



504 HARASSMENT AND VIOLENCE

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression or disability.

II. GENERAL STATEMENT OF POLICY

- a. It is the policy of the school district to maintain a learning and working environment that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression or disability. The Minnesota Human Rights Act, Minn. Stat. §363A.03, Subd.44, defines “sexual orientation” to include “having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness.” The school district prohibits any form of harassment or violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression or disability.
- b. It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of the school district to harass a student, or group of students, teacher, administrator or other school district personnel through conduct or communication based on a person’s race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression or disability. For purposes of this policy, school personnel include school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the district.
- c. It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of the school district to inflict, threaten to inflict, or attempt to inflict violence upon any student, teacher, administrator, or other school district personnel, or group of students, teachers, administrators, or other school district personnel based on a person’s race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression or disability.

- d. The school district will act to investigate all complaints, either formal or informal, verbal or written, of harassment or violence, based on a person's race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression or disability. The school district will act to discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who is found to have violated this policy.

III. RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE DEFINED

a. Sexual Harassment; Definition

- i. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - 1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
 - 2. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
 - 3. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or educational environment.
- ii. Sexual harassment may include but is not limited to:
 - 1. unwelcome verbal harassment or abuse including internet communication;
 - 2. unwelcome pressure for sexual activity;
 - 3. unwelcome, sexually motivated or inappropriate patting, pinching or physical contact, other than necessary restraint of pupil(s) by teachers, administrators or other school personnel to avoid physical harm to persons or property;
 - 4. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status communicated orally or through written or internet communication;
 - 5. unwelcome sexual behavior or words, communicated orally, written or through internet communication, including demands for sexual favors, accompanied by implied or overt promises of

- preferential treatment with regard to an individual's employment or educational status; or
6. unwelcome behavior or words, communicated orally, written or through internet communication, directed at an individual because of sexual orientation including gender identity or expression.

iii. Sexual Violence; Definition

1. Sexual violence is a physical act of aggression or force or the threat thereof, which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minn. Stat. § 609.341, includes the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.
2. Sexual violence may include, but is not limited to:
 - a. touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
 - b. coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
 - c. coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or
 - d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

iv. Racial Harassment; Definition

Racial harassment consists of physical or verbal conduct relating to an individual's race when the conduct:

1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
 2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
 3. otherwise adversely affects an individual's employment or academic opportunities.
- v. Racial Violence Definition: Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.
- vi. Religious Harassment Definition: Religious harassment consists of physical or verbal conduct which is related to an individual's religion when the conduct:
1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
 2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

3. otherwise adversely affects an individual's employment or academic opportunities.

Religious Violence Definition: Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.

vii. Assault Definition: Assault is:

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

IV. REPORTING PROCEDURES

- a. Any person who believes he or she has been the target or victim of harassment or violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression or disability by a pupil, teacher, administrator or other school district personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a pupil, teacher, administrator or other school district personnel should report the alleged acts immediately to an appropriate school district official designated by this policy. A person may anonymously report conduct which may constitute harassment or violence. However, the school district may not rely solely on an anonymous report to determine discipline or other remedial responses.
- b.
- c. The school district encourages the reporting party or complainant to use the report form available from the Executive Director of Spero Academy. Oral reports shall also be considered complaints.. Nothing in this policy shall prevent any person from reporting harassment or violence directly to a school district human rights officer or to the Chair of the Board of Spero Academy. If the complaint involves the Executive Director, the complaint shall be made or filed directly with the Spero Academy Board Chair.
- d. In Each School Building, the Executive Director of Spero Academy is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy at the building level. Any adult school district personnel who receives a report of harassment or violence prohibited by this policy shall inform the Director of Spero Academy immediately. If the complaint involves the building report taker, the complaint shall be made or filed directly with the Spero Academy Board Chair.

A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include acts of harassment or violence. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence shall make reasonable efforts to address and resolve the harassment or violence and shall inform the Executive Director immediately. School district personnel who fail to inform the Executive Director of conduct that may constitute harassment or violence or who fail to make reasonable efforts to address and resolve the harassment or violence in a timely manner, may be subject to disciplinary action.

- e. Upon receipt of a report, the Executive Director of Spero Academy must notify the school district human rights officer immediately, without screening or investigating the report. The Executive Director of Spero Academy may request, but may not insist upon a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the Executive Director of Spero Academy to the human rights officer. If the report was given verbally, the Executive Director of Spero Academy shall personally reduce it to written form within 24 hours and forward it to the human rights officer. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the Executive Director of Spero Academy. If the complaint involves the Executive Director of Spero Academy, the complaint shall be made or filed directly with the Chair of the Spero Academy Board or the school district human rights officer by the reporting party or complainant.
- f. In the District, the school board hereby designates the Executive Director of Spero Academy as the school district human rights officer(s) to receive reports or complaints of religious, racial or sexual harassment, bullying or violence. If the complaint involves a human rights officer, the complaint shall be filed directly with a Board Chair designee.
- g. The school district shall conspicuously post the name of the human rights officer(s), including mailing addresses and telephone numbers.
- h. Submission of a good faith complaint or report of harassment or violence will not affect the complainant or reporter's future employment, grades or work assignments.
- i. Use of formal reporting forms is not mandatory.
- j. The school district will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the school district's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

- k. Reports of harassment or violence prohibited by this policy are classified as private educational and/or personnel data and /or confidential investigative data and will not be disclosed excepts as permitted by law.

V. INVESTIGATION

- a. By authority of the school district, the human rights officer shall within three days of receipt of a report or complaint alleging harassment or violence prohibited by this policy, undertake or authorize an investigation. The investigation may be conducted by school district officials or by a third party designated by the school district.
- b. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- c. In determining whether alleged conduct constitutes a violation of this policy, the school district should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.
- d. In addition, the school district may take immediate steps, at its discretion, to protect the target or victim, complainant, students, teachers, administrators or other school personnel pending completion of an investigation of alleged harassment or violence prohibited by this policy..
- e. The investigation will be completed as soon as practical. The school district human rights officer shall make a written report to the Executive Director upon completion of the report. If the complaint involves the Executive Director, the report may be filed directly with the Spero Academy Board Chair.. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

VI. SCHOOL DISTRICT ACTION

- a. Upon completion of an investigation that determines a violation of this policy has occurred, , the school district will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School district action taken for violation of this policy will be consistent with Minnesota and federal law and school district policies.

- b. The school district is not authorized to disclose to a victim any private educational or personnel data regarding an alleged perpetrator who is a student or employee of the school district. School officials will notify the parent(s) or guardian(s) of targets or victims of harassment or violence and the parent(s) or guardian(s) of alleged perpetrators of harassment or violence who have been involved in a reported and confirmed harassment or violence incident of the remedial or disciplinary action taken to the extent permitted by law.
- c. In order to prevent or respond to acts of harassment or violence committed by or directed against a child with a disability, the school district shall, where determined appropriate by the child's individualized education plan (IEP) or Section 504 team, allow the child's IEP or Section 504 plan to be drafted to address the skills and proficiencies the child needs as a result of the child's disability to allow the child to respond to or not to engage in acts of harassment or violence.

REPRISAL OR RETALIATION. The school district will discipline or take appropriate action against any student, teacher, administrator or other school personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy or any person who testifies, assists or participates in an investigation of retaliation or alleged harassment or violence, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment or intentional disparate treatment

VII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with the Minnesota Department of Human Rights, initiating civil action or seeking redress under state criminal statutes and/or federal law.

VIII. HARASSMENT OR VIOLENCE AS ABUSE

- a. Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of mandatory reporting under Minn. Stat. § 626.556 may be applicable.
- b. Nothing in this policy will prohibit the school district from taking immediate action to protect victims of alleged harassment, violence or abuse.

IX. DISSEMINATION OF POLICY AND TRAINING

- a. This policy shall be conspicuously posted throughout each school building in areas accessible to students and staff members.
- b. At the time of their initial employment or at the time an employment contract is entered into with Spero Academy, this policy shall be given to each school district employee and to each independent contractor who regularly interacts with students.
- c. This policy shall appear in the Parent/Student handbook.
- d. The school district will develop a method of discussing this policy with students and employees.
- e. This policy shall be reviewed at least annually for compliance with state and federal law.

Legal References:

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

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

Minn. Stat. § 626.556 et seq. (Reporting of Maltreatment of Minors)

42 U.S.C. § 2000e et seq. (Title VII of the Civil Rights Act)

Cross References:

MSBA/MASA Model Policy 102 (Equal Educational Opportunity)

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

MSBA/MASA Model Policy 406 (Public and Private Personnel Data)

MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)

MSBA/MASA Model Policy 506 (Student Discipline)

MSBA/MASA Model Policy 525 (Violence Prevention)