

**Policy Committee Meeting**  
 Duluth Public Schools, ISD 709  
 Agenda  
 Thursday, October 8, 2020  
 VIA VIDEO CONFERENCE  
 Google Meet  
 Duluth, MN 55802  
 4:30 PM

**1. AGENDA ITEMS**

**2. POLICIES FOR FIRST READING**

- A. MSBA Model Policy 522 - Title-IX Sex Nondiscrimination Policy, Grievance Procedure and Process 3  
 Assistant Superintendent Anthony Bonds

On May 6, 2020, the U.S. Department of Education, Office for Civil Rights (OCR), released the long-awaited final rule amending Title IX regulations at 34 C.F.R. Part 106. These regulations, which went into effect on August 14, 2020, are the first Title IX regulations applicable to sexual harassment and are applicable to complaints by both school district students and employees. Administration is recommending adoption of Policy 522 - Title-IX Sex Nondiscrimination Policy, Grievance Procedure and Process, and accompanying Title IX Formal Complaint Form(s).

- B. MSBA Model Policy 206 - Public Participation in School Board Meetings/Complaints About Persons at School Board Meetings and Data Privacy Considerations 22  
 Policy Committee Chair, Member Rosie Loffler-Kemp

Suggested revisions: Yellow - revisions to model policy - Green - incorporate from existing district policy.

**3. POLICIES FOR SECOND READING**

- A. Policy 521 - Student Disability Nondiscrimination 30  
 Assistant Superintendent Anthony Bonds

Administration is recommending a revision to Section III. Coordinator to reflect the new Assistant Superintendent's contact information.

**4. POLICIES FOR IMMEDIATE ADOPTION**

- A. MSBA Model Policy 536 - Political Campaigns and Activities 32  
 Assistant Superintendent Anthony Bonds

Per Policy 208 - Development, Adoption, and Implementation of Policies Bylaw, Section IV. Adoption of Policy, Subsection B, administration is recommending emergency adoption of MSBA Model Policy 536 - Political Campaigns and Activities to ensure a safe and welcoming learning environment leading up to the November election.

**5. REGULATIONS - Informational**

A. Regulation 503R - Student Attendance Regulation 36  
Assistant Superintendent Anthony Bonds

In response to the ongoing COVID-19 pandemic, Section IV. Distance Learning Attendance has been revised to reflect current practice.

B. Regulation 5085R - Family and Student Handbook 41  
Interim Director of Curriculum and Instruction Jen Larva

In response to the ongoing COVID-19 pandemic, the Educational Programming/Curriculum section of the Family and Student Handbook has been revised to reflect adjustments to grading practices and report cards.

**6. POLICIES SUSPENDED IN RELATION TO COVID-19** **43**

**7. POLICIES FOR REVIEW - FUTURE UPDATES**

## 522 TITLE IX SEX 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:

**Anthony Bonds, Assistant Superintendent, 218-336-8739, anthony.bonds@isd709.org**

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).
- A. "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.
- B. "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.
- C. "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.
- D. "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.
- E. "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.

- F. "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.
- G. "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under Title IX.
- H. "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 U.S.C. §1092(f)(6)A(v)), dating violence, domestic violence, or stalking (as defined in the Violence Against Women Act, 34 U.S.C. §12291).
- I. "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 Minn. Stat. § 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.
- J. "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~~ **facilitating** 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

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 U.S.C. § 1232g, or FERPA's regulations, and State law under Minn. Stat. § 13.32 34 C.F.R. Part 99, or as required by law, or to carry out the purposes of 34 C.F.R. 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

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.

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

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

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 an 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 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. 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.

#### XIV. **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 email 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.

## **XV. 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 of 1972)  
 34 C.F.R. Part 106 (Implementing Regulations of Title IX)  
 20 U.S.C § 1400, *et seq.* (Individuals with Disabilities Education Improvement Act of 2004)  
 29 U.S.C. § 794 (Section 504 of the Rehabilitation Act of 1973)

42 U.S.C. § 12101, *et seq.* (Americans with Disabilities Act of 1990, as amended)

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)

**First Reading: 10-20-2020**



By signing below, I hereby acknowledge the following:

1. I understand that all parties, including the person(s) I have named above, will be notified of the allegations in my complaint, and that the notification will identify me by name as the complainant.
2. I understand that I will be interviewed as part of an investigation, and I will be notified of this interview with sufficient time to prepare.
3. I understand that I have the right to an advisor of my choice, and that my advisor may be present at any interviews, meetings, or hearings that I attend.
4. I understand that I will have the opportunity to present witnesses and evidence to the investigator, and that my advisor and I will have the opportunity to review all evidence and respond, in writing, before the investigator completes the investigation report.
5. I understand that my advisor and I will have the opportunity to review and respond to the investigation report in writing, and that our response will be reviewed by a neutral decision maker prior to any decision being made.
6. I understand that my Complaint must be dismissed if:
  - a. The conduct alleged above, even if proven, does not meet the definition of sexual harassment in Policy ; or
  - b. The conduct alleged above did not occur in the District's education program or activity; or
  - c. The conduct alleged above occurred while I was not in the United States of America.
7. I understand that my Complaint may be dismissed if:
  - a. I notify the Title IX Coordinator, in writing, that I would like to withdraw the Complaint.
  - b. The person named above is no longer enrolled in or employed by the District; or
  - c. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the Complaint.

This complaint is filed based on my honest belief that \_\_\_\_\_ has sexually harassed me or another person or group. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge and belief.

Having reviewed and fully understanding the foregoing, I am hereby asking ISD 709 to investigate the allegations of sexual harassment documented above in my formal complaint.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_



**INDEPENDENT SCHOOL DISTRICT NO. 709**  
**FORMAL TITLE IX COORDINATOR COMPLAINT FORM**

I, \_\_\_\_\_, Title IX Coordinator for the District became aware of this Complaint on \_\_\_\_\_.

The facts of the Complaint known to me are as follows: Describe the incident(s) as clearly as possible, including names(s), date(s), time, location of incident(s), any verbal statements (i.e., threats, requests, demands, etc.), and other relevant facts about what, if any, physical contact was involved, etc. (Attach additional pages if necessary.)

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List any witnesses that were present

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I have met with the complainant, \_\_\_\_\_, regarding the above. The complainant has indicated that [he/she/they] [is/are] not interested in filing a formal complaint.

Based on my training and expertise, I believe that the conduct described above, if proven, would be sufficiently severe and damaging enough that an investigation and formal resolution is warranted.

I am therefore hereby asking the District to investigate the above allegations of sexual harassment

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_



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

MSBA/MASA Model Policy 206

Orig. 1995

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

Rev. 2017

## **206 PUBLIC PARTICIPATION IN SCHOOL BOARD MEETINGS/COMPLAINTS ABOUT PERSONS AT SCHOOL BOARD MEETINGS AND DATA PRIVACY CONSIDERATIONS**

### **I. PURPOSE**

- A. The school board recognizes the value of participation by the public in deliberations and decisions on school district matters. At the same time, the school board recognizes the importance of conducting orderly and efficient proceedings, with opportunity for expression of all participants' respective views.
- B. The purpose of this policy is to provide procedures to assure open and orderly public **discussion input** as well as to protect the due process and privacy rights of individuals under the law.

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

- A. The policy of the school board is to encourage **discussion input** by persons of subjects related to the management of the school district at school board meetings. The school board may adopt reasonable time, place, and manner restrictions on public expression in order to facilitate free **discussion input** by all interested parties.
- B. The school board shall, as a matter of policy, protect the legal rights to privacy and due process of employees and students.

### **III. DEFINITIONS**

- A. "Personnel data" means government data on individuals maintained because the individual is or was an employee or applicant for employment. For purposes of this policy, "employee" includes a volunteer or an independent contractor.
- B. Personnel data on current and former employees that is "public" includes:

Name; employee identification number, which must not be the employee's social security number; actual gross salary; salary range; terms and conditions of employment relationship; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; bargaining unit; job title; job description; education and training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, regardless of whether the complaint

or charge resulted in a disciplinary action; the final disposition of any disciplinary action as defined in Minn. Stat. § 13.43, Subd. 2(b), together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the complete terms of any agreement settling any dispute arising out of the employment relationship, including a buyout agreement as defined in Minn. Stat. § 123B.143, Subd. 2, except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money; work location; work telephone number; badge number; work-related continuing education; honors and awards received; and payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data.

- C. Personnel data on current and former applicants for employment that is "public" includes:
- Veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.
- D. "Educational data" means data maintained by the school district which relates to a student.
- E. "Student" means an individual currently or formerly enrolled or registered in the school district, or applicants for enrollment, or individuals who receive shared time services.
- F. Data about applicants for appointments to a public body, including a school board, collected by the school district as a result of the applicant's application for appointment to the public body are private data on individuals, except that the following are public: name; city of residence, except where the appointment has a residency requirement that requires the entire address to be public; education and training; employment history; volunteer work; awards and honors; prior government service; any data required to be provided or that is voluntarily provided in an application to a multimember agency pursuant to Minn. Stat. § 15.0597; and veteran status. Once an individual has been appointed to a public body, the following additional items of data are public: residential address; either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee; the first and last dates of service on the public body; the existence and status of any complaints or charges against an appointee; and, upon completion of an investigation of a complaint or charge against an appointee, the final investigative report unless access to the data would jeopardize an active investigation. Any electronic mail address or telephone

number provided by a public body for use by an appointee shall be public. An appointee may use an electronic mail address or telephone number provided by the public body as the designated electronic mail address or telephone number at which the appointee can be reached.

#### **IV. RIGHTS TO PRIVACY**

A. School district employees have a legal right to privacy related to matters which may come before the school board, including, but not limited to, the following:

1. right to a private hearing for teachers, pursuant to Minn. Stat. § 122A.40, Subd. 14 (Teachers Discharge Hearing);
2. right to privacy of personnel data as provided by Minn. Stat. § 13.43 (Personnel Data);
3. right to consideration by the school board of certain data treated as not public as provided in Minn. Stat. § 13D.05 (Not Public Data);
4. right to a private hearing for licensed or nonlicensed head varsity coaches to discuss reasons for nonrenewal of a coaching contract pursuant to Minn. Stat. § 122A.33, Subd. 3.

B. School district students have a legal right to privacy related to matters which may come before the school board, including, but not limited to, the following:

1. right to a private hearing, Minn. Stat. § 121A.47, Subd. 5 (Student Dismissal Hearing);
2. right to privacy of educational data, Minn. Stat. § 13.32 (Educational Data); 20 U.S.C. § 1232g (FERPA);
3. right to privacy of complaints as provided by child abuse reporting and discrimination laws, Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors) and Minn. Stat. Ch. 363A (Minnesota Human Rights Act).

#### **V. THE PUBLIC'S OPPORTUNITY TO BE HEARD**

The school board will strive to give all persons an opportunity to be heard and to have complaints considered and evaluated, within the limits of the law and this policy and subject to reasonable time, place, and manner restrictions. Among the rights available to the public is the right to access public data as provided by Minn. Stat. § 13.43, Subd. 2 (Public Data).

#### **VI. PROCEDURES**

A. Agenda Items

1. ~~Persons who wish to have a subject discussed at a public school board meeting are encouraged to notify the superintendent's office in advance of the school board meeting. The person should provide his or her name, address, the name of group represented (if any), and the subject to be covered or the issue to be addressed.~~  
**While public comment on any issue will be taken at the board's regular monthly meeting, public comment at other meetings will be limited to the issue(s) on the agenda for that meeting. Public comment may or may not be taken at meetings where there is no official board action.**  
  
**Any individual may speak on a school related subject, or on his/her own behalf, or on behalf of an organization as its official representative, at a time on the agenda specified for delegations. At the outset of the meeting the Chairperson of the School Board may ask if any delegation wishes to be called on at a time when a specific agenda item is to be discussed by the School Board. Delegates are expected to be as concise as possible and are not expected to enter into debate or actual deliberations of the School Board. The Board may question delegates for purposes of clarification and information but are not expected to enter into debate with delegates.**
2. Persons who wish to address the school board on a particular subject should identify the subject and identify agenda item(s) to which their comments pertain.
3. The school board chair will recognize one speaker at a time and will rule out of order other speakers who are not recognized. Only those speakers recognized by the chair will be allowed to speak. Comments by others are out of order. Individuals who interfere with or interrupt speakers, the school board, or the proceedings may be directed to leave.
4. The school board retains the discretion to limit discussion of any agenda item to a reasonable period of time as determined by the school board. If a group or organization wishes to address the school board on a topic, the school board reserves the right to require designation of one or more representatives or spokespersons to speak on behalf of the group or organization.
5. Matters proposed for placement on the agenda which may involve data privacy concerns, which may involve preliminary allegations, or which may be potentially libelous or slanderous in nature shall not be considered in public, but shall be processed as determined by the school board in accordance with governing law.
6. The school board chair shall promptly rule out of order any discussion by any person, including school board members, that would violate the provisions of state or federal law, this policy or the statutory rights of

privacy of an individual.

7. Personal attacks by anyone addressing the school board are unacceptable. Persistence in such remarks by an individual shall terminate that person's privilege to address the school board.
8. Depending upon the number of persons in attendance seeking to be heard, the school board reserves the right to impose such other limitations and restrictions as necessary in order to provide an orderly, efficient, and fair opportunity for those present to be heard.

#### B. Complaints

1. Routine complaints about a teacher or other employee should first be directed to that teacher or employee or to the employee's immediate supervisor.
2. If the complaint is against an employee relating to child abuse, discrimination, racial, religious, or sexual harassment, or other activities involving an intimidating atmosphere, the complaint should be directed to the employee's supervisor or other official as designated in the school district policy governing that kind of complaint. In the absence of a designated person, the matter should be referred to the superintendent.
3. Unresolved complaints from Paragraph 1. of this section or problems concerning the school district should be directed to the superintendent's office.
4. Complaints which are unresolved at the superintendent's level may be brought before the school board by notifying the school board in writing.

#### C. Open Forum

The school board shall normally provide a specified period of time when persons may address the school board on any topic, subject to the limitations of this policy. The school board reserves the right to allocate a specific period of time for this purpose and limit time for speakers accordingly.

The school board may decide to hold certain types of public meetings where the public will not be invited to address the school board. Possible examples are work sessions and board retreats. The public will still be entitled to notice of these meetings and will be allowed to attend these meetings, but the public will not be allotted time during the meeting to address the board.

#### D. No Board Action at Same Meeting

Except as determined by the school board to be necessary or in an emergency, the school board will not take action at the same meeting on an item raised for the

first time by the public.

## **VII. PENALTIES FOR VIOLATION OF DATA PRIVACY**

- A. The school district is liable for damages, costs and attorneys' fees, and, in the event of a willful violation, punitive damages for violation of state data privacy laws. (Minn. Stat. § 13.08, Subd. 1)
- B. A person who willfully violates data privacy or whose conduct constitutes the knowing unauthorized acquisition of not public data is guilty of a misdemeanor. (Minn. Stat. § 13.09)
- C. In the case of an employee, willful violation of the Minnesota data practices law, Chapter 13, and any rules adopted thereunder, including any action subject to a criminal penalty, constitutes just cause for suspension without pay or dismissal. (Minn. Stat. § 13.09)

***Legal References:*** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
 Minn. Stat. § 13.43 (Personnel Data)  
 Minn. Stat. § 13.601, Subd. 3 (Applicants for Appointment)  
 Minn. Stat. § 13D.05 (Open Meeting Law)  
 Minn. Stat. § 121A.47, Subd. 5 (Student Dismissal Hearing)  
 Minn. Stat. § 122A.33, Subd. 3 (Coaches; Opportunity to Respond)  
 Minn. Stat. § 122A.40, Subd. 14 (Teacher Discharge Hearing)  
 Minn. Stat. § 122A.44 (Contracting with Teachers)  
 Minn. Stat. § 123B.02, Subd. 14 (Employees; Contracts for Services)  
 Minn. Stat. § 123B.143, Subd. 2 (Disclose Past Buyouts or Contract is Void)  
 Minn. Stat. Ch. 363A (Minnesota Human Rights Act)  
 Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)  
 20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)  
 Minn. Op. Atty. Gen. 852 (July 14, 2006)

***Cross References:*** MSBA/MASA Model Policy 205 (Open Meetings and Closed Meetings)  
 MSBA/MASA Model Policy 207 (Public Hearings)  
 MSBA/MASA Model Policy 406 (Public and Private Personnel Data)  
 MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)  
 MSBA Service Manual, Chapter 13, School Law Bulletin "C" (Minnesota's Open Meeting Law)  
 MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records – Privacy – Access to Data)

## **8080 SCHOOL BOARD MEETINGS**

The School Board, as a representative body of the School District, wishes to provide an avenue for any citizen to express his/her interest in and concerns for the schools. Accordingly, the public is cordially invited to attend any and all sessions of the School Board.

In order that the School Board may fairly and adequately discharge its overall responsibility, citizens who wish to make requests, representations, or proposals to the School Board are requested to direct these to the Superintendent, who will deal with them according to rules adopted by the School Board. The intent of the policy is:

1. To allow everyone who wishes it, a fair and adequate hearing.
2. To allow the Superintendent to take direct action, or to recommend action to the School Board, when policies have already been established by the School Board.
3. To minimize the possibility of the School Board's making ill-advised, illegal, or improper rulings due to hasty action in the absence of adequate information and study, especially when a policy does not exist, a change in policy is proposed, or an exception to policy is specifically requested.
4. To see that the time so devoted does not interfere with the scheduled business of the School Board.

It is the policy of the School Board to announce in advance, whenever practicable, through the newspapers and such other means as may appear appropriate, the date, time, and place of all regular and special meetings and the major topics to be discussed there at. It shall be the duty of the School Board clerk to supervise the execution of this policy.

In accord with confirming the right and desirability of the public expressing its point of view to the School Board, delegations or individuals are welcome at regular meetings, subject to the following regulations designed to expedite deliberations and provide for full consideration of problems and questions:

- Matters concerning an individual school shall be discussed first with the principal of that school.

### Operational Problems

1. If the problem cannot be resolved at the school, it shall then be brought to the Superintendent.
2. If the problem cannot be resolved with the Superintendent, it shall then be brought to the School Board in the following manner.
  - a. An appointment to meet with the School Board must be established at least one week in advance of the meeting.
  - b. Questions and problems must be submitted in writing at the time of the request for an appointment.
  - c. Delegates shall indicate whom they represent and shall be asked to comment on their questions or problems.
  - d. The School Board will take questions and problems under advisement and issue responses after due deliberation, usually at the next meeting.

- e. If questions or problems relate to personalities, the School Board may go into executive session to receive such presentations.
- f. In cases of emergency, of which the Superintendent and/or School Board shall be the judge, stipulations concerning prior conferences and appointments may be dispensed with by unanimous vote of the School Board members present.

#### School Board Agenda Items

While public comment on any issue will be taken at the board's regular monthly meeting, public comment at other meetings will be limited to the issue(s) on the agenda for that meeting. Public comment may or may not be taken at meetings where there is no official board action.

Any individual may speak on a school related subject, or on his/her own behalf, or on behalf of an organization as its official representative, at a time on the agenda specified for delegations. At the outset of the meeting the Chairperson of the School Board may ask if any delegation wishes to be called on at a time when a specific agenda item is to be discussed by the School Board. Delegates are expected to be as concise as possible and are not expected to enter into debate or actual deliberations of the School Board. The Board may question delegates for purposes of clarification and information but are not expected to enter into debate with delegates.

**Legal Reference:** MSA 471.705

Adopted: 06-09-1970 ISD 709  
 Revised: 06-20-1995  
05-20-2008 ISD 709

## 521 STUDENT DISABILITY NONDISCRIMINATION

### I. PURPOSE

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

### II. GENERAL STATEMENT OF POLICY

- A. Students with disabilities who meet the criteria of Paragraph C. below are protected from discrimination on the basis of a disability.
- B. The responsibility of the school district is to identify and evaluate learners who, within the intent of Section 504, need services, accommodations, or programs in order that such learners may receive a free appropriate public education.
- C. For this policy, a learner who is protected under Section 504 is one who:
  - 1. has a physical or mental impairment that substantially limits one or more of such person's major life activities; or
  - 2. has a record of such an impairment; or
  - 3. is regarded as having such an impairment.
- D. Learners may be protected from disability discrimination and be eligible for services, accommodations, or programs under the provisions of Section 504 even though they are not eligible for special education pursuant to the Individuals with Disabilities Education Act.
- E. Persons who wish to make a complaint regarding a disability discrimination matter may refer to District Policy [103 Complaints - Students, Employees, Parents, Other Persons](#) for complaint and grievance procedures and form(s).

Claims of discrimination may also be pursued through the following agencies where appropriate:

U.S. Department of Education  
 Office of Civil Rights, Region V  
 500 W. Madison Street - Suite 1475  
 Chicago, IL 60661  
 312-730-1560  
 TDD: 312-730-1609

MN Department of Human Rights  
 540 Fairview Ave N, Ste. 201  
 St. Paul, MN 55104  
 800-657-3704

651-296-5663  
TDD: 651-296-1283

### III. COORDINATOR

Persons who have questions or comments should contact the Office of the Assistant Superintendent, 215 N. 1<sup>st</sup> Ave E, Duluth, MN 55802, (218)336-8739, [jeffrey.horton@isd709.org](mailto:jeffrey.horton@isd709.org) [anthony.bonds@isd709.org](mailto:anthony.bonds@isd709.org). The Assistant Superintendent, ~~Jeffrey Horton~~ **Anthony Bonds**, is the school district's Americans with Disabilities Act/Section 504 coordinator.

**Legal References:** Pub. L. 110-325, 122 Stat. 3553 (ADA Amendments Act of 2008, § 7)  
29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)  
34 C.F.R. Part 104 (Section 504 Implementing Regulations)

**Cross References:** MSBA/MASA Model Policy 402 (Disability Nondiscrimination)  
ISD 709 Policy 103 Complaints - Students, Employees, Parents, Other Persons

Adopted: 12-20-2016  
Revised: **9-17-2019 ISD 709**  
**Second Reading: 10-20-2020**

## **536 POLITICAL CAMPAIGNS AND ACTIVITIES**

### **I. PURPOSES**

The purpose of this policy is to recognize the participation of students and employees in political issues. Further, the purpose of this policy is to establish guidelines for the participation of students and employees in political campaigns, partisan or non-partisan election activities, and the distribution of political or partisan materials.

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

- A. The school district will maintain neutrality as to all political campaigns and issues. The school district will not expend public funds or resources to advocate for particular candidates or for only one side of a controversial question. However, the school district may expend reasonable amounts to apprise voters in the school district of facts pertinent to an election, bond issue, or referendum.
- B. The school district recognizes the rights of students and employees to participate in political campaigns and political issues, elections, and public service and the right of students to pursue an education conducted in a suitable academic environment free from disruption.
- C. To protect First Amendment rights, while at the same time preserving the integrity of the education objectives and responsibilities of the school district, the school board adopts the following guidelines.

### **III. DEFINITIONS**

- A. "Distribution" means circulation or dissemination of material by means of handing out free copies, selling or offering copies for sale, accepting donations for copies, or posting or displaying material. This includes, but is not limited to, posting on a wall, bulletin board, or other building surface, or anywhere on school district property; leaving items to be picked up by interested persons; directly giving items to persons; or placing items in rooms in a school district building.
- B. "Nonschool-sponsored material" or "unofficial material" includes all materials or objects intended for distribution, except school newspapers, employee newsletters, literary magazines, yearbooks, and other publications funded and/or sponsored or authorized by the school. Examples of nonschool-sponsored material include, but are not limited to, leaflets, brochures, buttons, badges, fliers, petitions, posters, **tee shirts, face covering (i.e. mask)**, and underground newspapers, whether written by students or employees.
- C. "Nonschool person" means any person who is not a currently enrolled student or a current employee of the school district.

- D. "Political materials" include, but are not limited to, any paper, handbill, poster, booklet, brochure, advertisement, **tee shirts, face coverings (i.e. mask)**, sample ballot, display, or audio or video presentation, that pertains to a political candidate or political issue.
- E. "Political issue" is an issue that is the subject of a public referendum which is being debated by political candidates or organizations.
- F. "Political candidate" is a person who seeks nomination or election to partisan or nonpartisan public or party office or who has filed as candidate for election.
- G. A "political activity" is an act that is of a nature, done with intent, or done in a way, to influence or tend to directly or indirectly influence, voting at a primary or an election or, if it is done because a person is about to vote, has voted, or has refrained from voting at a primary or an election.
- H. "School activities" means any activity sponsored by the school including, but not limited to, classroom work, library activities, physical education classes, official assemblies and other similar gatherings, school athletic contests, band concerts, school plays, and in-school lunch periods.
- I. "Work hours" for school district employees refer to the period between the time an employee is scheduled to begin work and the end of the employee's assigned work day (excluding the employee's lunch and break periods), and any paid overtime hours or extra-duty hours for which the employee has volunteered or been assigned.

#### **IV. PROCEDURES**

- A. Political Activities of Employees in General
  - 1. Employees of the school district, while acting in the capacity of a school district employee, shall not engage in any political activity during the school day, during work hours, or at school activities.
  - 2. School district employees shall be free to engage in political activities outside of the school day, work hours, or school activities and to campaign and run for political office. Employees shall not allow such political activities to interfere with the proper performance of their school duties and shall not use school time, supplies, or equipment in these activities.
  - 3. A school district employee or official shall not use his or her official authority or influence to compel a person to take part in a political activity, to pay or promise to pay a political contribution, or apply for membership in or become a member in a political organization.
  - 4. Teachers or other school district employees may not use or recruit students during the school day, during work hours, or at school

activities for either distribution of political materials or other political activities.

5. School district employees, while acting in the capacity of a school district employee, shall refrain from any conduct that is intended to be or that reasonably could be perceived as endorsing or opposing specific political issues or political candidates. **For example, the wearing of a face covering (i.e. mask) that supports a political party or candidate is prohibited.**
6. The implementation of and compliance with this policy shall be coordinated by the **Assistant Superintendent**. All inquiries regarding school district elections referendum candidates and campaigns shall be referred to the **Chief Financial Officer**.

#### B. Distribution of Political Materials

- ~~1. The distribution of political materials on school district property by nonschool persons is governed by Policy 904, Distribution of Materials on School District Property by Nonschool Persons.~~
2. The distribution of political materials on school district property by students and employees is governed by Policy ~~505~~ **5165**, Distribution of Nonschool-sponsored Materials on School Premises by Students and Employees.

#### C. School District Property, Facilities, and Activities

1. Nonpublic forums. All school district property and facilities are nonpublic forums that are designated as reserved for their intended purpose of education and education-related activities. Political activities will not be allowed in such nonpublic forums unless it is part of the approved curriculum. Further, reasonable time, place, and manner restrictions may be imposed in such a nonpublic forum. **During a scheduled School Board Meeting a school site or facility may be temporarily recognized as a nonpublic forum.**
2. Public forums by designation. The building principal, with approval of the superintendent and the school board, may designate specific property or facilities of the school district as limited public forums open for certain expressive activity such as political speech. The open character of such property or facilities will not be retained indefinitely. Further, reasonable time, place, and manner restrictions may be imposed. The building principal and the superintendent are responsible for establishing the time, place, and manner restrictions and for ensuring equality of treatment toward all candidates and issues when such a designated public forum is created.

## V. VIOLATION OF POLICY

- A. Violation of this policy by a student will be halted, and appropriate disciplinary action will be taken in accordance with the school district's student discipline policy and/or any governing statute.
- B. Violation of this policy by an employee will be halted, and appropriate disciplinary action will be taken, in accordance with any individual contract, collective bargaining agreement, school district policies and procedures, and/or governing statute.
- C. Any other party violating this policy will be requested to leave the school property immediately and, if necessary, the police will be called. In addition, other action may be taken, if appropriate.

## **VI. IMPLEMENTATION/NOTICE OF POLICY**

- A. A copy of this policy will be available in school buildings. The policy will be noted in student handbooks and available to students, staff, employees and community members in school buildings and the administrative office.
- B. The school district will develop a method of discussing the policy with students and employees.
- C. The school district administration may develop any additional guidelines and procedures necessary to implement his policy. Such additional guidelines shall be submitted to the school board for approval. Upon approval, such guidelines and procedures shall be an addendum to this policy.

**Legal References:** Minn. Stat. § 10A.01, Subd. 5  
 Minn. Stat. § 43A.32  
 Minn. Stat. § 211A.02, Subd.8  
 Minn. Stat. § 211B.09 (Prohibited public employee activities)  
 Op. Minn. Atty. Gen. 159a-3 (May 24, 1966) (concluding that a school district could not make expenditure of public funds for printing and mailing of literature urging passage of a bond issue)

**Cross References:** Policy 505 **5165** (Distribution of Nonschool-sponsored Materials on School Premises by Students and Employees)  
~~Policy 904 (Distribution of Materials on School District Property by Nonschool Persons)~~

## 503R STUDENT ATTENDANCE REGULATION

### I. OFFICIAL RECORDS

The official attendance record will be kept by the attendance office.

### II. SUPPLEMENTARY BUILDING REGULATIONS

Any individual building regulations developed by schools must be submitted to the Superintendent annually.

### III. ATTENDANCE PROCEDURES AND PARENT NOTIFICATION

#### A. Elementary (K-5)

1. Any time a student is absent without prior notification, parents will receive a phone call from the school indicating the child has been absent.
2. After three (3) unexcused absences parents will receive a letter informing them of absences and possible consequences for continuation of unexcused absences.
3. After seven (7) unexcused absences, a student is deemed in educational neglect and the school attendance officer or other designated school officials will take appropriate action which may include a request to county social services.
4. After eleven (11) **excused and unexcused absences**, the students and family may be required to attend a meeting with administration, develop an attendance contract and/or be required to submit medical documentation for future absences in order to be excused.

#### Elementary School Tardiness

A student is considered tardy up to thirty (30) minutes late for the morning or afternoon section. If a student arrives to either section more than thirty (30) minutes late, the student is considered absent for the section.

#### B. Middle School (6-8)

1. Any time a student is absent without prior notification parents will receive a phone call from the school indicating the child has been absent.
2. After three (3) unexcused absences the parent/guardian will receive a letter informing them of absences and possible consequences for continuation of unexcused absences.
3. After seven (7) unexcused absences the student is deemed truant, the parent/guardian will receive a letter informing them of the absences, the student will be referred to the Truancy Action Project (TAP) advocate.
4. After fifteen (15) unexcused absences a student, the school attendance office or other designated school officials will take appropriate action which may include:
  - Student attendance contract
  - Mediation Contract through St Louis County court
  - Truancy referral to the Student Attendance Review Board (SARB)
  - Truancy court ticket issued by St Louis County Court.

### Middle School Tardiness

A student is considered tardy up to 10 minutes late for a class. After 10 minutes a student is considered absent. When a student has accumulated three (3) unexcused tardies per course, disciplinary action may occur.

### C. High School (9-12)

1. Any time a student is absent without prior notification, parents will receive a phone call from the school indicating the child has been absent.
2. After three (3) unexcused absences parents will receive a letter informing them of absences and possible consequences for continuation of unexcused absences.
3. After (5) unexcused absences a student will be placed on an attendance contract **and** student may receive an incomplete for the course.
4. After seven (7) unexcused absences, a student is deemed truant and the school attendance officer or other designated school officials will take appropriate action which may include a request to the county attorney (503-4) to file a petition with the juvenile court, pursuant to Minnesota statutes.
5. After a student accumulates nine (9) unexcused absences in a course, a student will lose credit for the course.

### High School Tardiness

A student is considered tardy up to 10 minutes late for a class. After 10 minutes it is considered an absence. Three (3) unexcused tardies will equal one (1) unexcused absence.

## **IV. Distance Learning Attendance**

### ~~A. Elementary (K-5)~~

- ~~1. Document – Each site will be using a daily attendance tracking document for Grades K – 5~~
- ~~2. The expectation of MDE is that "students receive daily interaction with their licensed teacher(s)". each day~~
- ~~3. Contact can be made through email, phone call, text, Google Classroom, electronic interaction via the school's learning management system (LMS), a shared google document, and/or face-to-face.~~
- ~~4. Daily documentation should be recorded into each building's Attendance Tracker by any teacher that has contact.~~
- ~~5. Interventionists and Specialists should be working with classroom teachers to help with this daily contact task~~
- ~~6. SPED teachers providing services should mark attendance in the classroom teacher's tab~~
- ~~7. At the end of each work day, the classroom teacher should (confirm participation or contact with a student in the state reporting student information system) enter absences into Infinite Campus must record student positive attendance in the district's state reporting student information software system (SIS).~~

- ~~8. Families and students may be working on content / contacting teachers outside of the teacher scheduled workday~~
- ~~9. Teachers would mark the attendance for the previous day into the daily attendance tracker~~
- ~~10. When packets student work is are submitted electronically or by other means, the teacher can may mark the whole week as positive attendance in the attendance tracker~~
- ~~11. Building clerical will update retroactive attendance in Infinite Campus each week~~
- ~~12. Questions should be directed to the building principal~~

## B. Secondary (6-12)

### 1. Instructions for teachers:

- ~~Interaction can be~~
  - ~~The student completing the Check In Google Form~~
  - ~~The student responding to or initiating an email~~
  - ~~The student participating in the discussion in your classroom~~
  - ~~A phone call interaction~~
  - ~~Work completed and returned digitally~~
  - ~~A paper packet returned and completed~~
- ~~We recommend using a Teacher Check In Google Form each week (not each day) to check in with as many as possible. You can decide what to ask on the form (Do you need assistance? Did you send in something to grade? What is something new you learned? How are you doing? etc.)~~
  - ~~[Sample Check In Form](#)~~
  - ~~If a student doesn't complete the check in form, you will need to look for other interactions they may have had with you or the content. See above for definition of "Interaction"~~
- ~~For interaction tracking purposes, create an assignment in Infinite Campus that is not factored into their grade.~~
  - ~~This will allow parents/guardians to monitor their child's interactions from home.~~
  - ~~On Friday, reach out to those students who haven't yet interacted in any way.~~

### 2. Each Tuesday after a packet has been assigned:

- ~~Update the weekly check in assignment with any interactions that occurred over the weekend.~~
- ~~After updating interactions for that week, each teacher will need to complete the Distance Learning Attendance google form one time for each student with whom you had no interaction. Responses will be used by clerical to create attendance records.~~
  - ~~[Distance Learning Attendance Form for East High School](#)~~
  - ~~[Distance Learning Attendance Form for Denfeld High School](#)~~
  - ~~[Distance Learning Attendance Form for Ordean East Middle School](#)~~
  - ~~[Distance Learning Attendance Form for Lincoln Park Middle School](#)~~
- ~~If there is no interaction with you throughout the week, the student will be marked absent in your class period for the entire week.~~
- ~~Clerical will document attendance based on your Distance Learning Attendance form for the entire week. Clerical will modify attendance~~

- ~~if a student eventually submits work, electronically or in paper packet.~~
- ~~• Completed work from a given week will clear attendance for that entire week regardless of when it is turned in.~~
3. ~~Attendance is all or nothing for the week but can be updated, by clerical, at any time:~~
- ~~• 1 interaction = present for the week for that class~~
  - ~~• 0 interactions = absent for the week for that class~~
  - ~~• Attendance for the week will be updated after completed work is submitted.~~
    - ~~◦ Completed paper packets will be checked in by clerical staff who will update attendance.~~
    - ~~◦ If a student digitally completes the work for a previous week, the teacher must email clerical staff to update attendance.~~

During distance learning periods or digital learning days, attendance is recorded based on student participation or teacher confirmation of student participation, rather than on student absences. Students must have actual documented student-teacher contact on a given day to be reported as in attendance on that day, i.e., schools must take positive rather than passive attendance.

1. The expectation of the Minnesota Department of Education (MDE) is that "students receive daily interaction with their licensed teacher(s)".
2. Contact may be made with the student or parent through email, phone call, text, learning management system, shared electronic documents, student record of participation in the district's state reporting student information software system (SIS), face to face, or hardcopy documents returned to the teacher.
3. At the end of each work day, the classroom teacher must record student positive attendance in the district's state reporting student information software system (SIS).
4. Students may be working on content / contacting teachers outside of the teacher scheduled workday and such work will be reviewed and counted toward positive attendance for the day regardless of time of day submitted or completed.
5. When student work is submitted electronically or by other means, the teacher may, for the four previous days, retroactively update student positive attendance in the district's state reporting SIS to reflect a student's work.
6. Designated school officials will follow-up with students experiencing frequent absences to assure that issues of equitable access or barriers to participating in instruction can be identified and resolved.
7. Procedures for parent/guardian notification and reporting of cumulative excused and unexcused absences apply to distance learning.

Replaced: Regulation 5025R  
Adopted: 03-22-2016  
Revised: 04-21-2020  
06-16-2020 ISD 709  
**10-20-2020 ISD 709**

**Elementary - Standards Based Report Card** - Duluth Public Schools has implemented a standards based report card for elementary students. Report cards are issued once each semester. Family Report Card Guides and well as activities that can be done at home to support learning are available for grades K-5 at your child's school or online at

<https://www.isd709.org/academics/grading-and-reporting/elementary-report-card>. The report cards are designed to report on each child's performance in relation to specific criteria. The goals of standards based report cards include the ability to:

- reflect academic achievement
- provide meaningful feedback
- be honest, fair, transparent, credible, useful, and user friendly
- be aligned with the Duluth Public Schools curriculum
- reflect consistency among courses, grade levels, departments, and schools
- separate non-academic factors like participation or effort

4	Mastering	The student exhibits knowledge and understanding of the concepts, skills, and processes the standard requires and can readily apply this knowledge in a variety of settings.
3	Meeting	The student has a thorough knowledge, understanding, and application of the concepts, skills, and processes the standard requires. A score of three meets grade level expectations.
2	Developing	The student is gaining understanding of the concepts, skills, and processes the standard requires, but has not been able to consistently demonstrate the learning.
1	Beginning	The student is just starting to understand the concepts, skills, and processes the standard requires and needs consistent support.
0	No Evidence	No evidence of learning has been submitted during distance learning. The student has not engaged with or applied the concepts, skills, and processes the standard requires in the hybrid or digital learning environments.

### **Secondary Grading and Report Cards**

Students receive instruction based on standards and assessments are written to reflect these standards. Assessments in individual courses are based on academic standards adopted by the state of Minnesota.

**Middle School Report Card** - Students in grades 6-8 receive letter grades to report academic progress.

Report cards for grades 6-8 are issued four times per year. You may access your student's grades by going to: <https://duluthmn.infinitecampus.org/campus/portal/duluth.jsp>.

A (90-100%) Excellent

B (80-89%) Very Good

C (70-79%) Satisfactory

D (60-69%) Passed  
NC (below 60%)

NC (No Credit) will be utilized during Distance and/or Hybrid learning models, replacing the traditional F letter grade. Students receiving NC will still need to take the course for a passing letter grade.

**High School Report Card** - Students in grades 9-12 receive letter grades to report academic progress in the following manner:

A (90-100%) Excellent  
B (80-89%) Very Good  
C (70-79%) Satisfactory  
D (60-69%) Passed  
NC (below 60%)

NC (No Credit) will be utilized during Distance and/or Hybrid learning models, replacing the traditional F letter grade. The use of NC doesn't have the same effect on a student's GPA. Students receiving NC will still need to take the course for a passing letter grade.

Report cards for grades 9-12 are issued four times per year. Credit is awarded at the semester level. Final semester grades are calculated as follows: quarter A grade (43%) plus quarter B grade (43%) plus final exam (14%) = Final Semester Grade.

A student's Grade Point Average (GPA) is calculated using whole grades, meaning plus and minus do not impact GPA. You may access your student's grades by going to: <https://duluthmn.infinitecampus.org/campus/portal/duluth.jsp>. Families can monitor current scores through the Canvas learning management system. Students who participate in advanced coursework such as Honors, AP, PSEO, CITS, or other rigorous opportunities may have different grading guidelines as a result of the course requirements. For specifics, please refer to the course syllabus or cooperating postsecondary institution for details.

There are a few exceptions in high school concurrent and dual enrollment classes where letter grades may be required and high schools must work with their post-secondary partners on completion requirements. Please refer to your school for more information.

MDE has provided the following guidance document: [Assessing Learning Guidance for the 2020-21 School Year](#).

Policy Number/Link	Policy Title	Person Recommending Suspension	Reason for Suspension	Date Requested	Approve By Supt	Action
<a href="#">624</a>	Online Learning Options	Assistant Superintendent	Current language in the policy is specific to the ALC and AEO with regard to hybrid scheduling and digital attendance	8/2020	xx	
<a href="#">503</a>	Attendance	Dir Curr & Instruction	Not actually recommending suspension but would like to see a COVID-19 addition somehow. <a href="#">Attendance is defined in mde planning guide.</a>	9/3/2020		Regulation is on Policy Committee for revision 10/8/20
<a href="#">503R</a>	Attendance Regulation	Dir Curr & Instruction	Updated regulation to new learning plan from Spring			On Policy Committee for revision 10/8/20
Handbook Regulation	Grading	Dir Curr & Instruction	Updating to reflect "do no harm" provision in MDE guidance.	9/17/2020		On Policy Committee for revision 10/8/20

Other Items for considerations - process/school handbooks/etc.					
Location	Regarding	Requested By	Reason	Date	
High School Handbook policy	Dropping Classes	Dir Curr & Instruction	Current language states students will have ten school days after the start of the first grading period to drop without a penalty. With the start of the year being 9 days of orientation and a reduced emphasis on content, will need to be extended.	9/3/2020	