district obtains that party's or witness's voluntary, written consent for use in the school district's grievance procedures; and
  - c. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's

consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred; and

8. If the school district adopts grievance procedures that apply to the resolution of some, but not all, complaints articulate consistent principles for how the school district will determine which procedures apply.

C. Notice of Allegations

Upon initiation of the school district's grievance procedures, the school district must provide notice of the allegations to the parties whose identities are known.

1. The notice must include:
  - a. The school district's grievance procedures, and if applicable, any informal resolution process;
  - b. Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination under Title IX or this part, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the school district;
  - c. A statement that retaliation is prohibited; and
  - d. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence; and if the school district provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.
2. If, in the course of an investigation, the school district decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice or that are included in a complaint that is consolidated, the school district must provide notice of the additional allegations to the parties whose identities are known.

**[NOTE: If the school district provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.]**

If, in the course of an investigation, the school district decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the school district will notify the parties of the additional allegations.

D. Consolidation

The school district may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise

out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

E. Complaint Investigation

- A. The school district must provide for adequate, reliable, and impartial investigation of complaints. To do so, the school district must:
1. Ensure that the burden is on the school district – not on the parties – to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred;
  2. Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible;
  3. Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance, consistent with § 106.2 and with paragraph (b)(7) of this section; and
  4. Provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible in the following manner:
    - a. The school district must provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the school district provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
    - b. The school district must provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence; and
    - c. The school district must take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

F. Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

The school district must provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

G. Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the school district must:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred, unless the school district uses the clear and convincing evidence standard of proof in all other comparable proceedings, including proceedings relating to other discrimination complaints, in which case the school district may elect to use that standard of proof in determining whether sex discrimination occurred. Both standards of proof require the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness; if the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that sex discrimination occurred.
2. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX or its regulations including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
3. If there is a determination that sex discrimination occurred, as appropriate, require the Title IX Coordinator to coordinate the provision and implementation of remedies to a complainant and other persons the school district identifies as having had equal access to the school district's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions, and require the Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the school district's education program or activity. The school district may not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the school district's grievance procedures that the respondent engaged in prohibited sex discrimination;
4. Comply with 34 Code of Federal Regulations, section 106.45, before the imposition of any disciplinary sanctions against a respondent; and
5. Not discipline a party, witness, or others participating in school district's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the school district's determination whether sex discrimination occurred.

H. Additional Provisions

If the school district adopts additional provisions as part of its grievance procedures for handling complaints of sex discrimination, including sex-based harassment, such additional provisions must apply equally to the parties.

I. Informal Resolution

In lieu of resolving a complaint through the school district's grievance procedures, the parties may instead elect to participate in an informal resolution process under 34 Code

of Federal Regulations, section 106.44(k) if provided by the school district consistent with that paragraph.

J. Provisions Limited to Sex-Based Harassment Complaints

For complaints alleging sex-based harassment, the grievance procedures must:

1. Describe the range of supportive measures available to complainants and respondents; and
2. List, or describe the range of, the possible disciplinary sanctions that the school district may impose and remedies that the school district may provide following a determination that sex-based harassment occurred.

**VIII. INFORMAL RESOLUTION OF A COMPLAINT**

**[NOTE: The 2024 Title IX amendments do not require a school district to offer an informal resolution process. However, a school district is free to provide such a process in some circumstances, as long as it complies with certain regulatory requirements. Requirements related to informal resolution are set forth in 34 Code of Federal Regulations, section 106.44(k).]**

- A. At any time prior to determining whether sex discrimination occurred, the school district may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student or such a process would conflict with federal, Minnesota, or local law. A school district that provides the parties an informal resolution process must, to the extent necessary, also require its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the school district's education program or activity.
1. Subject to the limitations in Paragraph A. above, the school district has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations or when a complaint of sex discrimination is made, and may decline to offer informal resolution despite one or more of the parties' wishes.
  2. In addition to the limitations in Paragraph A. above, circumstances when the school district may decline to allow informal resolution include but are not limited to when the school district determines that the alleged conduct would present a future risk of harm to others.
- B. The school district must not require or pressure the parties to participate in an informal resolution process. The school district must obtain the parties' voluntary consent to the informal resolution process and must not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.
- C. Before initiation of an informal resolution process, the school district must provide to the parties notice that explains:
1. The allegations;

2. The requirements of the informal resolution process;
  3. That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the school district's grievance procedures;
  4. That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
  5. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
  6. What information the school district will maintain and whether and how the school district could disclose such information for use in grievance procedures, if grievance procedures are initiated or resumed.
- D. The facilitator for the informal resolution process must not be the same person as the investigator or the decisionmaker in the school district's grievance procedures. Any person designated by the school district to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Any person facilitating informal resolution must receive training as provided under this policy.
- E. Potential terms that may be included in an informal resolution agreement include but are not limited to:
1. Restrictions on contact; and
  2. Restrictions on the respondent's participation in one or more of the school district's programs or activities or attendance at specific events, including restrictions the school district could have imposed as remedies or disciplinary sanctions had the school district determined at the conclusion of the school district's grievance procedures that sex discrimination occurred.

## **IX. DISMISSAL OF A COMPLAINT**

- A. The school district may dismiss a complaint of sex discrimination made through its grievance procedures under this policy for any of the following reasons:
1. The school district is unable to identify the respondent after taking reasonable steps to do so;
  2. The respondent is not participating in a school district education program or activity and is not employed by the school district;
  3. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the school district determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or,
  4. The school district determines the conduct alleged in the complaint, even if

proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the school district will make reasonable efforts to clarify the allegations with the complainant.

- B. Upon dismissal, the school district will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the school district will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.
- C. The school district must notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint on the bases set out in 34 Code of Federal Regulations, section 106.46(i)(1). If the dismissal occurs after the respondent has been notified of the allegations, then the school district will also notify the respondent that the dismissal may be appealed on the bases set out in 34 Code of Federal Regulations, section 106.46(i)(1). If the dismissal is appealed, the school district must:
  - 1. Notify the parties of any appeal, including notice of the allegations consistent with paragraph (c) of this section if notice was not previously provided to the respondent;
  - 2. Implement appeal procedures equally for the parties;
  - 3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
  - 4. Ensure that the decisionmaker for the appeal has been trained as set out in this policy;
  - 5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
  - 6. Notify the parties of the result of the appeal and the rationale for the result.
- D. When the school district dismisses a complaint, it must, at a minimum:
  - 1. Offer supportive measures to the complainant as appropriate;
  - 2. For dismissals under Paragraph A. 3 and 4 above in which the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate under 34 Code of Federal Regulations, section 106.44(g); and
  - 3. Require its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the school district's education program or activity.
- E. Dismissal of a formal complaint or a portion thereof does not preclude the school district from addressing the underlying conduct in any manner that the school district deems appropriate.

**[NOTE: For example, school districts are reminded of the obligation under Minnesota Statutes, section 122A.20, subdivision 2, to make a mandatory report to the Minnesota Professional Educator Licensing and Standards Board**

**concerning any teacher who resigns during the course of an investigation of misconduct.]**

## **XI. APPEAL OF DETERMINATION**

**[NOTE: Regarding an appeal of a determination, the 2024 Title IX Final Rule states that the school district must offer the parties an appeal process that, at a minimum, is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints.]**

**This section provides sample text a school district may elect to include in its grievance procedures, but school districts are not required to use the text provided.]**

- A. The school district offers the following process for appeals from a determination whether sex discrimination occurred. This appeal process will be, at a minimum, the same as the school district offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.
- B. If notice of an appeal is timely received by the school district, the school district will notify the parties in writing of the receipt of the appeal, assign or designate the appellate decisionmaker, and give the parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
- C. After reviewing the parties' written statements, the appellate decisionmaker must issue a written decision describing the result of the appeal and the rationale for the result.
- D. The written decision describing the result of the appeal must be provided simultaneously to the parties.
- E. The decision of the appellate decisionmaker is final. No further review beyond the appeal is permitted.

## **XII. SANCTIONS AND REMEDIES**

Following a determination that sex-based harassment occurred, the school district may impose disciplinary sanctions, which may include **[INSERT LIST OR DESCRIBE RANGE]**. The school district may also provide remedies, which may include **[INSERT LIST OR DESCRIBE RANGE]**.

**[NOTE: The school district may choose to consult its legal counsel for district-specific sanctions and remedies. The following sample language may be considered:**

- 1. The following is the range of possible remedies that the school district may provide a complainant and disciplinary sanctions that the school district might impose upon a respondent, following determination of responsibility: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual or unilateral restrictions on contact between the parties, changes in work locations, leaves of absence, monitoring of certain areas of the school district buildings or property, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge.**
- 2. If the decisionmaker determines a respondent is responsible for**

**violating this policy, the decisionmaker will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the superintendent of the recommended remedies, such that an authorized administrator can consider the recommendation(s) and implement appropriate remedies in compliance with MSBA Model Policy 506 – Student Discipline. The discipline of a student-respondent must comply with the applicable provisions of Minnesota Pupil Fair Dismissal Act, the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.]**

### **XIII. RETALIATION**

The school district must prohibit retaliation, including peer retaliation, in its education program or activity. When the school district has information about conduct that reasonably may constitute retaliation under Title IX or its regulations, the school district is obliged to comply with 34 Code of Federal Regulations, section 106.44. Upon receiving a complaint alleging retaliation, the school district must initiate its grievance procedures or, as appropriate, an informal resolution process.

### **XIV. TRAINING**

**[NOTE: Training requirements are set forth in 34 Code of Federal Regulations, section 106.8(d).]**

A. The school district must ensure that the following persons receive training related to their duties under Title IX promptly upon hiring or change of positions that alters their duties under Title IX or its regulations, and annually thereafter. This training must not rely upon sex stereotypes.

1. *All employees* must be trained on:
  - a. The school district's obligation to address sex discrimination in its education program or activity;
  - b. The scope of conduct that constitutes sex discrimination under Title IX and its regulations, including the definition of sex-based harassment; and
  - c. All applicable notification and information requirements under 34 Code of Federal Regulations, sections 106.40(b)(2) and 106.44.
2. *Investigators, decisionmakers, and other persons who are responsible for implementing the school district's grievance procedures or have the authority to modify or terminate supportive measures.*

In addition to the training requirements for all employees described in Paragraphs 1 and 2 above, all investigators, decisionmakers, and other persons who are responsible for implementing the school district's grievance procedures or have the authority to modify or terminate supportive measures under 34 Code of Federal Regulations, section 106.44(g)(4) must be trained on the following topics to the extent related to their responsibilities:

- a. The school district's obligations under 34 Code of Federal Regulations, section 106.44;
- b. The school district's grievance procedures under 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46;
- c. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- d. The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under 34 Code of Federal Regulations, section 106.45, and if applicable section 106.46.

3. *Facilitators of informal resolution process*

In addition to the training requirements for all employees described in Paragraph 1 above, all facilitators of an informal resolution process under 34 Code of Federal Regulations, section 106.44(k) must be trained on the rules and practices associated with the school district's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

4. *Title IX Coordinator and Title IX Personnel*

In addition to the training requirements in Paragraphs 1 through 3 above, the Title IX Coordinator and Title IX Personnel must be trained on their specific responsibilities under 34 Code of Federal Regulations, section 106.8(a), section 106.40(b)(3), section 106.44(f) and (g), the school district's recordkeeping system and the requirements of 34 Code of Federal Regulations, section 106.8 (f), and any other training necessary to coordinate the school district's compliance with Title IX. "Title IX Personnel" means any person who addresses, works on, or assists with the school district's response to a report of sexual harassment or formal complaint, and includes persons who facilitate informal resolutions.

**XV. DISSEMINATION OF POLICY**

- A. This policy shall be made available to all students, parents/guardians of students, school district employees, and employee unions.
- B. The school district shall conspicuously post the name of the Title IX Coordinator, including office address, telephone number, and work e-mail address on its website and in each handbook that it makes available to parents, employees, students, unions, or applicants.
- C. Notice of Nondiscrimination
  - 1. The school district must provide notice of nondiscrimination to applicants for admission and employment, students, parents, guardians, or other authorized legal representatives of elementary and secondary school students, employees, and all unions holding collective bargaining agreements with the school district.
  - 2. Contents of Notice of Nondiscrimination

The notice of nondiscrimination must include the following elements:

- a. A statement that the school district does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment;
  - b. A statement that inquiries about the application of Title IX and its regulations to the school district may be referred to the school district's Title IX Coordinator, the federal Office for Civil Rights, or both;
  - c. The name or title, office address, email address, and telephone number of the Title IX Coordinator;
  - d. How to locate the school district's nondiscrimination policy and the school district's grievance procedures; and
  - e. How to report information about conduct that may constitute sex discrimination under Title IX; and how to make a complaint of sex discrimination under the regulations.
3. The school district must prominently include all elements of its notice of nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to people entitled to notice, or which are otherwise used in connection with the recruitment of students or employees.
  4. If necessary, due to the format or size of any publication, the school district may instead include in those publications the information covered in the following statement: "[**INSERT NAME OF SCHOOL DISTRICT**] prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The notice of nondiscrimination is located at [**INSERT WEBSITE ADDRESS**]."
  5. The school district must not use or distribute a publication stating that the school district treats applicants, students, or employees differently on the basis of sex, except as such treatment is permitted by Title IX or its regulations.

## **XVI. RECORDKEEPING**

The school district must create, and maintain for a period of seven years:

- A. For each complaint of sex discrimination, records documenting the informal resolution process under 34 Code of Federal Regulations, section 106.44(k) or the grievance procedures under section 106.45, and if applicable section 106.46, and the resulting outcome.
- B. For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or its regulations, including notifications under 34 Code of Federal Regulations, section 106.44(c)(1) or (2), records documenting the actions the school district took to meet its obligations under section 106.44

- C. All materials used to provide training under this policy. The school district must make these training materials available upon request for inspection by members of the public.

**Legal References:** Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)  
Minn. Stat. §§ 121A.40 – 121A.575 (Minnesota Pupil Fair Dismissal Act)  
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)  
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments)  
34 C.F.R. Part 106 (Implementing Regulations of Title IX)  
20 U.S.C § 1400, *et seq.* (Individuals with Disabilities Education Act)  
29 U.S.C. § 794 (Section 504 of the Rehabilitation Act)  
42 U.S.C. § 12101, *et seq.* (Americans with Disabilities Act)  
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act of 1974)  
20 U.S.C. § 1092 *et seq.* (Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”))

**Cross References:** MSBA/MASA Model Policy 102 (Equal Educational Opportunity)  
MSBA/MASA Model Policy 413 (Harassment and Violence)  
MSBA/MASA Model Policy 506 (Student Discipline)  
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)



*Adopted:* October 25, 2004

*MSBA/MASA Model Policy 522*

*Orig. 1995*

*Revised:* 6/26/06; 7/25/16; 9/11/17; 6/10/19  
5/26/20; 8/24/20; 6/14/21; 6/27/22; 4/10/23

*Rev. 2022*

**522 TITLE IX NONDISCRIMINATION POLICY, GRIEVANCE PROCEDURE AND PROCESS**

**I. GENERAL STATEMENT OF POLICY**

- A. The school district does not discriminate on the basis of sex in its education programs or activities, and it is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The school district is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.
- B. The school district prohibits sexual harassment that occurs within its education programs and activities. When the school district has actual knowledge of sexual harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.
- C. This policy applies to sexual harassment that occurs within the school district's education programs and activities and that is committed by a school district employee, student, or other members of the school community. This policy does not apply to sexual harassment that occurs off school grounds, in a private setting, and outside the scope of the school district's education programs and activities. This policy does not apply to sexual harassment that occurs outside the geographic boundaries of the United States, even if the sexual harassment occurs in the school district's education programs or activities.
- D. Any student, parent, or guardian having questions regarding the application of Title IX and its regulations and/or this policy and grievance process should discuss them with the Title IX Coordinator. The school district's Title IX Coordinator(s) is/are:

Title IX Coordinator  
Human Resource Director  
104 – 5<sup>th</sup> Avenue South, South St. Paul, MN 55075  
(651) 457-9473

Alternate Title IX Coordinator  
Activities Director  
700 North Second Street, South St. Paul, MN 55075  
(651)- 457-9408

Questions relating solely to Title IX and its regulations may be referred to the Title IX Coordinator(s), the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

- E. The effective date of this policy is August 14, 2020 and applies to alleged violations of this policy occurring on or after August 14, 2020.

## **II. DEFINITIONS**

- A. “Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the school district’s Title IX Coordinator or to any employee of the school district. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the school district with actual knowledge is the respondent.
- B. “Complainant” means a person who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX. A Title IX Coordinator who signs a formal complaint is not a complainant unless the Title IX Coordinator is alleged to be the victim of the conduct described in the formal complaint.
- C. “Day” or “days” means, unless expressly stated otherwise, business days (i.e. day(s) that the school district office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).
- D. “Deliberately indifferent” means clearly unreasonable in light of the known circumstances. The school district is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.
- E. “Education program or activity” means locations, events, or circumstances for which the school district exercises substantial control over both the respondent and the context in which the sexual harassment occurs and includes school district education programs or activities that occur on or off of school district property.

- F. “Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school district investigate the allegation of sexual harassment.
1. A formal complaint filed by a complainant must be a physical document or an electronic submission. The formal complaint must contain the complainant’s physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint and must be submitted to the Title IX Coordinator in person, by mail, or by email.
  2. A formal complaint shall state that, at the time of filing the formal complaint, the complainant was participating in, or attempting to participate in, an education program or activity of the school district with which the formal complaint is filed.
- G. “Informal resolution” means options for resolving a formal complaint that do not involve a full investigation and adjudication. Informal resolution may encompass a broad range of conflict resolution strategies, including mediation or restorative justice.
- H. “Relevant questions” and “relevant evidence” are questions, documents, statements, or information that are related to the allegations raised in a formal complaint. Relevant evidence includes evidence that is both inculpatory and exculpatory. Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.
- I. “Remedies” means actions designed to restore or preserve the complainant’s equal access to education after a respondent is found responsible. Remedies may include the same individualized services that constitute supportive measures, but need not be non-punitive or non-disciplinary, nor must they avoid burdening the respondent.
- J. “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under Title IX.
- K. “Sexual harassment” means any of three types of misconduct on the basis of sex that occurs in a school district education program or activity and is committed against a person in the United States:

1. *Quid pro quo* harassment by a school district employee (conditioning the provision of an aid, benefit, or service of the school district on an individual's participation in unwelcome sexual conduct);
  2. Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; or
  3. Any instance of sexual assault (as defined in the Clery Act, 20 United States Code section §1092(f)(6)A(v)), dating violence, domestic violence, or stalking (as defined in the Violence Against Women Act, 34 United States Code section §12291).
- L. “Supportive measures” means individualized services provided to the complainant or respondent without fee or charge that are reasonably available, non-punitive, non-disciplinary, not unreasonably burdensome to the other party, and designed to ensure equal educational access, protect safety, and deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, alternative educational services as defined under Minnesota Statute section § 121A.41, as amended, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the school district buildings or property, and other similar measures.
- M. “Title IX Personnel” means any person who addresses, works on, or assists with the school district’s response to a report of sexual harassment or formal complaint, and includes persons who facilitate informal resolutions. The following are considered Title IX Personnel:
1. “Title IX Coordinator” means an employee of the school district that coordinates the school district’s efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator is responsible for acting as the primary contact for the parties and ensuring that the parties are provided with all notices, evidence, reports, and written determinations to which they are entitled under this policy and grievance process. The Title IX Coordinator is also responsible for effective implementation of any supportive measures or remedies. The Title IX Coordinator must be free from conflicts of interest and bias when administering the grievance process.
  2. “Investigator” means a person who investigates a formal complaint. The investigator of a formal complaint may not be the same person as the Decision-maker or the Appellate Decision-maker. The Investigator may be a school district employee, school district official, or a third party designated by the school district.

3. “Decision-maker” means a person who makes a determination regarding responsibility after the investigation has concluded. The Decision-maker cannot be the same person as the Title IX Coordinator, the Investigator, or the Appellate Decision-maker.
4. “Appellate Decision-maker” means a person who considers and decides appeals of determinations regarding responsibility and dismissals of formal complaints. The Appellate Decision-maker cannot be the same person as the Title IX Coordinator, Investigator, or Decision-maker. The Appellate Decision-maker may be a school district employee, or a third party designated by the school district.
5. The superintendent of the school district may delegate functions assigned to a specific school district employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, Investigator, Decision-maker, Appellate Decision-maker, and facilitator of informal resolution processes, to any suitably qualified individual and such delegation may be rescinded by the superintendent at any time. The school district may also, in its discretion, appoint suitably qualified persons who are not school district employees to fulfill any function under this policy, including, but not limited to, Investigator, Decision-maker, Appellate Decision-maker, and facilitator of informal resolution processes.

### **III. BASIC REQUIREMENTS FOR GRIEVANCE PROCESS**

#### **A. Equitable Treatment**

1. The school district shall treat complainants and respondents equitably. However, equality or parity with respect to supportive measures provided to complainants and respondents is not required.
2. The school district will not impose any disciplinary sanctions or take any other actions against a respondent that do not constitute supportive measures until it has completed this grievance process and the respondent has been found responsible.
3. The school district will provide appropriate remedies to the complainant any time a respondent is found responsible.

#### **B. Objective and Unbiased Evaluation of Complaints**

1. Title IX Personnel, including the Title IX Coordinator, Investigator, Decision-maker, and Appellate Decision-maker, shall be free from conflicts of interest or bias for or against complainants or respondents generally or a specific complainant or respondent.
2. Throughout the grievance process, Title IX Personnel will objectively evaluate all relevant evidence, inculpatory and exculpatory, and shall

avoid credibility determinations based solely on a person's status as a complainant, respondent, or witness.

- C. Title IX Personnel will presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- D. Confidentiality
1. The school district will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), 20 United States Code section § 1232g, or FERPA regulations, 34 Code of Federal Regulations part 99, Minnesota law under Minnesota Statutes section § 13.32, or as required by law, or to carry out the purposes of 34 Code of Federal Regulations part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the school district's obligation to maintain confidentiality shall not impair or otherwise affect the complainants and respondents receipt of the information to which they are entitled with respect to the investigative record and determination of responsibility).
- E. Right to an Advisor; Right to a Support Person
1. Complainants and respondents have the right, at their own expense, to be assisted by an advisor of their choice during all stages of any grievance proceeding, including all meetings and investigative interviews. The advisor may be, but is not required to be, an attorney. In general, an advisor is not permitted to speak for or on behalf of a complainant or respondent, appear in lieu of complainant or respondent, participate as a witness, or participate directly in any other manner during any phase of the grievance process.
  2. A complainant or respondent with a disability may be assisted by a support person throughout the grievance process, including all meetings and investigative interviews, if such accommodation is necessary. A support person may be a friend, family member, or any individual who is not otherwise a potential witness. The support person is not permitted to speak for or on behalf of a complainant or respondent, appear in lieu of complainant or respondent, participate as a witness, or participate directly in any other manner during any phase of the grievance process.

- F. Notice
1. The school district will send written notice of any investigative interviews or meetings to any party whose participation is invited or expected. The written notice will include the date, time, location, participants, and purpose of the meeting or interview, and will be provided to allow sufficient time for the party to prepare to participate.
- G. Consolidation
1. The school district may, in its discretion, consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- H. Evidence
1. During the grievance process, the school district will not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
  2. The school district shall not access, consider, disclose, or otherwise use a party's medical, psychological, and similar treatment records unless the school district obtains the party's voluntary, written consent.
- I. Burden of Proof
1. The burden of gathering evidence and the burden of proof shall remain upon the school district and not upon the parties.
  2. The grievance process shall use a preponderance of the evidence standard (i.e. whether it is more likely than not that the respondent engaged in sexual harassment) for all formal complaints of sexual harassment, including when school district employees are respondents.
- J. Timelines
1. Any informal resolution process must be completed within thirty (30) calendar days following the parties' agreement to participate in such informal process.
  2. An appeal of a determination of responsibility or of a decision dismissing a formal complaint must be received by the school district within five (5) days of the date the determination of responsibility or dismissal was provided to the parties.

3. Any appeal of a determination of responsibility or of a dismissal will be decided within thirty (30) calendar days of the day the appeal was received by the School District.
4. The school district will seek to conclude the grievance process, including any appeal, within 120 calendar days of the date the formal complaint was received by the School District.
5. Although the school district strives to adhere to the timelines described above, in each case, the school district may extend the time frames for good cause. Good cause may include, without limitation: the complexity of the allegations; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other evidence (e.g., forensic evidence) involved; the availability of the parties, advisors, witnesses, and evidence (e.g., forensic evidence); concurrent law enforcement activity; intervening school district holidays, breaks, or other closures; the need for language assistance or accommodation of disabilities; and/or other unforeseen circumstances.

**K. Potential Remedies and Disciplinary Sanctions**

1. The following is the range of possible remedies that the school district may provide a complainant and disciplinary sanctions that the school district might impose upon a respondent, following determination of responsibility: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual or unilateral restrictions on contact between the parties, changes in work locations, leaves of absence, monitoring of certain areas of the school district buildings or property, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge.
2. If the Decision-maker determines a student-respondent is responsible for violating this policy, the Decision-maker will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the superintendent of the recommended remedies, such that an authorized administrator can consider the recommendation(s) and implement appropriate remedies in compliance with MSBA Model Policy 506 – Student Discipline. The discipline of a student-respondent must comply with the applicable provisions of Minnesota Pupil Fair Dismissal Act, the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

**IV. REPORTING PROHIBITED CONDUCT**

- A. Any student who believes they have been the victim of unlawful sex discrimination or sexual harassment, or any person (including the parent of a

student) with actual knowledge of conduct which may constitute unlawful sex discrimination or sexual harassment toward a student should report the alleged acts as soon as possible to the Title IX Coordinator.

- B. Any employee of the school district who has experienced, has actual knowledge of, or has witnessed unlawful sex discrimination, including sexual harassment, or who otherwise becomes aware of unlawful sex discrimination, including sexual harassment, must promptly report the allegations to the Title IX Coordinator without screening or investigating the report or allegations.
- C. A report of unlawful sex discrimination or sexual harassment may be made at any time, including during non-business hours, and may be made in person, by mail, by telephone, or by e-mail using the Title IX Coordinator's contact information. A report may also be made by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
- D. Sexual harassment may constitute both a violation of this policy and criminal law. To the extent the alleged conduct may constitute a crime, the School District may report the alleged conduct to law enforcement authorities. The school district encourages complainants to report criminal behavior to the police immediately.

#### **V. INITIAL RESPONSE AND ASSESSMENT BY THE TITLE IX COORDINATOR**

- A. When the Title IX Coordinator receives a report, the Title IX Coordinator shall promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
- B. The school district will offer supportive measures to the complainant whether or not the complainant decides to make a formal complaint. The school district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the school district's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.
- C. If the complainant does not wish to file a formal complaint, the allegations will not be investigated by the school district unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the complainant's wishes is not clearly unreasonable in light of the known circumstances.

- D. Upon receipt of a formal complaint, the school district must provide written notice of the formal complaint to the known parties with sufficient time to prepare a response before any initial interview. This written notice must contain:
1. The allegations of sexual harassment, including sufficient details known at the time, the identities of the parties involved in the incident (if known), the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
  2. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
  3. A statement explaining that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
  4. A statement that the parties may inspect and review evidence gathered pursuant to this policy;
  5. A statement informing the parties of any code of conduct provision that prohibits knowingly making false statements or knowingly submitting false information; and
  6. A copy of this policy.

## **VI. STATUS OF RESPONDENT DURING PENDENCY OF FORMAL COMPLAINT**

### **A. Emergency Removal of a Student**

1. The school district may remove a student-respondent from an education program or activity of the school district on an emergency basis before a determination regarding responsibility is made if:
  - a) The school district undertakes an individualized safety and risk analysis;
  - b) The school district determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal of the student-respondent; and
  - c) The school district determines the student-respondent poses such a threat, it will so notify the student-respondent and the student-respondent will have an opportunity to challenge the decision immediately following the removal. In determining whether to impose emergency removal measures, the Title IX Coordinator shall consult related school district policies, including MSBA Model Policy 506 – Student Discipline. The school district must take into consideration applicable requirements of the Individuals

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with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, prior to removing a special education student or Section 504 student on an emergency basis.

- B. Employee Administrative Leave  
The school district may place a non-student employee on administrative leave during the pendency of the grievance process of a formal complaint. Such leave will typically be paid leave unless circumstances justify unpaid leave in compliance with legal requirements. The school district must take into consideration applicable requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prior to removing an individual with a qualifying disability.

## **VII. INFORMAL RESOLUTION OF A FORMAL COMPLAINT**

- A. At any time prior to reaching a determination of responsibility, informal resolution may be offered and facilitated by the school district at the school district's discretion, but only after a formal complaint has been received by the school district.
- B. The school district may not require as a condition of enrollment or continued enrollment, or of employment or continued employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment.
- C. The informal resolution process may not be used to resolve allegations that a school district employee sexually harassed a student.
- D. The school district will not facilitate an informal resolution process without both parties' agreement, and will obtain their voluntary, written consent. The school district will provide to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, the parties' right to withdraw from the informal resolution process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- E. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

## **VIII. DISMISSAL OF A FORMAL COMPLAINT**

- A. Under federal law, the school district must dismiss a Title IX complaint, or a portion thereof, if the conduct alleged in a formal complaint or a portion thereof:

1. Would not meet the definition of sexual harassment, even if proven;
  2. Did not occur in the school district's education program or activity; or
  3. Did not occur against a person in the United States.
- B. The school district may, in its discretion, dismiss a formal complaint or allegations therein if:
1. The complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein;
  2. The respondent is no longer enrolled or employed by the school district; or
  3. Specific circumstances prevent the school district from gathering sufficient evidence to reach a determination.
- C. The school district shall provide written notice to both parties of a dismissal. The notice must include the reasons for the dismissal.
- D. Dismissal of a formal complaint or a portion thereof does not preclude the school district from addressing the underlying conduct in any manner that the school district deems appropriate.

## **IX. INVESTIGATION OF A FORMAL COMPLAINT**

- A. If a formal complaint is received by the School District, the school district will assign or designate an Investigator to investigate the allegations set forth in the formal complaint.
- B. If during the course of the investigation the school district decides to investigate any allegations about the complainant or respondent that were not included in the written notice of a formal complaint provided to the parties, the school district must provide notice of the additional allegations to the known parties.
- C. When a party's participation is invited or expected in an investigative interview, the Investigator will coordinate with the Title IX Coordinator to provide written notice to the party of the date, time, location, participants, and purposes of the investigative interview with sufficient time for the party to prepare.
- D. During the investigation, the Investigator must provide the parties with an equal opportunity to present witnesses for interviews, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence.

- E. Prior to the completion of the investigative report, the Investigator, through the Title IX Coordinator, will provide the parties and their advisors (if any) with an equal opportunity to inspect and review any evidence directly related to the allegations. The evidence shall be provided in electronic format or hard copy and shall include all relevant evidence, evidence upon which the school district does not intend to rely in reaching a determination regarding responsibility, and any inculpatory or exculpatory evidence whether obtained from a party or another source. The parties will have ten (10) days to submit a written response, which the Investigator will consider prior to completion of the investigative report.
- F. The Investigator will prepare a written investigative report that fairly summarizes the relevant evidence. The investigative report may include credibility determinations that are not based on a person's status as a complainant, respondent or witness. The school district will send the parties and their advisors (if any) a copy of the report in electronic format or hard copy, for their review and written response at least ten (10) days prior to a determination of responsibility.

**X. DETERMINATION REGARDING RESPONSIBILITY**

- A. After the school district has sent the investigative report to both parties and before the school district has reached a determination regarding responsibility, the Decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness.
- B. The Decision-maker must provide the relevant questions submitted by the parties to the other parties or witnesses to whom the questions are offered, and then provide each party with the answers, and allow for additional, limited follow-up questions from each party.
- C. The Decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant.
- D. When the exchange of questions and answers has concluded, the Decision-maker must issue a written determination regarding responsibility that applies the preponderance of the evidence standard to the facts and circumstances of the formal complaint. The written determination of responsibility must include the following:
  - 1. Identification of the allegations potentially constituting sexual harassment;
  - 2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
  - 3. Findings of fact supporting the determination;

4. Conclusions regarding the application of the school district's code of conduct to the facts;
  5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the school district to the complainant; and
  6. The school district's procedures and permissible bases for the complainant and respondent to appeal and the date by which an appeal must be made.
- E. In determining appropriate disciplinary sanctions, the Decision-maker should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incident occurred.
- F. The written determination of responsibility must be provided to the parties simultaneously.
- G. The Title IX Coordinator is responsible for the effective implementation of any remedies.
- H. The determination regarding responsibility becomes final either on the date that the school district provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## **XI. APPEALS**

- A. The school district shall offer the parties an opportunity to appeal a determination regarding responsibility or the school district's dismissal of a formal complaint or any allegations therein, on the following bases:
1. A procedural irregularity that affected the outcome of the matter (e.g., a material deviation from established procedures);
  2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
  3. The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

- B. If notice of an appeal is timely received by the school district, the school district will notify the parties in writing of the receipt of the appeal, assign or designate the Appellate Decision-maker, and give the parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
- C. After reviewing the parties' written statements, the Appellate Decision-maker must issue a written decision describing the result of the appeal and the rationale for the result.
- D. The written decision describing the result of the appeal must be provided simultaneously to the parties.
- E. The decision of the Appellate Decision-maker is final. No further review beyond the appeal is permitted.

## **XII. RETALIATION PROHIBITED**

- A. Neither the school district nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of sexual harassment, filing a formal complaint, or participating in an investigation, constitutes a violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.
- B. Any person may submit a report or formal complaint alleging retaliation in the manner described in this policy and it will be addressed in the same manner as other complaints of sexual harassment or sex discrimination.
- C. Charging an individual with violation of school district policies for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

### **XIII. APPLICATION OF LAWS OTHER THAN TITLE IX**

- A. If a formal complaint is dismissed because the allegations, if true, would not constitute sexual harassment as described above or if a Decision-maker or Appellate decision-maker makes a determination that a respondent is not responsible for sexual harassment under these procedures, the Title IX Coordinator will consider whether the alleged conduct may constitute a violation of one or both of the alternative definitions below. If an investigation has already been conducted, the Title IX Coordinator may review the investigation to determine whether prohibited sexual harassment has occurred. If the Title IX Coordinator concludes that it has, the Title IX Coordinator shall report those findings to the Decision-maker and the Decision-maker shall impose or recommend remedies. If no investigation has taken place, the complaint shall be investigated consistent with Policy 103.
- B. Alternative Definitions of Sexual Harassment
1. Minnesota Human Rights Act (Applicable to Employees and Students)  
"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:
    - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or education;
    - b. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
    - c. that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment, or educational environment.
  2. Title VII (Applicable to Employees)  
"Sexual harassment" mean unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
    - a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
    - b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
    - c. such conduct has the purpose or effect of unreasonably interfering

with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

#### **XIV. TRAINING**

- A. The school district shall ensure that Title IX Personnel receive appropriate training. The training shall include instruction on:
  - 1. The Title IX definition of sexual harassment;
  - 2. The scope of the school district's education program or activity;
  - 3. How to conduct an investigation and grievance process, appeals, and informal resolution processes, as applicable;
  - 4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
  - 5. For Decision-makers, training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's prior sexual behavior are not relevant; and
  - 6. For Investigators, training on issues of relevance, including the creation of an investigative report that fairly summarizes relevant evidence.
- B. The training materials will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints.
- C. Materials used to train Title IX Personnel must be posted on the school district's website. If the school district does not have a website, it must make the training materials available for public inspection upon request.

#### **XV. DISSEMINATION OF POLICY**

- A. This policy shall be made available to all students, parents/guardians of students, school district employees, and employee unions.
- B. The school district shall conspicuously post the name of the Title IX Coordinator, including office address, telephone number, and work e-mail address on its website and in each handbook that it makes available to parents, employees, students, unions, or applicants.
- C. The school district must provide applicants for admission and employment, students, parents or legal guardians of secondary school students, employees, and all unions holding collective bargaining agreements with the school district, with the following:

1. The name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator;
2. Notice that the school district does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner;
3. A statement that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the United States Department of Education, or both; and
4. Notice of the school district's grievance procedures and grievance process contained in this policy, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the school district will respond.

## **XVI. RECORDKEEPING**

- A. The school district must create, and maintain for a period of seven calendar years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the school district must document:
  1. The basis for the school district's conclusion that its response to the report or formal complaint was not deliberately indifferent;
  2. The measures the school district has taken that are designed to restore or preserve equal access to the school district's education program or activity; and
  3. If the school district does not provide a complainant with supportive measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. Such a record must be maintained for a period of seven years.
  4. The documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.
- B. The school district must also maintain for a period of seven calendar years records of:
  1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to

restore or preserve equal access to the recipient’s education program or activity;

2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Personnel.

***Legal References:***

Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)  
Minn. Stat. §§ 121A.40 – 121A.575 (Minnesota Pupil Fair Dismissal Act)  
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)  
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments)  
34 C.F.R. Part 106 (Implementing Regulations of Title IX)  
20 U.S.C § 1400, *et seq.* (Individuals with Disabilities Education Act)  
29 U.S.C. § 794 (Section 504 of the Rehabilitation Act)  
42 U.S.C. § 12101, *et seq.* (Americans with Disabilities Act)  
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act of 1974)  
20 U.S.C. § 1092 *et seq.* (Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”))

***Cross References:***

MSBA/MASA Model Policy 102 (Equal Educational Opportunity)  
MSBA/MASA Model Policy 413 (Harassment and Violence)  
MSBA/MASA Model Policy 506 (Student Discipline)  
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)

Adopted: January 14, 2019

MSBA/MASA Model Policy 722

Orig. 2022~~17~~

Revised: \_\_\_\_\_

## Abolish current policy and accept MSBA's revised policy

### 722 PUBLIC DATA AND DATA SUBJECT REQUESTS

#### I. PURPOSE

The school district recognizes its responsibility relative to the collection, maintenance, and dissemination of public data as provided in state statutes.

#### II. GENERAL STATEMENT OF POLICY

The school district will comply with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13 (MGDPA), and Minn. Rules Parts 1205.01001205.2000 in responding to requests for public data.

#### III. DEFINITIONS

##### A. Confidential Data on Individuals

Data made not public by statute or federal law applicable to the data and are inaccessible to the individual subject of those data.

##### B. Data on Individuals

All government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual.

##### C. Data Practices Compliance Officer

The data practices compliance official is the designated employee of the school district to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems. The responsible authority may be the data practices compliance official.

##### D. Government Data

All data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.



**E. Individual**

“Individual” means a natural person. In the case of a minor or an incapacitated person as defined in Minnesota Statutes section 524.5-102, subdivision 6, "individual" includes a parent or guardian or an individual acting as a parent or guardian in the absence of a parent or guardian, except that the responsible authority shall withhold data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor.

**F. Inspection**

“Inspection” means the visual inspection of paper and similar types of government data. Inspection does not include printing copies by the school district, unless printing a copy is the only method to provide for inspection of the data. For data stored in electronic form and made available in electronic form on a remote access basis to the public by the school district, inspection includes remote access to the data by the public and the ability to print copies of or download the data on the public’s own computer equipment.

**G. Not Public Data**

Any government data classified by statute, federal law, or temporary classification as confidential, private, nonpublic, or protected nonpublic.

**H. Nonpublic Data**

Data not on individuals made by statute or federal law applicable to the data: (a) not accessible to the public; and (b) accessible to the subject, if any, of the data.

**I. Private Data on Individuals**

Data made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the individual subject of those data.

**J. Protected Nonpublic Data**

Data not on individuals made by statute or federal law applicable to the data (a) not public and (b) not accessible to the subject of the data.

**K. Public Data**

All government data collected, created, received, maintained, or disseminated by the school district, unless classified by statute, temporary classification pursuant to statute, or federal law, as nonpublic or protected nonpublic; or, with respect to data on individuals, as private or confidential.

**L. Public Data Not on Individuals**



Data accessible to the public pursuant to Minnesota Statutes section 13.03.

M. Public Data on Individuals

Data accessible to the public in accordance with the provisions of section 13.03.

N. Responsible Authority

The individual designated by the school board as the individual responsible for the collection, use, and dissemination of any set of data on individuals, government data, or summary data, unless otherwise provided by state law. Until an individual is designated by the school board, the responsible authority is the superintendent.

O. Summary Data

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 an individual is ascertainable. Unless classified pursuant to Minnesota Statutes section 13.06, another statute, or federal law, summary data is public.

P. Government Data

“Government data” means all recorded information that the school district has, including paper, email, flash drives, CDs, DVDs, photographs, etc.

Q. Public Data

“Public data” means all government data collected, created, received, maintained, or disseminated by the school district, unless classified by statute, temporary classification pursuant to statute, or federal law, as nonpublic or protected nonpublic; or, with respect to data on individuals, as private or confidential.

R. Private Data

“Private data” means the data is only available to the subject of the data and to district employees who need it to conduct the business of the district.

S. Confidential Data

“Confidential data” means the data is not available to the subject of the data and not accessible by the public.

T. Inspection

“Inspection” means the visual inspection of paper and similar types of government data. Inspection does not include printing copies by the school district, unless printing a copy is the



only method to provide for inspection of the data. For data stored in electronic form and made available in electronic form on a remote access basis to the public by the school district, inspection includes remote access to the data by the public and the ability to print copies of or download the data on the public's own computer equipment.

#### U. 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 an individual is ascertainable.

### IV. RESPONSIBLE AUTHORITY

- A. The superintendent or designee will serve as the authority responsible for data requests.
- B. The responsible authority will establish procedures to ensure that requests for government data are received and compiled within an appropriate and prompt manner.
- C. The responsible authority may designate one or more designees.

### V. REQUESTS FOR PUBLIC DATA

- A. All requests for public data must be made using the online form submission located on the District's website at [www.sspps.org/departments/communications](http://www.sspps.org/departments/communications) in writing directed to the responsible authority.
  1. A request for public data should must include the following information:
    - a) Full name of the requestor
    - b) Date the request is made;
    - c) A detailed clear description of the data requested;
    - d) Identification of the form in which the data is to be provided (e.g., inspection, copying, both inspection and copying, etc.); and
    - e) Method to contact the requestor (such as phone number, address, or email address).
  2. Unless specifically authorized by statute, the school district may not require persons to identify themselves, state a reason for, or justify a request to gain access to public government data. A person may be asked to provide certain identifying or clarifying information for the sole purpose of facilitating access to the data.
  3. A requestor is not required to explain the reason for the data request.



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4. The identity of the requestor is public, if provided, but cannot be required by the government entity.
  5. The responsible authority may seek clarification from the requestor if the request is not clear before providing a response to the data request.
- B. The responsible authority will respond to a data request at reasonable times and places as follows:
1. The responsible authority will notify the requestor in writing as follows:
    - a) The requested data does not exist; or
    - b) The requested data does exist but either all or a portion of the data is not accessible to the requestor; or
      - (1) If the responsible authority determines that the requested data is classified so that access to the requestor is denied, the responsible authority will inform the requestor of the determination in writing, as soon thereafter as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based.
      - (2) Upon the request of a requestor who is denied access to data, the responsible authority shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.
    - c) The requested data does exist and provide arrangements for inspection of the data, identify when the data will be available for pick-up, or indicate that the data will be sent by mail. If the requestor does not appear at the time and place established for inspection of the data or the data is not picked up within ten (10) business days after the requestor is notified, the school district will conclude that the data is no longer wanted and will consider the request closed.
  2. The school district's response time may be affected by the size and complexity of the particular request, including necessary redactions of the data, and also by the number of requests made within a particular period of time.
  3. The school district will provide an explanation of technical terminology, abbreviations, or acronyms contained in the responsive data on request.
  4. The school district is not required by the MGDPA to create or collect new data in response to a data request, or to provide responsive data in a specific form or arrangement if the school district does not keep the data in that form or arrangement.
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5. The school district is not required to respond to questions that are not about a particular data request or requests for data in general.

## VI. REQUEST FOR SUMMARY DATA

- A. A request for the preparation of summary data shall be made using the online form submission located on the District's website at [www.sspps.org/departments/communications](http://www.sspps.org/departments/communications) in writing directed to the responsible authority.
  1. A request for the preparation of summary data should must include the following information:
    - a) Full name of the requestor
    - b) Date the request is made;
    - c) A detailed clear description of the data requested;
    - d) Identify the form in which the data is to be provided (e.g., inspection, copying, both inspection and copying, etc.); and
    - e) Method to contact requestor (phone number, address, or email address).
- B. The responsible authority will respond within ten (10) business days of the receipt of a request to prepare summary data and inform the requestor of the following:
  1. The estimated costs of preparing the summary data, if any; and
  2. The summary data requested; or
  3. A written statement describing a time schedule for preparing the requested summary data, including reasons for any time delays; or
  4. A written statement describing the reasons why the responsible authority has determined that the requestor's access would compromise the private or confidential data.
- C. The school district may require the requestor to pre-pay all or a portion of the cost of creating the summary data before the school district begins to prepare the summary data.

## VII. DATA BY AN INDIVIDUAL DATA SUBJECT

- A. Collection and storage of all data on individuals and the use and dissemination of private and confidential data on individuals shall be limited to that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government.



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- B. Private or confidential data on an individual shall not be collected, stored, used, or disseminated by the school district for any purposes other than those stated to the individual at the time of collection in accordance with Minnesota Statutes section 13.04, except as provided in Minnesota Statutes section 13.05, subdivision 4.
- C. Upon request to the responsible authority or designee, an individual shall be informed whether the individual is the subject of stored data on individuals, and whether it is classified as public, private or confidential. Upon further request, an individual who is the subject of stored private or public data on individuals shall be shown the data without any charge and, if desired, shall be informed of the content and meaning of that data.
- D. After an individual has been shown the private data and informed of its meaning, the data need not be disclosed to that individual for six months thereafter unless a dispute or action pursuant to this section is pending or additional data on the individual has been collected or created.
- E. The responsible authority or designee shall provide copies of the private or public data upon request by the individual subject of the data. The responsible authority or designee may require the requesting person to pay the actual costs of making and certifying the copies.
- F. The responsible authority or designee shall comply immediately, if possible, with any request made pursuant to this subdivision, or within ten days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible.
- G. An individual subject of the data may contest the accuracy or completeness of public or private data. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days either: (1) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or (2) notify the individual that the authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.
- H. The determination of the responsible authority may be appealed pursuant to the provisions of the Administrative Procedure Act relating to contested cases. Upon receipt of an appeal by an individual, the commissioner shall, before issuing the order and notice of a contested case hearing required by Minnesota Statutes chapter 14, try to resolve the dispute through education, conference, conciliation, or persuasion. If the parties consent, the commissioner may refer the matter to mediation. Following these efforts, the commissioner shall dismiss the appeal or issue the order and notice of hearing.
- I. Data on individuals that have been successfully challenged by an individual must be completed, corrected, or destroyed by a government entity without regard to the requirements of Minnesota Statutes section 138.17.



- J. After completing, correcting, or destroying successfully challenged data, the school district may retain a copy of the commissioner of administration's order issued under Minnesota Statutes chapter 14 or, if no order were issued, a summary of the dispute between the parties that does not contain any particulars of the successfully challenged data.

## VIII. REQUESTS FOR DATA BY AN INDIVIDUAL SUBJECT OF THE DATA

- A. All requests for individual subject data must be made in writing directed to the responsible authority.
- B. A request for individual subject data must include the following information:
1. Statement that one is making a request as a data subject for data about the individual or about a student for whom the individual is the parent or guardian;
  2. Date the request is made;
  3. A clear description of the data requested;
  4. Proof that the individual is the data subject or the data subject's parent or guardian;
  5. Identification of the form in which the data is to be provided (e.g., inspection, copying, both inspection and copying, etc.); and
  6. Method to contact the requestor (such as phone number, address, or email address).
  7. The identity of the requestor of private data is private.
  8. The responsible authority may seek clarification from the requestor if the request is not clear before providing a response to the data request.
  9. Policy 515 (Protection and Privacy of Pupil Records) addresses requests of students or their parents for educational records and data.

## IX. COSTS

- A. A Public Data
1. The school district will charge for copies provided as follows:
    - a) 100 or fewer pages of black and white, letter or legal sized paper copies will be charged at 25 cents for a one-sided copy or 50 cents for a two-sided copy.
    - b) More than 100 pages or copies on other materials are charged based upon the actual cost of searching for and retrieving the data and making the copies or



electronically sending the data, unless the cost is specifically set by statute or rule.

- (1) The actual cost of making copies includes employee time, the cost of the materials onto which the data is copied (paper, CD, DVD, etc.), and mailing costs (if any). Employee time will be calculated based on the wages of the lowest paid employee with access to and authority to process the data requested.
  - (2) Also, if the school district does not have the capacity to make the copies, e.g., photographs, the actual cost paid by the school district to an outside vendor will be charged.
2. All charges must be paid for in cash or check in advance of receiving the copies.

#### B. Summary Data

1. Any costs incurred in the preparation of summary data shall be paid by the requestor prior to preparing or supplying the summary data.
2. The school district may assess costs associated with the preparation of summary data as follows:
  - a) The cost of materials, including paper, the cost of the labor required to prepare the copies, any schedule of standard copying charges established by the school district, any special costs necessary to produce such copies from a machine-based record-keeping system, including computers and microfilm systems;
  - b) The school district may consider the reasonable value of the summary data prepared and, where appropriate, reduce the costs assessed to the requestor.

#### C. Data Belonging to an Individual Subject

1. The responsible authority or designee may require the requesting person to pay the actual costs of making and certifying the copies.

The responsible authority shall not charge the data subject any fee in those instances where the data subject only desires to view private data.

The responsible authority or designee may require the requesting person to pay the actual costs of making and certifying the copies. Based on the factors set forth in Minnesota Rule 1205.0300, subpart 4, the school district determines that a reasonable fee would be the charges set forth in section VIII.A of this policy that apply to requests for data by the public.

2. The school district may not charge a fee to search for or to retrieve educational records of a child with a disability by the child's parent or guardian or by the child upon the child reaching the age of majority.

#### **X. ANNUAL REVIEW AND POSTING**

- A. The responsible authority shall prepare a written data access policy and a written policy for the rights of data subjects (including specific procedures the school district uses for access by the data subject to public or private data on individuals). The responsible authority shall update the policies no later than August 1 of each year, and at any other time as necessary to reflect changes in personnel, procedures, or other circumstances that impact the public's ability to access data.
- B. Copies of the policies shall be easily available to the public by distributing free copies to the public or by posting the policies in a conspicuous place within the school district that is easily accessible to the public or by posting them on the school district's website.

#### **Data Practices Contacts**

##### **Responsible Authority:**

Dr. Dave Webb, Superintendent of Schools  
104 – 5<sup>th</sup> Avenue South  
South St. Paul, MN 55075  
(651) 457-9465

##### **Data Practices Compliance Officials:**

Human Resource Director (Employee and Non-Student Data Requests)  
104 - 5th Avenue South  
South St. Paul, MN 55075  
(651) 457-9473

##### **Student Services Director (Student Data Requests)**

104 - 5th Avenue South  
South St. Paul, MN 55075  
(651) 457-9466

##### **Susan Brott, director of communications**

104 – 5<sup>th</sup> Avenue South  
South St. Paul, MN 55075  
(651) 552-5563, [sbrott@ssps.org](mailto:sbrott@ssps.org)

**Legal References:** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Stat. § 13.01 (Government Data)



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Minn. Stat. § 13.02 (Definitions)  
Minn. Stat. § 13.025 (Government Entity Obligation)  
Minn. Stat. § 13.03 (Access to Government Data)  
Minn. Stat. § 13.04 (Rights of Subjects to Data)  
Minn. Stat. § 13.05 (Duties of Responsible Authority)  
Minn. Stat. § 13.32 (Educational Data)  
Minn. Rules Part 1205.0300 (Access to Public Data)  
Minn. Rules Part 1205.0400 (Access to Private Data)

***Cross References:***

MSBA/MASA Model Policy 406 (Public and Private Personnel Data)  
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)