

**Human Resources Committee - Regular School Board Meeting**

Duluth Public Schools, ISD 709

Agenda

Tuesday, May 19, 2015

UnitedHealth Group Building

4316 Rice Lake Road

Suite 108

Duluth, MN 55811

6:30 PM

- |   |          |
|---|----------|
| <b>1. Staffing Report Action Items</b>  | <b>2</b> |
| <b>2. Other Action Items</b>  |          |
| A. Resolution HR-5-15-3262 - Approval of two Contracts for Education Minnesota Clerical Local 692-A, Dated 7/1/13-6/30/15 and 7/1/15-6/30/17. | 5        |
| B. *Placeholder - Contracts   |          |
| C. *Placeholder - Resolution HR-5-15-3263 - Termination of Non-Tenured Certified Staff  | 6        |
| D. Policy 4015 - First Reading  | 7        |
| <b>3. Informational Items</b>   |          |
| A. 4015R - Prohibiting Harassment and Violence  | 9        |
| <b>4. Future Items</b>  |          |
| A. There are no Future HR Items at this time  |          |

**HUMAN RESOURCES ACTION ITEMS FOR: 5/19/15**

<b><u>CERT APPOINTMENT</u></b>	<b><u>POSITION/SITE/CLASS&amp;STEP/REPLACING</u></b>	<b><u>EFFECTIVE DATES</u></b>
CRANE, JASON	DIR OF SPEC SERVICES/HOCHS, \$117,340/52WKS,/L. FREDRICKSON	07/01/15
KLEFFMAN, LAURA	OCCUPATIONAL THERAPIST/DW/IV,9/J BJERKLIE	09/02/15
MAUEL, KATHRYN	SPEC EDUC ASD TOSA/DW/IV,7/REALLOC OF FTE	09/02/15
NEUHARTH, JESSE	SCHOOL PSYCHOLOGIST/DW/IV+45,7/R RAMOS	09/02/15
VIETHS, BRADLEY	VOCATIONAL ADMINISTRATOR/46WK,III-A, 1 REALLOC OF FTE	08/01/15
<b>Total: 5</b>		

<b><u>CERT EXTENSION</u></b>	<b><u>POSITION/LOCATION/CONDITION</u></b>	<b><u>EFFECTIVE DATES</u></b>
ROED, SHAWN	ACTIVITY DIRECTOR/EAST, NOT TO EXCEED 160 HRS	07/01/14 06/30/15
<b>Total: 1</b>		

<b><u>CERT LEAVES</u></b>	<b><u>POSITION/LOCATION/LEAVE TYPE</u></b>	<b><u>EFFECTIVE DATES</u></b>
ANDERSON, ILA	PSYCHOLOGIST/DW, MEDICAL LWOP, CHANGE IN DATES	11/11/13 06/16/14
BOYHTARI, BONNIE	GR. 3/CONGDON PARK, .500 JOB SHARE LWOP	09/02/15 06/10/16
BURNHAM, BERNADETTE	MEDIA SPEC/ELEM MEDIA/MACARTHUR, 0.2FTE POLICY #4120 LWOP	09/02/15 06/10/16
CHURCHILL, MARY	CURRIC TECH/HOCHS MID-CAREER EXTEND LWOP	09/02/15 06/10/16
FALK, MARY	MATH/EAST, SUPT APPROVED LWOP	09/02/15 06/10/16
GAUVIN, ANGELA	LD TEACHER/LINCOLN, PARENTAL LWOP	03/16/15 04/24/15
HUGHES, MARK	GUIDANCE COUNSELOR/EAST, POLICY #4125 LWOP	08/26/15 06/17/16
LARSEN, DAVID	MATH/MACARTHUR SUPT APPROVED LWOP	03/02/15 03/13/15
LARSON, AMY	GR. 3/LOWELL, .500 JOB SHARE LWOP	09/02/15 06/10/16
MONSON, DONALD	GR. 5/MYERS-WILKINS, MID-CAREER LWOP, EXTEND	09/02/15 06/10/16
OSTHUS, CHRISTINE	MATH/EAST POLICY #4125 LONG-TERM LWOP EXT.	09/02/15 06/10/16
PRECKEL, KEVIN	EBD/ARROWHEAD ACADEMY, MID-CAREER LWOP, CHG IN DATES	08/27/14 06/05/15
PULKRABEK, NANCY	GR. 2/PIEDMONT, .500 JOB SHARE LWOP	09/02/15 06/10/16
REUL-MONSON, SARA	KINDERGARTEN/MYERS-WILKINS, MID-CAREER LWOP EXTEND	09/02/15 06/10/16
SOLARZ, KARI	GR. 2/PIEDMONT, .500 JOB SHARE LWOP	09/02/15 06/10/16
SOLARZ, KARI	GR. 2/PIEDMONT, PARENTAL LWOP	04/20/15 06/05/15
SUNDIN, MELANIE	GR. 2/PIEDMONT, POLICY #4125 LWOP - LONG TERM	09/02/15 06/10/16
SUNDLAND, AMY	GR. 3/CONGDON PARK, .500 JOB SHARE LWOP	09/02/16 06/10/16
WEBSTER, SAMANTHA	ECFE/DW, .300FTE POLICY #4125 LWOP	09/02/15 06/10/16
ZWAK, KRISTY	GR. 3/LOWELL, .500 JOB SHARE LWOP	09/02/15 06/10/16
<b>Total: 20</b>		

<b><u>CERT LONG TERM SUB</u></b>	<b><u>POSITION/LOCATION/CLASS &amp; STEP/REPLACING</u></b>	<b><u>EFFECTIVE DATES</u></b>
BREDESON SAMPSON, JULIA	GRADE 2/PIEDMONT, III 2, K SOLARZ, TO BE DETERMINED	04/13/15
HANSON, KEITH	LD TEACHER/DENFELD, IV 4, S OLSON, CHANGE IN DATES	01/05/15 04/28/15
ROEMHILDT, MICHAEL	BAND/ORDEAN EAST, VIII 09, L CHURCHILL	03/17/15 05/01/15
WIDMAN, KATIE	ECSE TEACHER/BARNES, III 2, A PULKRABEK, CHG IN DATES	02/03/15 03/27/15
WIDMAN, KATIE	LD TEACHER/LINCOLN, III 2, A GAUVIN	03/30/15 04/27/15
<b>Total: 5</b>		

<u>CERT RETIREMENT</u>	<u>POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
ANDERSON, ILA	PSYCHOLOGIST/DW	06/16/14
ANDERSON, SANDRA	GR. 1/LESTER PARK	06/05/15
JOHNSON, GAIL	GR. 2/MACARTHUR	06/05/15
SAUER, DEBORAH	GR. 5/CONGDON	06/05/15
WENDLING, DEBORAH	HEALTH/PHY ED/ALC/DENFELD	07/22/15

**Total: 5**

<u>CERT TEMP INCREASE</u>	<u>POSITION/LOCATION/CONDITION</u>	<u>EFFECTIVE DATES</u>
BOWE, JESSICA	SCHOOL SOCIAL WORKER/DW, .4 TO 1.0	04/27/15 06/12/15
LAFORGE, MARGARET	SCHOOL SOCIAL WORKER/DISTRICT WIDE, 1/6 OVERLOAD	04/27/15 06/05/15
LITMAN, TRACY	SCHOOL SOCIAL WORKER/DISTRICT WIDE, 1/6 OVERLOAD	04/27/15 06/05/15
LITMAN, TRACY	SOCIAL WORKER/ORDEAN EAST, .8 TO 1.0	08/01/14 06/12/15
LUNDSTEN, ANNE	SPEC ED PHYSICAL THERAPIST/DISTRICT WIDE, 1/6 OVERLOAD	04/20/15 05/29/15
PICKAR, WENDY	PHYSICAL THERAPIST/DISTRICT WIDE, 1/6 OVERLOAD	04/20/15 05/29/15

**Total: 6**

<u>NONCERT APPOINTMENT</u>	<u>POSITION/LOCATION/WEEKS/RATE OF PAY/REASON</u>	<u>EFFECTIVE DATES</u>
BRAUN, ERIC	SUPV PARA/EAST, 19/38WKS, \$13.95/HR, TEMPORARY POSITION	03/02/15 06/05/15
MORLANG, WENDY	EXEC ASST/PAYROLL/HOCHS, 40/52WKS, \$18.81/HR, K LEDOUX	03/31/15
STEVENS, SHEILA	ACCOUNTANT II/HOCHS, 40/52WKS, \$25.33/HR, P BLALOCK	05/01/15

**Total: 3**

<u>NONCERT DEMOTION</u>	<u>POSITION/LOCATION/WEEKS/RATE OF PAY/REASON</u>	<u>EFFECTIVE DATES</u>
LEDOUX, KIMBERLY	OFFICE SUPPORT SR/ALC, 40/45 WK, \$21.63 TO \$19.53, VOLUNTARY	03/31/15

**Total: 1**

<u>NONCERT LEAVES</u>	<u>POSITION/LOCATION/TYPE OF LEAVE</u>	<u>EFFECTIVE DATES</u>
BUCKLEY, KENNETH	SPECIAL ED. PARA/EAST "A" POLICY #4125 LWOP	03/02/15 03/04/15
CARROLL, MIKILIA	HELPER/CONGDON PARK, "A" PERSONAL LWOP	03/31/15 04/02/15
CHALMERS, JAMES	OJIBWE PARA/LOWELL "A" PERSONAL LWOP	03/04/15 03/05/15
FAIRBANKS, JULIEANN	HELPER/DENFELD, "A" PERSONAL LWOP	04/01/15 04/03/15
FALK, KAREN	SPECIAL ED PROG PARA/WOOLAND HILLS "A" PERSONAL LWOP	03/10/15 03/13/15
FALWEY, SARAH	HELPER/DENFELD "A" PERSONAL LWOP	03/02/15 03/06/15
GEPHART, JANE	OFFICE SUPPORT SENIOR/CONGDON "A" PERSONAL LWOOP	04/06/15 04/10/15
IMMERFALL, DALE	SPECIAL ED PARA/DENFELD "A" MEDICAL LWOP	03/27/15 04/03/15
IMMERFALL, DALE	SPECIAL ED PROG PARA/DENFELD, "A" MEDICAL LWOP	04/13/15 06/05/15
JOHNSON, KAREN	HELPER/DENFELD, "A" PERSONAL LWOP	03/30/15 04/01/15
LARSON, KARLA	HELPER/LINCOLN PARK, "A" MEDICAL LWOP	04/20/15 09/05/15
LEWANDOWSKI, LEEANN	SUPERVISORY PARA/LINCOLN "A" PERSONAL LWOP	03/10/15 03/13/15
LIABRAATEN, SHERRY	SPEC ED PARA/LPN/LESTER PARK "A" PERSONAL LWOP	03/11/15 04/30/15
LIABRAATEN, SHERRY	SPEC ED PARA/LPN/LESTER, "A" PERSONAL LWOP, CHG IN DATES	03/11/15 06/05/15
LUOTO, KIMBERLY	SCHOOL CUSTODIAN/LOWELL "B" PERSONAL LWOP CHG IN DATES	10/20/14 03/15/15
MAYBERRY, SEAN	SUPERVISORY PARA/LINCOLN PARK MILITARY LEAVE W/PAY	03/27/15
OLSON, JOHN	MECHANIC/TRANSPORTATION, "A" PERSONAL LWOP	04/07/15 04/10/15
OSTROWSKI, KIM	HELPER/LESTER PARK, "A" PERSONAL LWOP	03/24/15 03/27/15
VAN LEER, MICHAEL	SPECIAL ED PARA/DENFELD, "B" PERSONAL LWOP	03/27/15 03/25/16
ZAHORIK, MARGARET	JOB COACH/BRIDGE "A" PERSONAL LOWP	03/23/15 04/15/15

**Total: 20**

<u>NONCERT LONG TERM SUB</u>	<u>POSITION/LOCATION/WEEKS/RATE OF PAY/REASON</u>	<u>EFFECTIVE DATES</u>
FAIRBANKS, JULIEANN	HELPER/DENFELD, 15/38WKS, \$10.30/HR, L MILLER	03/16/15 06/05/15
WATCZAK, JAMES	HELPER/EAST, 15/38WKS, \$10.30/HR, LTS G HANSON	03/30/15
<b>Total: 2</b>		
<u>NONCERT PERM DECREASE</u>	<u>POSITION/LOCATION/WEEKS/RATE OF PAY/REASON</u>	<u>EFFECTIVE DATES</u>
TALBOT, MARK	HELPER/LAURA MACARTHUR, .4375 TO .375	03/06/15
<b>Total: 1</b>		
<u>NONCERT PERM INCREASE</u>	<u>POSITION/LOCATION/CONDITION</u>	<u>EFFECTIVE DATES</u>
LEDOUX, KIMBERLY	OFFICE SUPPORT SR/ALC, 45 WKS TO 52 WKS	03/31/15
<b>Total: 1</b>		
<u>NONCERT PROMOTION</u>	<u>NEW POSITION/LOCATION/OLD POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
MCLEETE, LORANDA	SPEC ED STUD SPEC PARA/LESTER, INSTR PARA/LINCOLN \$14.78/HR	03/04/15
RUSSELL, BARBARA	SPEC ED PARA LPN/LESTER, SUPV PARA/EAST, \$16.74, TEMP POS	04/16/15 06/05/15
<b>Total: 2</b>		
<u>NONCERT RESIGNATION</u>	<u>POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
JOHNSON, BRITTANY	INSTRUCTIONAL PARA/PIEDMONT	03/27/15
<b>Total: 1</b>		
<u>NONCERT RETIREMENT</u>	<u>POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
BLANKENSHIP, AUDREY	SPECIAL ED PARA/BW/ORDEAN-EAST	06/05/15
WILLMS, KENNETH	TRANSPORTATION MANAGER/TRANSPORTATION	07/31/15
<b>Total: 2</b>		
<u>NONCERT TERMINATION</u>	<u>POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
HANSON, GLENN	HELPER/EAST	03/30/15
<b>Total: 1</b>		
<u>NONCERT TEMP INCREASE</u>	<u>POSITION/LOCATION/CONDITION</u>	<u>EFFECTIVE DATES</u>
BEDARD, THERESE	SPECIAL ED BW PARA/PIEDMONT 31.25 TO 33.75	09/02/14 06/04/15
FLIPPIN, JUNEVELA	HELPER/DENFELD, .4375 TO .46875	03/06/15 06/05/15
MORISSEAU, MARIA	SUPERVISORY PARA/EAST, .750 TO .60	04/16/15 06/05/15
OLSON, DAWN	PHYSICAL THERAPY PARA/LAURA MACARTHUR, .80 TO 1.00	04/20/15 05/29/15
<b>Total: 4</b>		

## **RESOLUTION**

### **Education Minnesota Clerical Local 692-A**

***RESOLVED***, By the School Board of Independent School District #709, St. Louis County, Minnesota, that the Collective Bargaining Agreement between Independent School District #709 and the Education Minnesota Clerical Local 692-A, a summary of which is in the hands of all School Board members, be approved and adopted for the periods of July 1, 2013 to June 30, 2015, and July 1, 2015 to June 30, 2017 inclusive, and that the Chairperson and Clerk of the School Board be hereby authorized to execute said Agreement on behalf of the School District.

## R E S O L U T I O N

### ***RE: Termination of Certified Probationary (Non-Tenured) Staff***

**WHEREAS**, during the first three years of consecutive employment all teachers in the public schools in cities of the first class are deemed to be in a probational period of employment during which period the School Board may renew, or not renew, any teachers' annual contract as the School Board shall see fit. The term "teacher" includes every person regularly employed, as a principal, or to give instruction in a classroom, or to superintend or supervise classroom instruction, or as a placement teacher and visiting teacher.

**NOW, THEREFORE, BE IT RESOLVED** by the School Board on Independent School District No. 709, St. Louis County, Minnesota, as follows:

1. The employment contracts of the following probationary teachers shall not be renewed and their employment shall terminate at the end of the school day on June 5, 2015, unless another date is indicated below, in which case the employment of the particular teacher shall terminate on that date.

*\*Placeholder*

2. **BE IT FURTHER RESOLVED** the Clerk of the School Board shall notify such teachers in writing before July 1, 2015, of the termination of their employment.

## **4015 – Prohibiting Harassment and Violence**

### General Statement of Policy

Independent School District 709 (ISD 709) is committed to creating and maintaining a learning and working environment where all individuals are treated with respect and dignity. Every individual has the right to learn/work in an environment free of harassment and violence.

In this school district, harassment and violence, whether verbal, physical, or cyber which creates a hostile climate, is unacceptable and will not be tolerated. Harassment and violence are unlawful, hurt all people, and have no legitimate educational purpose. Any employee or student who engages in such conduct shall be disciplined as provided by law, District policies, and applicable labor agreements.

Therefore, it is the policy of ISD 709 to maintain a work and learning environment that is free of harassment and violence based on: ~~sex, sexual orientation, race/ethnicity, religion or religious practices, disability,~~ Race, Color, Creed, Religion, National Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, Age, Gender Identity, Gender Expression and Any or All Other Protected Groups as identified by state and/or federal statute as well as other forms of harassment as defined in this policy.

Harassment based on: ~~sex, sexual orientation, race/ethnicity, and religious beliefs or practices~~ Race, Color, Creed, Religion, National Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, Age, Gender Identity, Gender Expression and Any or All Other Protected Groups as identified by state and/or federal statute are also forms of discrimination which violate either Section 703 of Title VII of the Civil Rights Act of 1965, as amended, 42 U.S.C. Section 2000e, et seq. and or the Minnesota Human Rights Act, Minnesota Statute Sections 363.01 – 363.20, and may represent a criminal law violation.

Violence based on: ~~sex, sexual orientation, race/ethnicity, religion or disability~~ Race, Color, Creed, Religion, National Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, Age, Gender Identity, Gender Expression and Any or All Other Protected Groups as identified by state and/or federal statute is a physical act of aggression, intimidation, and/or degradation directed toward a person or group of persons because of their membership or perceived membership in a protected group. ~~sex, sexual orientation, race/ethnicity, religion or religious practices, or disability.~~

It shall be a violation of this policy for any student or school personnel of ISD 709 to harass a pupil or other school personnel through conduct or communication of a sexual nature or regarding: ~~sexual orientation, race/ethnicity, religion, or religious practices, disability,~~ Race, Color, Creed, Religion, National Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, Age, Gender Identity, Gender Expression and Any or All Other Protected Groups as identified by state and/or federal statute as well as other forms of harassment as defined by this Policy and Regulation 4015R. (For purposes of this policy, school personnel include: School Board members, administrators, teachers, all other school employees, agents, volunteers, contractors, or other persons subject to the supervision and control of ISD 709.)

It shall be a violation of this policy for any student or school personnel of ISD 709 to inflict, threaten to inflict, or attempt to inflict violence relating to: ~~sex, sexual orientation, race/ethnicity, religion or religious practices, disability~~ Race, Color, Creed, Religion, National

Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, Age, Gender Identity, Gender Expression and Any or All Other Protected Groups as identified by state and/or federal statute as well as any other forms of violence as defined by this policy upon any pupil or school personnel.

ISD 709 will act with reasonable diligence to take action to investigate, respond, remediate and discipline all complaints, either formal or informal, oral or written, of improper actions or statements which may constitute ~~sexual, sexual orientation, ethnic/racial, religious, disability, or other~~ harassment and violence as defined in this policy and Regulation 4015R. Furthermore, ISD 709 intends to provide support for students identified as the victims of these acts in compliance with Minn. Statute Sections 121A.0695.

A report will be given to the School Board at the regular meeting in June, a summary of the number of harassment complaints, types of complaints and the action taken to resolve the complaints. This will be done without releasing any case specifics, information or personnel data.

For more detailed information on this policy, including definitions for terms used in this policy and the reporting procedures for this policy, please see Regulation 4015R.

Adopted: 05-11-1982 ISD 709  
Revised: 06-10-1986  
12-10-1991  
10-19-1993  
06-20-1995  
02-15-2000  
09-17-2002  
05-21-2013  
08-19-2014 ISD 709

## **4015R – Prohibiting Harassment and Violence**

### **I. HARASSMENT AND VIOLENCE DEFINED**

#### **A. Sexual Harassment**

**Definition.** Sexual harassment consists of unwelcome sexual attention, unwelcome requests for sexual favors, unwelcome sexually motivated physical conduct, or other unwelcome verbal or physical conduct or communication of a sexual or gender biased nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or of obtaining an education, or of transacting business with ISD 709; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, education, or business with ISD 709; or
3. That conduct or communication has the purpose or effect of substantially or ~~unreasonably~~ interfering with an individual's employment, education, business with ISD 709, or creating an intimidating, hostile, or offensive employment, educational, or business environment.

This policy pertains to students and school personnel. It equally protects ~~male and female students/personnel~~ students and personnel of all genders from harassment. ~~including when males sexually harass males or when females sexually harass females.~~

Sexual harassment may include but is not limited to the following behaviors:

1. Unwelcome verbal statements of a sexual nature;
2. Intimidation by words or actions of a sexual nature;
3. Unwelcome pressure for sexual activity;
4. Unwelcome sexually motivated or inappropriate touching, patting, pinching, or other physical contact that does not meet the definition of sexual assault; other than necessary restraint of pupil(s) by school personnel to avoid physical harm to persons or property; or
5. Unwelcome sexual behavior or words, including requests for sexual favors, accompanied by implied or overt threats concerning an individual's employment, business, or educational status; or
6. Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment, business, or educational status; or
7. Distribution or display of pornographic or other inappropriate written materials, pictures, graffiti, or other graphics of a sexual or gender-based nature; or
8. Unwelcome behavior or words directed at an individual because of gender, or ~~self identified~~ gender identity, gender expression; or
9. Unwelcome behavior or words directed at an individual because of sexual experiences or perceived sexual experiences.

#### **B. Protected Groups Harassment**

Protected Groups: Race, Color, Creed, Religion, National Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, Age, Gender Identity, Gender Expression and Any or All Other Protected Groups as identified by state and/or federal statute.

**Definition.** Harassment consists of physical or verbal conduct relating to an individual's membership or perceived membership in a protected group when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive work, business, or academic environment;
2. Has the purpose or effect of substantially ~~or unreasonably~~ interfering with an individual's work, business, or academic performance. ~~or~~
- ~~3. Otherwise adversely affects an individual's employment, business, or academic opportunities.~~

### C. General Harassment

**Definition.** General harassment is defined as unwelcome repeated conduct or communication directed towards an individual which when: ~~conduct of a derogatory nature directed towards an individual which is usually associated with, but not limited to, an individual's accent or language background, weight, height, status with regard to public assistance, gender, national origin, association with persons who are subjected to harassment based on the categories identified above, subordinate relationship (in class or on the work site), student to staff relationships, and peer to peer relationships, when the conduct:~~

1. Has the purpose or effect of creating an intimidating, hostile, or offensive work, business, or academic environment;
2. Has the purpose or effect of substantially interfering with an individual's work, business, or academic performance.
- ~~1. Has the purpose or effect of creating an intimidating, hostile, or offensive work, business, or academic environment;~~
- ~~2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work, business, or academic performance; or~~
- ~~3. Otherwise adversely affects an individual's employment, business, or academic opportunities.~~

The District reserves the right to investigate any complaint filed under this section on a case-by-case basis.

### D. Sexual Violence

**Definition.** Sexual violence is any sexual contact without consent. Sexual contact includes, but is not limited to, touching of either party's primary genital area, groin, inner thigh, buttocks, or breast, including the clothing covering these areas, as well as, anal, vaginal, or oral penetration, with a body part or an object. Sexual violence includes contact between ~~members~~individuals of all genders. of the same sex.

Consent is verbal active permission from both parties to engage in a particular sexual act without the presence of coercion, intimidation, physical force, or trickery. Consent is only applicable when there is a balance of power. Consent is not affected by a prior social relationship, nor is denial of consent ~~is~~ contingent upon physical resistance to the act.

## **E. Protected Groups Violence**

Protected Groups:

Protected Groups: Race, Color, Creed, Religion, National Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, gender identity, gender expression Age and Any or All Other Protected Groups as identified by state and/or federal statute.

**Definition.** Violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to his/her membership or perceived membership in a protected group.

## **F. Assault**

**Definition.** Assault is:

1. An act done with intent to cause fear in another of immediate bodily harm or death;
2. The intentional infliction of or attempt to inflict bodily harm upon another; or
3. The threat to do bodily harm to another with present ability to carry out the threat.

## **II. RETALIATION**

Retaliatory or intimidating conduct against any individual who has made a harassment or violence complaint or who has testified or assisted in any manner in an investigation is specifically prohibited. ISD 709 will investigate and, if appropriate, discipline or take appropriate action against any students or school personnel who retaliates against any person because the person:

1. Reports sexual, sexual orientation, gender identity, gender expression racial/ethnic, religious, or disability harassment or violence;
2. Testifies, assists, or participates in an investigation or in a proceeding or hearing relating to harassment or violence;
3. Opposes a practice prohibited by this policy; or
4. Associates with people who are specifically protected by this policy. (Based on sex, sexual orientation, gender identity, gender expression race/ethnicity, religion, or religious practices, disability.)

Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

III. **CONFIDENTIALITY**

ISD 709 will respect the confidentiality of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with ISD 709's legal obligations to investigate, to take appropriate disciplinary action, and to comply with any discovery or disclosure obligations, including valid requests for data under the Minnesota Government Data Practices Act.

IV. **INDIVIDUALS COVERED BY THIS POLICY**

All teachers, teaching assistants, coaches, administrators, School Board members, contract employees, guest speakers, volunteers, janitorial or cafeteria staff, independent contractors, community members participating in school activities, or any other school personnel, as well as current students are bound by this policy. This policy equally protects male and female students/employees from harassment or violence - including when males harass males or when females harass females.

V. **FORMAL COMPLAINT PROCEDURES** (In cases of sexual harassment/violence, and sexual orientation harassment/violence, please utilize specific protocol.)

Any person who believes they have been the victim of sexual, sexual orientation, ethnic/racial, religious, and/or disability harassment or violence by a pupil or other school personnel of ISD 709, or any person with knowledge or belief of conduct which may constitute sexual, sexual orientation, ethnic/racial, religious, or disability harassment or violence toward a pupil or other school personnel should report the alleged acts immediately to an appropriate ISD 709 official designated by this policy. Such persons are also encouraged to seek corrective action by telling the individual instigating the harassment to stop. Any third person with knowledge or belief of conduct, which may constitute sexual, sexual orientation, ethnic/racial, religious, or disability harassment or violence should report the alleged acts to an appropriate ISD 709 official as designated by this policy. ISD 709 encourages the reporting party or complainant to use the report form available from the principal of each building or available from the ISD 709 office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the Senior Human Resources Manager or to the Superintendent.

A. Form of Complaint. Complaints of harassment will be accepted verbally or in writing. Anonymous complaints will be accepted and investigated to the extent possible. Complaint forms are available in the ISD 709 office, and in each school's principals' and counselors' office. A copy of the form can also be found in the student handbook. A report need not be made on an official form in order for the administration to accept it.

B. Reporting the Complaint.

1. A student, who believes they have been a victim of harassment or violence by any individual covered by this policy, may report the alleged harassing behavior to any school personnel.

2. Any person who believes he or she has been the victim of sexual, sexual orientation, gender identity, gender expression ethnic/racial, or religious harassment or violence by a pupil or school personnel of ISD 709 should report the alleged acts immediately to an appropriate ISD 709 official designated by this policy.
3. ISD 709 encourages the reporting party or complainant:
  - a. Whenever it is a safe or reasonable alternative, to first seek corrective action by telling the individual initiating the harassment to stop.
  - b. To use the report form available from the principal of each building or available from the ISD 709 office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the Senior Human Resources Manager or to the Superintendent.
4. The building principal is the person responsible for receiving oral or written reports of harassment or violence under this policy at the building level.
5. Any person with knowledge or belief of conduct which may constitute harassment or violence as defined in this policy should report the alleged acts immediately to an appropriate school district official designated by this policy.
6. Any ISD 709 personnel who receive a report of harassment or violence under this policy is obligated to report the incident in writing to the building principal immediately.
7. If a complainant is uncomfortable bringing the report to the building principal, he or she may report directly to the Senior Human Resources Manager or to the Superintendent.
8. Upon receipt of a complaint involving an ISD 709 personnel, the building principal must notify the Senior Human Resources Manager immediately. The principal may request, but may not insist upon a written complaint. A written statement of the alleged facts will be forwarded as soon as possible by the principal to the Senior Human Resources Manager. If the complaint was given verbally, the principal shall personally reduce the report to written form and file it with the Senior Human Resources Manager within 24 hours. Failure of the principal or other adult ISD 709 personnel to forward any harassment or violence report or complaint as provided herein may result in investigation and disciplinary action as appropriate.
9. If the report involves the building principal, it should be made or filed directly with the Superintendent or the Senior Human Resources Manager.
10. Failure to act on a report involving ISD 709 personnel will result in an investigation and disciplinary action as appropriate.

C. Content of the Report. A report of harassment or violence in violation of this policy shall include the following information, if known:

1. The name of the complainant,
2. A brief description of the offending behavior - including times, places, and names,
3. The name of or identifying information about the alleged perpetrator, and

4. The names or descriptions of any witnesses to the harassment or violence.

D. Processing of Complaints. The designated investigator for each report, whether a member of building administration, a third party, the Senior Human Resources Manager or the Superintendent, is responsible for overseeing the processing of the harassment or violence complaint. The investigator shall conduct an investigation of the charges and attempt to resolve the matter in a timely fashion.

1. Early Resolution. Early Resolution allows the parties (complainant and respondent) an opportunity to resolve the complaint with a third party mediator. If both parties are willing to try this approach, and it is determined that early resolution is appropriate, mediation will be conducted. The scope and intent of mediation is to get the parties to understand each other, clarify the matter between them and put an end to the alleged offensive behavior. It is not the mediator's role to determine fault or discipline, or damages.

The third party mediator will be agreed upon by both parties and is most often the Building Principal, Human Resource Manager, Climate Coordinator, or Designee with mediation training. Agreements to resolve the complaint must be agreed upon and signed by all at the conclusion of the mediation meeting. A summary will be written by the mediator, shared with both parties, and kept with the documented complaint in Human Resources separate from Duluth School District Employment Personnel Records.

It is within the mandate of the Mediator to receive and examine harassment complaints, to assist disputing parties in coming to resolution, and advise on actions needed to settle the complaint. Any alternative mediator or mediation process will be determined on a case by case basis and is subject to agreement by all parties including the Building Principal and/or Human Resource Manager, Climate Coordinator, or Designee.

If, after having contacted the third party, either party decides not to proceed with the early resolution approach, his/her wishes will be respected. If no agreements are reached, or either party opts out of the mediation prior to agreements being made, the complaint will be processed subject to formal complaint procedures listed below.

## 2. Formal Process:

- a. Timing. The investigator should make a decision about whether the harassment or violence reported can be substantiated as soon as possible. If the investigation exceeds 30 calendar days, the investigator must report the reason that the investigation has exceeded 30 days to the Senior Human Resources Manager, and the Administrator may take over the investigation. If the Senior Human Resources Manager was the initial investigator, the Senior Human Resources Manager must report the reason that the investigation has exceeded 30 days to the Superintendent, and the Superintendent may take over the investigation. An impartial third party may also be appointed to complete the investigation if the 30 day limit is exceeded.
- b. Standard of Proof. In determining whether the alleged conduct can be substantiated, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred will be investigated. Allegations of the harassment and violence will be evaluated using a preponderance of the evidence standard - meaning that prior to imposing any

sanctions the investigator must conclude that it is more likely than not that the harassment or violence occurred.

- c. School District Action. If warranted, based on results of the investigation, ISD 709 will take appropriate action. Such action will be taken in accordance with the Pupil Fair Dismissal Act, ISD 709 policies, any applicable Collective Bargaining Agreements, and other Minnesota and federal laws. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge.
- d. Release of Data to the Complainant. Consistent with the requirements of the Minnesota Government Data Practices Act, Minnesota Statute Section 13.01 et seq., the results of the School District's investigation will be made available to the complainant. The information provided to the complainant and the timing of the dissemination of information may be significantly limited by the requirements of the Minnesota Government Data Practices Act, and in certain circumstances, by the attorney-client privilege and/or the attorney-work product doctrine.
- e. Release of Data to the Subject of the Investigation and Others. The release of data regarding a harassment or violence complaint, including data regarding the resultant investigation and ISD 709 action, shall be governed by the requirements of the Minnesota Government Data Practices Act. In certain circumstances, the Government Data Practices Act may require the classification of the data as private and/or confidential. In certain circumstances, data may also be protected by the attorney-client privilege and/or may constitute attorney-work product. When allegations of harassment are made against an employee, the employee does not have access to data that would identify the complainant or their witnesses if ISD 709 determines that the employee's access to the data would:
  - (1) Threaten the personal safety of the complainant or witness; or
  - (2) Subject the complainant or witness to harassment.

If the disciplinary proceeding is initiated against the employee, data on the complainant or witness shall be available to the employee as may be necessary to prepare for the proceeding.

f. Appeals. Either party involved in the report who is dissatisfied with the investigation or resolution of an allegation of harassment or violence may appeal in writing to the Senior Human Resources Manager or the Superintendent within ten (10) days of receiving written notice of the outcome of the investigation.

g. Submission of a Complaint or Report. Submission of a good faith complaint or report of sexual, sexual orientation, gender identity, gender expression racial/ethnic, religious, or disability harassment or violence by a student or school personnel will not affect the complainant or reporter's future employment, grades, access to educational or school activities or work assignments. ISD 709 does not tolerate retaliation as a result of the submission of a complaint or report.

## VI. **NON EXCLUSIVITY**

The internal procedures and remedies outlined in this policy are not the only options available to a complainant. Participation in the school's procedure is not a prerequisite

to pursuing other legal or governmental remedies. In other words, a complainant may use the school's grievance procedure and then, whether they obtain a satisfactory finding or not, may file a suit in court under any applicable federal, state, or local law. He or she also may forego the internal procedure and directly pursue legal or administrative remedies, or may pursue both internal and external remedies simultaneously. External avenues of recourse may include filing charges with the Minnesota Department of Human Rights, the Equal Employment Opportunity Commission, initiating civil action or seeking redress under state criminal statutes and/or federal law.

VII. **INTENT**

The fact that someone did not intend to harass or commit an act of violence against an individual is generally not considered a defense to a complaint of harassment or violence. In most cases, the effects and characteristics of the behavior determine if that behavior constitutes harassment or violence.

VIII. **HARASSMENT VIOLENCE AS ABUSE**

Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, ISD 709 shall comply with mandatory reporting requirements under Minnesota Statute Section 626.556, Reporting of Maltreatment of Minors and Minn. Statute Sections 121A.0695, Prohibiting Intimidation and Bullying. The statutes can be found on the Internet at <http://www.leg.state.mn.us/>.

Nothing in this policy will prohibit ISD 709 from taking immediate action to protect victims of alleged sexual, sexual orientation, gender identity, gender expression racial/ethnic, religion or religious practices, or disability harassment, violence as abuse.

IX. **DISSEMINATION OF POLICY AND TRAINING**

This policy will be distributed to all students and volunteers and to all employees, administrators, and independent contractors at the time of entering into the person's employment contract.

- A. This policy, or a summary of this policy, shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members. ISD 709 shall conspicuously post the name of the Senior Human Resources Manager and Climate Coordinator contact information, including mailing address and telephone number in each ISD 709 school building.
- B. This policy shall be made available in each principal's office and in the ISD 709 Office.
- C. This policy shall appear in the student handbook.
- D. All ISD 709 employees and students who subsequently become part of the educational community shall be informed of this policy during their orientation.

All non-student recipients of this policy, now or in the future, shall be required to sign an acknowledgment form indicating that they have read this policy, understand it, and agree to abide by it.

- E. Each administrator shall be responsible for promoting understanding and acceptance, monitoring of, and compliance with state and federal laws, board policies, and procedures governing harassment and violence in his or her building.
- F. ISD 709 will provide policy training, including discussions of this policy with students and school personnel.
- G. This policy shall be reviewed at least annually for compliance with state and federal law.

Adopted: 04-17-1990 ISD 709

Revised: 10-19-1993

06-20-1995

02-15-2000

07-16-2002

08-20-2002

09-17-2002

06-16-2009

04-23-2013

08-19-2014 ISD 709