

## **Policy Committee**

Tuesday, May 10, 2022 2:00 PM

Tate Hall Conference Room, 615 Olof Hanson Drive, Faribault, MN 55021

1. **Call to Order**

2. **Meeting Minutes Review**

3. **Policies to Review from MSBA - None**

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

4.A. 709 - Transportation

5. **Policies to Review to be Revised - None**

6. **Policies to Review Prior to a First Reading -  
None**

7. **Policies to Review for Reauthorization**

7.A. 410 - Family and Medical Leave (FMLA)

7.B. 413 - Harassment and Violence

7.C. 414 - Mandated Reporting of Child Neglect or  
Physical or Sexual Abuse

7.D. 415 - Mandated Reporting of Maltreatment of  
Vulnerable Adults

7.E. 506 - Student Discipline

7.F. 514 - Bullying Prohibition

7.G. 522 - Student Sex, Gender, Gender Identity  
Nondiscrimination

7.H. 616 - School District System Accountability

8. **Adjourn**



## Minutes of Policy Committee Meeting Minnesota State Academies Board

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A Policy Committee Meeting of the Minnesota State Academies Board was held on Tuesday, April 12, 2022, beginning at 3:15pm in the Tate Hall Conference Room or through zoom platform.

**Present:** Terry Wilding – Superintendent, Nicole Halabi – Board Member, Mary Cashman-Bakken - Board Member, Jamers Speier – Board Member, Anne Grace Donatucci – MSAD Director, Jody Olson, MSAD Assistant Director, Bridget Flier – HR Director, Kerry Vigasaa – HR Specialist 1

**Absent:** None

**1. Call to Order – 3:20pm**

**2. Minutes Review**

No changes

**3. Policies to Review from MSBA**

A. 722 Public Data Requests and Public Data Request Form

Mary thought the cost of .25 cents per printed page was too high. Nicole brought up that it is not always just the copies but the redacting time as well. Terry will research the Faribault Public School District fee for data requests.

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

A. 307 Academies Administrator (Superintendent) Selection

Terry shared that there were no additions made from the site council. Move to the next board meeting for a vote.

B. 743 Petty Cash (updated draft)

Mary wondered what happens when the office is closed – after hours for petty cash. Terry mentioned that most students and staff do come before the office is closed. The program coordinators do have a credit card to use for emergencies that come up after petty cash is closed. Jamers asked what the petty cash is used for – Terry explained mostly for classroom supplies, sometimes the dorm staff may need to use it but it is rare. Jody said the spending is usually less than \$20.00. Referred to the next board meeting for a vote.

**5. Policies to Review Before Revision**

None

## **6. Policies to Review Prior to a First Reading**

A. 423 Employee-Student Relationships – no major changes – send to the board for a first reading to solicit additional feedback. We also discussed 423A (form) \

Mary asked when we use the form. Terry explained how many of the staff have their children attending MSA and it is a helpful tool for parents to understand their role as teacher vs parent during school hours. The policy is in place to help staff understand their boundaries with students.

B. 423B General Standards and Boundaries – no changes recommended.

C. 426 Nepotism in Employment – no changes – send to the board for a first reading to solicit additional feedback. We also discussed 426A (form) Plan to Address Supervisory Responsibility. Jamers asked if we had a form for when we have two staff persons that are related and working next to each other? We do not currently have this. We will revisit this form along with suggestions from Jamers for employees who work with each other in nonsupervisory roles. (this will be brought back to the next policy committee along with comments regarding the full policy after the 1<sup>st</sup> reading).

D. 709 Transportation – New – send to the board for the first reading. Mary asked if MSA provides driver's education for students. Anne Grace explained we work with FPS for the classroom part of driver's training and behind the wheel part is done on their own.

## **7. Policies to Review for Reauthorization**

A. 441 On-Call Coverage – No changes – ready for reauthorization

B. 441A On-Call Criteria – Minor changes – ready for reauthorization  
“When immediate supervisor is off duty or not available” was the only update to the language in this policy. Jamers asked if there was any feedback from the personnel that are on-call. Terry explained yes there was and they were implemented except for the request to be paid – that will be explored with HR and Payroll.

C. 516 Student Medication – No changes – ready for reauthorization  
Related to this policy - Mary inquired who checks into student's epipens and the cost of them. What happens when parents cannot afford to buy them. What happens if the student's epipen doesn't work? Terry said he will speak with Kim Viskocil, Director of Health Services.

## **8. Adjourn**

4:00pm

Policy #: <b>709</b>
Title: <b>TRANSPORTATION</b>
Date of Initial Approval: <b>NEW</b>
Revision/Re-authorization Dates:
Reviewers: MSA Instructional Leadership Team; MSA Director of Physical Plant Operations; MSA Superintendent

**I. PURPOSE**

The purpose of this policy is to establish safe transportation for students at the Minnesota State Academies (MSA), including education for students on safety issues and the responsibilities of riding on school transportation.

**II. GENERAL STATEMENT OF POLICY**

The determination as to whether to provide transportation for students, spectators, and/or other participants to and from all MSA-sponsored activities shall be made solely by the MSA administration. This determination shall include, but is not limited to, the decision to provide transportation, the persons to be transported, the type or method to be utilized, all transportation scheduling and coordination, and any other transportation arrangements or decisions. Employees who are involved in those activities shall be advised by the administration as to the transportation arrangements made, if any. In its discretion, MSA administrators may charge fees for the transportation of students to and from extracurricular activities conducted at locations other than the MSA campuses, where attendance is optional.

**III. ARRANGEMENTS FOR TRANSPORTATION**

MSA employees shall not undertake independent arrangement, scheduling, or coordination of transportation for extracurricular activities unless specifically directed or approved by their supervisor. All transportation arrangements must be approved, following the process outlined in MSA Procedure #7501.

**IV. PROHIBITIONS**

MSA employees are prohibited from using their personal vehicle to transport one or more students except as described below. However, in an emergency or other unforeseen circumstances, employees may make appropriate transportation arrangements, including use of a personal vehicle for students as necessary.

In a nonemergency situation, an employee must get prior approval (preferably written) from their supervisor and/or the on-call supervisor before transporting a student in a personal vehicle. If a school vehicle is available, the employee will be directed to use the school vehicle. The MSA administrator in charge of the situation has the sole discretion to make a final determination as to the appropriate use of a personal vehicle to transport one or more students.

If any emergency transportation arrangements are made by employees pursuant to this section, the relevant facts and circumstances shall be reported to their supervisor as soon thereafter as practicable.

All vehicles used to transport students shall be properly registered and insured.

*[Note: This policy provides that employees may use a personal vehicle to transport students in an emergency or other unforeseeable circumstance. An "emergency or other unforeseeable circumstance" does not include situations where regular transportation is available or scheduled.*

*For example, if a scheduled extracurricular event occurs outside of MSA campuses and MSA provides transportation for a team or group of students to and from the event, an employee would be prohibited by law from using a personal vehicle to transport some students to the event. In contrast, if a student attending this same event became ill or injured and required immediate transportation home or to a health care facility, the exigent need to transport one student would not constitute regular or scheduled transportation. An employee would have authority to transport the student in a personal vehicle under these circumstances, if using a vehicle that is properly registered and insured. The expectation of MSA is that the employee would immediately contact their supervisor and/or the on-call supervisor about these circumstances to ensure oversight of the employee's use of this exception.*

*Nonregular and nonscheduled transportation also would include situations where some notice may be provided of the need for transportation to a nonscheduled event for which transportation generally is not provided by MSA. For example, a group of students may participate in a scheduled debate competition for which regular MSA transportation is provided. Two students advance to a regional competition the following day. Transportation would not have been scheduled to the regional competition as the students' advancement was not predicted. These circumstances may justify an employee's use of a personal vehicle to transport the two students to the regional competition (if the vehicle is properly registered and insured). Because the employee has sufficient time to contact an administrator, advance written permission by an administrator would be expected for the purpose of overseeing that the reasons for an employee using a personal vehicle comply with the requirements of the law.]*

## **V. PLAN FOR STUDENT TRANSPORTATION SAFETY TRAINING**

### **A. School Bus Safety Week:**

MSA may designate a school bus safety week. The National School Bus Safety Week is the third week in October

### **B. Student Training:**

MSA Campus Directors shall ensure that all students receive annual, age-appropriate school bus/transportation safety training, including the following concepts:

1. Transportation provided by MSA is a privilege, not a right
2. Appropriate conduct and safety while on the bus/vehicle (refer to the MSA Parent/Student Handbook)
3. Danger zones around school buses
4. Procedures for safely boarding and leaving a school bus/vehicle
5. Procedures for safe vehicle lane crossing
6. Bicycling and Pedestrian Safety
7. School bus/vehicle evacuation and other emergency procedures

All training must be completed by the end of the third week of school. Students who enroll at MSA after the third week of school and have not received training from their previous school district shall receive this training within 4 weeks of their first day of attendance.

C. Drills:

A school bus evacuation drill must be conducted with all age groups at least once during the school year. Drills for students with additional disabilities who cannot participate in evacuation drills independently may be conducted with employees providing support to those students.

D. Record Keeping:

Campus Directors are responsible for maintaining records about each student's participation in bus safety training and certifying their participation to the MSA Health/Safety chairpersons.

**VI. SCHOOL BUS AND TYPE III DRIVERS DUTIES AND RESPONSIBILITIES**

All employees providing transportation for MSA must adhere to the requirements outlined in MSA Policy #444 and MSA Procedure #7501. All drivers are required to complete Type III drivers training prior to transporting any students for any reason. Employees are responsible for all vehicle checks, following all safety procedures and regulations, and ensuring that all passengers follow the rules of conduct while being transported.

**VII. EMERGENCY PROCEDURES**

In emergency situations, drivers, chaperones, and/or their supervisor should call 911 for emergency assistance. Drivers should move passengers to a safe location to await emergency responders as appropriate/necessary. When emergency responders arrive, employees should share any relevant medical information with them (name, address, disabling conditions; emergency health care information, contact information for guardians, allergies, and so forth)

**Legal References:**

*Minn. Stat. § 123B.36 (Authorized Fees)*  
*Minn. Stat. § 169.011, Subd. 71(a) (Definition of a School Bus)*  
*Minn. Stat. § 169.454, Subd. 13 (Type III Vehicle Standards – Exemption)*  
*Minn. Stat. § 122A.18, Subd. 8 (Board to Issue Licenses)*  
*Minn. Stat. § 123B.03 (Background Check)*  
*Minn. Stat. § 123B.88 (Independent School Districts; Transportation)*  
*Minn. Stat. § 123B.885 (Diesel School Buses; Operation of Engine; Parking)*  
*Minn. Stat. § 123B.90 (School Bus Safety Training)*  
*Minn. Stat. § 123B.91 (School District Bus Safety Responsibilities)*  
*Minn. Stat. § 144.057 (Background Studies on Licensees and Other Personnel)*  
*Minn. Stat. Ch. 169 (Traffic Regulations)*  
*Minn. Stat. § 169.011, Subds. 15, 16, and 71 (Definitions)*  
*Minn. Stat. § 169.02 (Scope)*  
*Minn. Stat. § 169.443 (Safety of School Children; Bus Driver's Duties)*  
*Minn. Stat. § 169.446, Subd. 2 (Driver Training Programs)*

*Minn. Stat. § 169.451 (Inspecting School and Head Start Buses; Rules; Misdemeanor)*  
*Minn. Stat. § 169.454 (Type III Vehicle Standards)*  
*Minn. Stat. § 169.4582 (Reportable Offense on School Buses)*  
*Minn. Stat. §§ 169A.25-169A.27 (Driving While Impaired)*  
*Minn. Stat. § 169A.31 (Alcohol-Related School Bus or Head Start Bus Driving)*  
*Minn. Stat. §§ 169A.50-169A.53 (Implied Consent Law)*  
*Minn. Stat. § 171.02, Subds. 2, 2a, and 2b (Licenses; Types, Endorsements, Restrictions)*  
*Minn. Stat. § 171.168 (Notification of Conviction for Violation by a Commercial Driver)*  
*Minn. Stat. § 171.169 (Notification of Suspension of License of Commercial Driver)*  
*Minn. Stat. § 171.321 (Qualifications of School Bus Driver)*  
*Minn. Stat. § 171.3215, Subd. 1(c) (Canceling Bus Endorsement for Certain Offenses)*  
*Minn. Stat. §181.951 (Authorized Drug and Alcohol Testing)*  
*Minn. Stat. Ch. 245C (Human Services Background Studies)*  
*Minn. Stat. § 609.02 (Definitions)*  
*Minn. Rules Parts 7470.1000-7470.1700 (School Bus Inspection)*  
*49 C.F.R. § 383.31 (Notification of Convictions for Driver Violations)*  
*49 C.F.R. § 383.33 (Notification of Driver's License Suspensions)*  
*49 C.F.R. § 383.5 (Transportation Definitions)*

Policy #: <b>410</b>
Title: <b>FAMILY AND MEDICAL LEAVE (FMLA)</b>
Date of Initial Approval: 11-23-2015
Revision/Re-authorization Dates: 01-21-2016; 6-29-2017; 06-12-2018; 06-27-2019; 09-16-2020; 06-02-2021
Reviewers: MSA Human Resources Office

**I. PURPOSE**

Minnesota State Academies (MSA) is a state agency and is part of the executive branch of government in Minnesota. MSA follows the Family and Medical Leave Act (FMLA) set forth by Minnesota Management and Budget.

The purpose of the FMLA policy is to provide for family and medical leave to MSA employees in accordance with the Family and Medical Leave Act of 1993 and the regulations thereunder (Code of Federal Regulations (CFR), Title 29, Chapter V, Part 825).

The State of Minnesota FMLA policy and procedures can be found at:  
[https://mn.gov/mmb/assets/fmlapol-consolidated-1409\\_tcm1059-127556.pdf](https://mn.gov/mmb/assets/fmlapol-consolidated-1409_tcm1059-127556.pdf)

Policy #:413
Title: <b>HARASSMENT AND VIOLENCE</b>
Date of Initial Approval: 1995
Revision/Re-authorization Dates: 05/03/07; 11/18/10; 11/21/2013; 01/22/2015; 6/29/2017; 6/12/2018; 06/27/2019; 09/16/2020; 06/02/2021
Reviewers: MSAB Director; MSAD Director; MSA Director of Support Services; MSA Superintendent; MSA Human Resources Office

**I. PURPOSE**

The purpose of this policy is to maintain a learning and working environment for the Minnesota State Academies (MSA) 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, or disability.

**II. GENERAL STATEMENT OF POLICY**

- A. The policy of the Minnesota State Academies 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, or disability.
- B. A violation of this policy occurs when any pupil, teacher, administrator or other MSA personnel to harass a pupil, teacher, administrator or other MSA personnel or group of students, teachers, administrators, or other school 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, or disability as defined by this policy. (For purposes of this policy, MSA personnel include board members, staff, agents, volunteers, contractors or persons subject to the supervision and control of MSA.)
- C. A violation of this policy occurs when any pupil, teacher, administrator or other school personnel of MSA inflicts, threatens to inflict, or attempts to inflict violence upon any pupil, teacher, administrator or other MSA personnel or group of students, teachers, administrators, or other school 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, or disability.
- D. MSA 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, or disability, and to discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who is found to have violated this policy.

### III. DEFINITIONS

- A. **“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.
- B. **“Harassment”** prohibited by this policy consists of physical or verbal conduct, including, but not limited to, electronic communications, relating to an individual’s or group of individuals’ race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability 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.
- C. **“Sexual Harassment” and “Sexual Violence”** - Definition  
(Please refer to [MSA Policy 413.1 – Sexual Harassment and Violence Prohibition](#) for more details and definitions regarding sexual harassment prohibition)
- D. **“Immediately”** means as soon as possible but in no event longer than 24 hours.
- E. **“Protected Classifications”** - Definitions
1. **“Age”** means the person is over the age of 25 years.
  2. **“Disability”** means any condition or characteristic that renders a person a disabled person. A disabled person is any person who:
    - a. has a physical, sensory, or mental loss which materially limits one or more major life activities;
    - b. has a record of such an loss; or
    - c. is regarded as having such a loss.
  3. **“Familial status”** means the condition of one or more minors being domiciled with:
    - a. their parent or parents or the minor’s legal guardian; or
    - b. the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against harassment on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.
  4. **“Marital status”** means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in

employment cases, includes protection against harassment on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

5. **“National origin”** means the place of birth of an individual or of any of the individual’s lineal ancestors.
6. **“Sex”** includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
7. **“Sexual orientation”** means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness. “Sexual orientation” does not include a physical or sexual attachment to children by an adult.
8. **“Status with regard to public assistance”** means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

F. **“Violence”** - Definition

Violence prohibited by this policy is a physical act of aggression or assault upon another or group of individuals because of, or in a manner reasonably related to, race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.

#### IV. REPORTING PROCEDURES

- A. Any person who believes he or she has been the 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, or disability by a pupil, teacher, administrator or other employees of MSA, 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 employee or group of students, teachers, administrators, or other employees should report the alleged acts immediately to an appropriate MSA official designated by this policy. MSA encourages the reporting party or complainant to use the report form available from the MSA Human Resources Office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the MSA human rights officer or to the MSA superintendent.
- B. On Each Campus. The Director of each campus or their designee is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy at MSAB and MSAD. Any employee who receives a report of harassment or violence prohibited by this policy shall inform the director immediately. If the complaint involves the director, the

complaint shall be made or filed directly with the superintendent or the MSA Human Resources Office. Employees who fail to inform the director of a report of harassment or violence in a timely manner may be subject to disciplinary action.

- C. Upon receipt of a report, the director must notify the MSA human resources office immediately, without screening or investigating the report. The director 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 director to the human resources office. If the report was given verbally, the director shall document the verbal report into written form within 24 hours and forward it to the human resources office. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action against the director.
- D. For the Agency. The Minnesota State Academies board hereby designates the Human Resources Director as the school district human rights officer to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves the Human Resources Director, the complaint shall be filed directly with the superintendent.
- E. The Minnesota State Academies shall conspicuously post the name of the human rights officer, including mailing address and telephone number in each lounge and/or workroom.
- F. Submission of a good faith complaint or report of harassment or violence prohibited by this policy will not affect the complainant or reporter's future employment, grades or work assignments.
- G. Use of formal reporting forms is not mandatory.
- H. 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 except as permitted by law. MSA will respect the privacy of the complainant(s), the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with MSA's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

## V. INVESTIGATION

- A. Upon receipt of a report or complaint alleging harassment or violence prohibited by this policy, the human resources director shall immediately undertake or authorize an investigation. The investigation may be conducted by MSA officials or by a third party designated by MSA.

- 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, MSA 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, MSA may take immediate steps, at its discretion, to protect the complainant, students, teachers, administrators or other employees pending completion of an investigation of alleged harassment or violence prohibited by this policy.
- E. The investigation will be completed as soon as practicable. The MSA human resources director shall make a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, the report shall be filed directly with the MSA board. 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 the investigation, MSA will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. MSA action(s) taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law and MSA policies.
- B. The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant by the MSA Human Resources Office in accordance with state and federal law regarding data or records privacy.

## **VII. REPRISAL**

MSA will discipline or take appropriate action against any student, teacher, administrator or other employee who retaliates against any person who 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, 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 or harassment, or intentional disparate treatment.

**VIII. 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.

**IX. 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 MSA from taking immediate action to protect victims of alleged harassment, violence, or abuse.

**X. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy shall be conspicuously posted in each lounge and/or workroom.
- B. This policy shall be given to each MSA employee and independent contractor at the time of entering into the person's employment contract. The Human Resources Office will support employees who may need assistance in understanding this policy.
- C. This policy shall appear in the student handbook.
- D. MSA will require each employee to read and understand this policy as part of our annual policy review. Supervisors/Directors will support employees who may need assistance in understanding this policy. As part of annual student orientation, directors of each campus will discuss this policy with students at the beginning of each school year
- E. MSA will seek out ways to implement violence prevention and character development education programs to prevent and reduce policy violations. Such programs may offer instruction on character education including, but not limited to, character qualities such as attentiveness, truthfulness, respect for authority, diligence, gratefulness, self-discipline, patience, forgiveness, respect for others, peacemaking, and resourcefulness.
- F. This policy shall be reviewed at least annually for compliance with state and federal law.

**Legal References:**

Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)  
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)  
Minn. Stat. § 609.341 (Definitions)

Minn. Stat. § 626.556 et seq. (Reporting of Maltreatment of Minors)  
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)  
29 U.S.C. § 621 et seq. (Age Discrimination in Employment Act)  
29 U.S.C. § 794 (Rehabilitation Act of 1973, § 504)  
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)  
42 U.S.C. § 2000d et seq. (Title VI of the Civil Rights Act of 1964)  
42 U.S.C. § 2000e et seq. (Title VII of the Civil Rights Act)  
42 U.S.C. § 12101 et seq. (Americans with Disabilities Act)  
Puller v. Indep. Sch. Dist. No. 701, 528 N. W. 2d 273 (Minn. Ct. App. 1998)

***Cross References:***

MSBA/MASA Model Policy 102 (Equal Educational Opportunity)  
MSBA/MASA Model Policy 401 (Equal Employment Opportunity)  
MSBA/MASA Model Policy 402 (Disability Nondiscrimination Policy)  
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 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)  
MSBA/MASA Model Policy 506 (Student Discipline)  
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)  
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)  
MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)  
MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)  
MSBA/MASA Model Policy 525 (Violence Prevention)  
MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)  
MSA Policy 413.1 (Sexual Harassment Prohibition)

***Appendices:***

Appendix 413-A

Policy #: 414
Title: <b>MANDATED REPORTING OF CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE</b>
Date of Initial Approval: 10/27/2016
Revision/Re-authorization Dates: 06/12/2018; 06/27/2019; 09/16/2020; 06/02/2021
Reviewers: MSAB Director; MSAD Director; MSA Director of Student Support Services

***[Note: This policy reflects the mandatory law regarding reporting of maltreatment of minors and is not discretionary in nature.]***

**I. PURPOSE**

The purpose of this policy is to make clear the statutory requirements of school personnel to report suspected child neglect or physical or sexual abuse.

**II. GENERAL STATEMENT OF POLICY**

- A. The policy of the school district is to fully comply with Minn. Stat. § 626.556 requiring school personnel to report suspected child neglect or physical or sexual abuse.
- B. A violation of this policy occurs when any employee fails to immediately report instances of child neglect or physical or sexual abuse when the school personnel knows or has reason to believe a child is being neglected or physically or sexually abused or has been neglected or physically or sexually abused within the preceding three years.

**III. DEFINITIONS**

- A. "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:
  - 1. is not likely to occur and could not have been prevented by exercise of due care; and
  - 2. if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence of event.
- B. "Child" means one under 18 years of age and, for purposes of Minn. Stat. Ch. 260C (Child Protection) and Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment), includes an individual under age 21 who is in foster care pursuant to Minn. Stat. § 260C.451 (Foster Care Benefits Past Age 18).
- C. "Immediately" means as soon as possible but in no event longer than 24 hours.
- D. "Mandated reporter" means any employee who knows or has reason to believe a child is being neglected or physically or sexually abused or has been neglected or physically or sexually abused within the preceding three years.
- E. "Neglect" means the commission or omission of any of the acts specified below, other than by accidental means:

1. failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
2. failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so;
3. failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors such as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for his or her own basic needs or safety or the basic needs or safety of another child in his or her care;
4. failure to ensure that a child is educated in accordance with state law, which does not include a parent's refusal to provide his or her child with sympathomimetic medications;
5. prenatal exposure to a controlled substance used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child's birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance or the presence of a fetal alcohol spectrum disorder;
6. medical neglect as defined by Minn. Stat. § 260C.007, Subd. 4, Clause (5);
7. chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or
8. emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

Neglect does not include spiritual means or prayer for treatment or care of disease where the person responsible for the child's care in good faith has selected and depended on those means for treatment or care of disease, except where the lack of medical care may cause serious danger to the child's health.

- F. "Non-maltreatment mistake" means: (1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minn. Rules Part 9503.0045; (2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years; (3) the individual has not been determined to have committed a similar non-maltreatment mistake under this paragraph for at least four years; (4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and (5) except for

- the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident. This definition only applies to childcare centers licensed under Minn. Rules Ch. 9503
- G. "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care other than by accidental means; or any physical or mental injury that cannot reasonably be explained by the child's history of injuries or any aversive or deprivation procedures, or regulated interventions, that have not been authorized by Minn. Stat. § 121A.67 or § 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by Minn. Stat. § 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child: (1) throwing, kicking, burning, biting, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) striking or other actions which result in any non-accidental injury to a child under 18 months of age; (5) unreasonable interference with a child's breathing; (6) threatening a child with a weapon, as defined in Minn. Stat. § 609.02, Subd. 6; (7) striking a child under age one on the face or head; (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child, or giving the child other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury, or subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances; (9) unreasonable physical confinement or restraint not permitted under Minn. Stat. § 609.379 including, but not limited to, tying, caging, or chaining; or (10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under Minn. Stat. § 121A.58.
- H. "School personnel" means professional employee or professional's delegate of the school district who provides health, educational, social, psychological, law enforcement, or childcare services.
- I. "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child (as defined in Minn. Stat. § 609.341, Subd. 15), or by a person in a position of authority (as defined in Minn. Stat. § 609.341, Subd. 10) to any act which constitutes a violation of Minnesota statutes prohibiting criminal sexual conduct. Such acts include sexual penetration as well as sexual contact. Sexual abuse also includes any act involving a minor which constitutes a violation of Minnesota statutes prohibiting prostitution or use of a minor in a sexual performance. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a

violation which requires registration under Minn. Stat. § 243.166, Subd. 1b(a) or (b) (Registration of Predatory Offenders).

- J. "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.
- K. "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.
- L. "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care who has subjected the child to, or failed to protect a child from, egregious harm, or a person whose parental rights were involuntarily terminated, been found palpably unfit, or one from whom legal and physical custody of a child has been involuntarily transferred to another.

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

- A. A mandated reporter as defined herein shall immediately report the neglect or physical or sexual abuse, which he or she knows or has reason to believe is happening or has happened within the preceding three years to the local welfare agency, police department, county sheriff, or agency responsible for assisting or investigating maltreatment.
- B. If the immediate report has been made orally, by telephone or otherwise, the oral report shall be followed by a written report within 72 hours (exclusive of weekends and holidays) to the appropriate police department, the county sheriff, local welfare agency, or agency responsible for assisting or investigating maltreatment. The written report shall identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. A copy of this report shall be filed in the superintendent's office.
- C. Regardless of whether a report is made, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident has occurred and may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

- D. A mandated reporter who knows or has reason to know of the deprivation of parental rights or the kidnapping of a child shall report the information to the local police department or the county sheriff.
- E. With the exception of a health care professional or a social service professional who is providing the woman with prenatal care or other health care services, a mandated reporter shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.
- F. A person mandated by Minnesota law and this policy to report who fails to report may be subject to criminal penalties and/or discipline, up to and including termination of employment.
- G. Submission of a good faith report under Minnesota law and this policy will not adversely affect the reporter's employment, or the child's access to school. Employees who submit reports will be protected to the fullest extent possible against any reprisals.
- H. Any person who knowingly or recklessly makes a false report under the provisions of applicable Minnesota law or this policy shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, and the reckless making of a false report may result in discipline. The court may also award attorney's fees.

**[Note: The Minnesota Department of Education (MDE) is responsible for assessing or investigating allegations of child maltreatment in schools. Although a report may be made to any of the agencies listed in Section IV. A., above, and there is no requirement to file more than one report, if the initial report is not made to MDE, it would be helpful to MDE if schools also report to MDE.]**

## **V. INVESTIGATION**

- A. The responsibility for investigating reports of suspected neglect or physical or sexual abuse rests with the appropriate county, state, or local agency or agencies. The agency responsible for assessing or investigating reports of child maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing safety and risk to the child, and formulating a plan. The investigating agency may interview the child at school. The interview may take place outside the presence of a school official. The investigating agency, not the school, is responsible for either notifying or withholding notification of the interview to the parent, guardian or person responsible for the child's care. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the

local welfare or law enforcement agency that the investigation or assessment has been concluded.

- B. When the investigating agency determines that an interview should take place on school property, written notification of intent to interview the child on school property will be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. The investigating agency will be responsible for bringing qualified interpreters and/or interveners to support communication with a deaf child.
- C. Except where the alleged perpetrator is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school employees when an interview is conducted on school premises.
- D. Where the alleged perpetrator is believed to be a school official or employee, the school district shall conduct its own investigation independent of MDE and, if involved, the local welfare or law enforcement agency.
- E. Upon request by MDE, the school district shall provide all requested data that are relevant to a report of maltreatment and are in the possession of a school facility, pursuant to an assessment or investigation of a maltreatment report of a student in school. The school district shall provide the requested data in accordance with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

## **VI. MAINTENANCE OF SCHOOL RECORDS CONCERNING ABUSE OR POTENTIAL ABUSE**

- A. When a local welfare or local law enforcement agency determines that a potentially abused or abused child should be interviewed on school property, written notification of the agency's intent to interview on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct the interview. The notification shall be private data. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notice or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation has been concluded.

- B. All records regarding a report of maltreatment, including any notification of intent to interview which was received by the school as described above in Paragraph A., shall be destroyed by the school only when ordered by the agency conducting the investigation or by a court of competent jurisdiction.

**VII. PHYSICAL OR SEXUAL ABUSE AS SEXUAL HARASSMENT OR VIOLENCE**

Under certain circumstances, alleged physical or sexual abuse may also be sexual harassment or violence under Minnesota law. If so, the duties relating to the reporting and investigation of such harassment or violence may be applicable.

**VIII. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy shall appear in school personnel handbooks.  
B. The school district will develop a method of discussing this policy with school personnel.  
C. This policy shall be reviewed at least annually for compliance with state law.

**Legal References:**

*Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)*  
*Minn. Stat. § 121A.58 (Corporal Punishment)*  
*Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)*  
*Minn. Stat. § 121A.67 (Aversive and Deprivation Procedures)*  
*Minn. Stat. § 243.166, Subd. 1b(a)(b) (Registration of Predatory Offenders)*  
*Minn. Stat. § 245.825 (Use of Aversive or Deprivation Procedures)*  
*Minn. Stat. § 260C.007, Subd. 4, Clause (5) (Child in Need of Protection)*  
*Minn. Stat. § 260C.451 (Foster Care Benefits Past Age 18)*  
*Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment)*  
*Minn. Stat. § 609.02, Subd. 6 (Definitions – Dangerous Weapon)*  
*Minn. Stat. § 609.341, Subd. 10 (Definitions – Position of Authority)*  
*Minn. Stat. § 609.341, Subd. 15 (Definitions – Significant Relationship)*  
*Minn. Stat. § 609.379 (Reasonable Force)*  
*Minn. Stat. § 626.556 et seq. (Reporting of Maltreatment of Minors)*  
*Minn. Stat. § 626.5561 (Reporting of Prenatal Exposure to Controlled Substances)*  
*20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)*

**Cross References:**

*MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)*

Policy #: <b>415</b>
Title: <b>MANDATED REPORTING OF MALTREATMENT OF VULNERABLE ADULTS</b>
Date of Initial Approval: 04/21/2016
Revision/Re-authorization Dates: 06/29/2017; 06/12/2018; 06/27/2019; 09/16/2020; 06/02/2021
Reviewers: MSAB Director; MSAD Director; MSA Director of Student Support Services

**I. PURPOSE**

The purpose of this policy is to make clear the statutory requirements of school personnel to report suspected maltreatment of vulnerable adults.

**II. GENERAL STATEMENT OF POLICY**

- A. The policy of the school district is to fully comply with Minn. Stat. § 626.557 requiring school personnel to report suspected maltreatment of vulnerable adults.
- B. It shall be a violation of this policy for any school personnel to fail to report suspected maltreatment of vulnerable adults when the school personnel has reason to believe that a vulnerable adult is being or has been maltreated, or has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained.

**III. DEFINITIONS**

- A. **“Mandated Reporters”** means any school personnel who have reason to believe that a vulnerable adult is being or has been maltreated.
- B. **“Maltreatment”** means the neglect, abuse, or financial exploitation of a vulnerable adult.
- C. **“Neglect”** means the failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is: (1) reasonable and necessary to obtain or maintain the vulnerable adult’s physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and (2) which is not the result of an accident or therapeutic conduct. Neglect also includes the absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult’s health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult. Neglect does not include actions specifically excluded by Minn. Stat. § 626.5572, Subd. 17.

- D. **“Abuse”** means: (a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of: (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224; (2) the use of drugs to injure or facilitate crime as defined in section 609.235; (3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and (4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451. A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction. (b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following: (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult; (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; (3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and (4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825. (c) Any sexual contact or penetration as defined in section 609.341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility. (d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult’s will to perform services for the advantage of another. Abuse does not include actions specifically excluded by Minn. Stat. § 626.5572, Subd. 2.
- E. **“Financial Exploitation”** means a breach of a fiduciary duty by an actor’s unauthorized expenditure of funds entrusted to the actor for the benefit of the vulnerable adult or by an actor’s failure to provide food, clothing, shelter, health care, therapeutic conduct or supervision, the failure of which results or is likely to result in detriment to the vulnerable adult. Financial exploitation also includes: the willful use, withholding or disposal of funds or property of a vulnerable adult; the obtaining of services for wrongful profit or advantage which results in detriment to the vulnerable adult; the acquisition of a vulnerable adult’s funds or property through undue influence, harassment, duress, deception or fraud; and the use of force, coercion, or enticement to cause a vulnerable adult to perform services against the vulnerable adult’s will for the profit or advantage of another.
- F. **“Vulnerable Adult”** means any person 18 years of age or older who: (1) is a resident or inpatient of a facility; (2) receives services at or from a licensed facility which serves adults as set forth in Minn. Stat. § 626.5572, Subd.

- 21(a)(2); (3) receives services from a licensed home care provider or home care provider service; or (4) regardless of residence or type of service received possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to adequately provide the person's own care without assistance or supervision and, because of the dysfunction or infirmity and need for care or services, has an impaired ability to protect the individual's self from maltreatment.
- G. **"Caregiver"** means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.
- H. **"School Personnel"** means professional employees or their delegates of the school district engaged in providing health, educational, social, psychological, law enforcement, or other caretaking services of vulnerable adults.
- I. **"Immediately"** means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

#### IV. REPORTING PROCEDURES

- A. A mandated reporter as defined herein shall immediately report the suspected maltreatment to the designated county entity.
- B. Whenever a mandated reporter, as defined herein, knows or has reason to believe that an individual made an error in the provision of therapeutic conduct to a vulnerable adult which results in injury or harm, which reasonably requires the care of a physician, such information shall be reported immediately to the designated county agency. The mandated reporter also may report a belief that the error did not constitute neglect and why the error does not constitute neglect.
- C. The reporter shall to the extent possible identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected abuse or neglect. A mandated reporter may disclose *not public data* as defined under Minn. Stat. § 13.02 to the extent necessary to comply with the above reporting requirements.
- D. A person mandated to report suspected maltreatment of a vulnerable adult who negligently or intentionally fails to report is liable for damages caused by the failure. A negligent or intentional failure to report may result in discipline. A mandatory reporter who intentionally fails to make a report, who knowingly

provides false or misleading information in reporting, or who intentionally fails to provide all the material circumstances surrounding the reported incident may be guilty of a misdemeanor.

- E. Retaliation against a person who makes a good faith report under Minnesota law and this policy or against vulnerable adult who is named in a report is prohibited.
- F. Any person who intentionally makes a false report under the provisions of applicable Minnesota law or this policy shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury. The intentional making of a false report may result in discipline.

## **V. INVESTIGATION**

The responsibility for investigating reports of suspected maltreatment of a vulnerable adult rests with the entity designated by the county for receiving reports.

## **VI. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy shall appear in school personnel handbooks.
- B. The school district will develop a method of discussing this policy with school personnel.
- C. This policy shall be reviewed at least annually for compliance with state law.

### **Legal References:**

Minn. Stat. § 13.02 (Collection, Security, and Dissemination of Records; Definitions)  
Minn. Stat. § 245.825 (Aversive and Deprivation Procedures; Licensed Facilities and Services)  
Minn. Stat. §§ 609.221-609.224 (Assault)  
Minn. Stat. § 609.234 (Crimes Against the Person)  
Minn. Stat. § 609.235 (Use of Drugs to Injure or Facilitate Crime)  
Minn. Stat. § 609.322 (Solicitation, Inducement, and Promotion of Prostitution; Sex Trafficking)  
Minn. Stat. § 609.341 (Definitions)  
Minn. Stat. §§ 609.342-609.3451 (Criminal Sexual Conduct)  
Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)  
Minn. Stat. § 626.5572 (Definitions)  
*In re Kleven*, 736 N.W.2d 707 (Minn. App. 2007)

### **Cross References:**

MSBA/MASA Model Policy 103 (Complaints – Students, Employees, Parents, Other Persons)  
MSBA/MASA Model Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee, or Student)  
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)

Policy #: <b>506</b>
<b>Title: STUDENT DISCIPLINE</b>
Date of Initial Approval: 03/07/2013
Revision/Re-authorization Dates: 01/22/2015; 6/29/2017; 11/29/2018; 09/16/2020; 06/02/2021
Reviewers: MSAB Director; MSAD Director; MSA Director of Student Support Services; MSA Superintendent

**I. PURPOSE**

The purpose of this policy is to ensure that students are aware of and comply with the Minnesota State Academies' expectations for student conduct. Such compliance will enhance the Minnesota State Academies' ability to maintain discipline and ensure that there is no interference with the educational process. The Minnesota State Academies (MSA) will take appropriate disciplinary action when students fail to adhere to the Code of Student Conduct established by this policy.

**II. GENERAL STATEMENT OF POLICY**

The MSA Board recognizes that individual responsibility and mutual respect are essential components of the educational process. The MSA Board further recognizes that nurturing the maturity of each student is of primary importance and is closely linked with the balance that must be maintained between authority and self-discipline as the individual progresses from a child's dependence on authority to the more mature behavior of self-control.

All students are entitled to learn and develop in a setting which promotes respect of self, others, and property. Proper positive discipline can only result from an environment which provides options and stresses student self-direction, decision-making, and responsibility. MSA can function effectively only with internal discipline based on mutual understanding of rights and responsibilities.

Students must conduct themselves in an appropriate manner that maintains a climate in which learning can take place. Overall decorum affects student attitudes and influences student behavior. Proper student conduct is necessary to facilitate the education process and to create an atmosphere conducive to high student achievement.

Although this policy emphasizes the development of self-discipline, it is recognized that there are instances when it will be necessary to administer disciplinary measures. The position of MSA is that a fair and equitable agency-wide student discipline policy will contribute to the quality of the student's educational experience. This discipline policy is adopted in accordance with and subject to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56. In view of the foregoing and in accordance with Minn. Stat. § 121A.55, the MSA Board, with the participation of MSA administrators, teachers,

employees, students, parents, community members, and such other individuals and organizations as appropriate, has developed this policy which governs student conduct and applies to all students of MSA.

### III. **AREAS OF RESPONSIBILITY**

#### **A. The MSA Board:**

The MSA Board holds all employees responsible for the maintenance of order within the agency and supports all personnel acting within the framework of this discipline policy.

#### **B. Superintendent.**

The superintendent shall establish guidelines and directives to carry out this policy, hold all MSA employees, students, and parents responsible for conforming to this policy, and support all MSA employees performing their duties within the framework of this policy. The superintendent shall also establish guidelines and directives for using the services of appropriate agencies for assisting students and parents to be included within MSA procedures.

#### **C. Directors:**

The Directors of MSAB, MSAD, and MSA Student Support Services are responsible and authorized to develop rules and regulations necessary to enforce this policy, following parameters established in this policy, to be included in the Parent-Student Handbook and the Student Code of Conduct. The directors shall give direction and support to all MSA employees performing their duties within the framework of this policy. The directors shall consult with parents of students conducting themselves in a manner contrary to the policy to share information and gather input on how to support the student better. The directors shall also involve other professional employees in the disposition of behavior referrals and shall make use of appropriate external resources to assist students and parents. Directors, in exercising their lawful authority, may use reasonable force when necessary under the circumstances to correct or restrain a student, or to prevent bodily harm or death to another.

#### **D. Teachers.**

All teachers are responsible for providing a well-planned teaching/learning environment and shall have primary responsibility for student conduct, with appropriate assistance from the administration. All teachers shall enforce the Code of Student Conduct consistently. In exercising the teacher's lawful authority, a teacher may use reasonable force when necessary under the circumstances to correct or restrain a student, or to prevent bodily harm or death to another.

#### **E. Other Minnesota State Academies Employees.**

All MSA employees, including contractors, are responsible for contributing to the atmosphere of mutual respect at MSA. Their responsibilities related to student behavior shall be as authorized and directed by the superintendent or directors of MSA. All employees of MSA, in exercising his or her lawful authority, may use

reasonable force when necessary under the circumstances to restrain a student or prevent bodily harm or death to another.

**F. Parents or Legal Guardians.**

Parents and guardians shall be held responsible for the behavior of their children as determined by law and community practice. They are expected to cooperate with MSA administrators and to participate respectfully in discussions and decisions regarding the behavior of their children.

**G. Students.**

All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy.

**H. Community Members.**

Members of the community are expected to contribute to the establishment of an atmosphere in which rights and duties are effectively acknowledged and fulfilled. MSA administrators and employees shall provide educational materials, guidance, and instruction to community members whenever possible to assist community members in understanding the needs of our students and how to accommodate them within the community without lowering expectations for behavior and conduct.

**IV. STUDENT RIGHTS**

All students have the right to an education and the right to learn in a comfortable, safe, and accessible educational environment. To achieve this, MSA will develop disciplinary procedures and rules in order to provide this type of environment for all students at MSA.

**V. STUDENT RESPONSIBILITIES**

All students are responsible:

- A. For their behavior and for understanding and complying with all MSA rules, regulations, policies, and procedures documented in the Parent-Student handbook;
- B. To attend classes and other educational activities at MSA daily, except when excused, and to be on time to all classes and other MSA functions;
- C. To pursue and attempt to complete the courses of study prescribed by the state of Minnesota and MSA board;
- D. To make necessary arrangements for making up work when absent from classes at MSA;
- E. To assist the MSA staff in maintaining a safe educational environment at MSA for all students;
- F. To assume that until a rule or policy is waived, altered, or repealed, it is in full force and effect;
- G. To be aware of and comply with federal, state, and local laws;
- H. To volunteer information in disciplinary cases should they have any knowledge relating to such cases and to cooperate with MSA staff as appropriate;

- I. To respect and maintain MSA property and the property of others;
- J. To dress and groom themselves in a manner which meets standards of safety and health, and common standards of decency which are consistent with applicable MSA regulations;
- K. To avoid inaccuracies in student newspapers or publications and refrain from indecent or obscene language;
- L. To conduct themselves in an appropriate physical or verbal manner; and
- M. To recognize and respect the rights of others.

## **VI. CODE OF STUDENT CONDUCT**

The Minnesota State Academies has an obligation to provide a safe, secure, and peaceful learning environment for the school community, including students, staff (all school employees and school board members), parents, and volunteers as defined throughout the Code. Therefore, the school-wide Code of Conduct that supports a proper academic and social setting so that all participants can enjoy a productive and positive educational experience. The Code of Conduct is subject to annual review and is published annually as part of the Parent-Student Handbook. All provisions outlined in the Code of Conduct apply to the entire school community. It is everyone's responsibility to respect the educational process. Disruptions of the educational process will not be tolerated. Infractions of this Code of Conduct will be carefully assessed and the rights and responsibilities of the student and the school community will be upheld in order to promote the safety and positive self-image of the school community and to ensure a positive learning environment.

Please refer to the Parent-Student Handbook for specific information regarding discipline, behavior expectations, and possible consequences, including investigation procedures and IEP-related steps regarding student discipline.

## **VII. DISCIPLINARY ACTION OPTIONS**

The general policy of MSA is to utilize progressive discipline to the extent reasonable and appropriate based upon the specific facts and circumstances of student misconduct. The specific form of discipline chosen in a particular case is solely within the discretion of MSA administrators. At a minimum, violation of MSA rules, regulations, policies, or procedures will result in discussion of the violation and a verbal warning. MSA shall, however, impose more severe disciplinary sanctions for any violation, including exclusion or expulsion, if warranted by the student's misconduct, as determined by the MSA administrator in charge of the investigation. Disciplinary action may include, but is not limited to, one or more of the following

- A. Student conference with teacher, director, counselor, or other MSA employee, and verbal warning;
- B. Confiscation by MSA directors/supervisors or their designees and/or by law enforcement of any item prohibited by, or used in the violation of, any MSA policy, rule, regulation, procedure, or state or federal law. If confiscated by MSA, the confiscated item will be released only to the parent/guardian

- following the completion of any investigation or disciplinary action instituted or taken related to the violation.
- C. Parent contact/conference;
  - D. Removal from class;
  - E. Suspension from school, dorm, or extracurricular activities (all suspensions must be accompanied by an admission/readmission plan);
  - F. Detention or restriction/loss of privileges;
  - G. Individual monitoring/close supervision or revised class schedule;
  - H. Referral to MSA support services, community resources, and/or outside agency services;
  - I. Financial restitution;
  - J. Referral to police, other law enforcement agencies, or other appropriate authorities, including the possibility of a request for a petition to be filed in district court for juvenile delinquency adjudication;
  - K. Long-Term Out-of-School suspension, expulsion, or exclusion under the Pupil Fair Dismissal Act; and/or
  - L. Other disciplinary actions as deemed appropriate by MSA.

#### **VIII. REMOVAL OF STUDENTS FROM CLASS**

- A. Teachers have the responsibility of attempting to modify disruptive student behavior by such means as conferring with the student, using positive reinforcement, assigning detention or other consequences, or contacting the student's parents. When such measures fail, or when the teacher determines it is otherwise appropriate based upon the student's conduct, the teacher shall have the authority to remove the student from class pursuant to the procedures established by MSA. "Removal from class" and "removal" mean any actions taken by a teacher, director, or other MSA employee to prohibit a student from attending a class or activity period for a period of time not to exceed five (5) days, pursuant to this discipline policy.

Grounds for removal from class shall include any of the following:

1. Willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
2. Willful conduct that endangers surrounding persons, including MSA employees, the student or other students, or the property of MSA;
3. Willful violation of any MSA rules, regulations, policies or procedures, as outlined in the parent-student handbook; or
4. Other conduct, which in the discretion of the teacher or administration, requires removal of the student from class.

Such removal shall be for at least one (1) activity period or class period of instruction for a given course of study and shall not exceed five (5) such periods.

- B. If a student is removed from class more than ten (10) times in an academic year, MSA shall notify the parent or guardian of the student's tenth removal from class and make reasonable attempts to convene a meeting with the student's parent or guardian to discuss the problem that is causing the student to be removed from class. The student's IEP team should be convened to consider the need for a Functional Behavior Assessment (FBA) and/or a Behavior Intervention Plan (BIP).
- C. Procedures for Removal and Return of a Student from a Class and Notification Requirements: Teachers are required to follow the legal procedures prescribed in law if and when they exercise their authority to remove a student from class. Those procedures will be specified by the MSA directors and reviewed annually with teachers at the beginning of each academic year.
1. The school procedures for teachers to remove a student will include the following:
    - a. Specify procedures to be followed by a teacher, administrator, or other MSA employee to remove a student from a class;
    - b. Specify required approvals necessary;
    - c. Specify paperwork and reporting procedures;
    - d. Designation of where student is to go when removed;
    - e. Designation of how student is to get to designated destination;
    - f. Whether student must be accompanied;
    - g. Statement of what student is to do when and while removed;
    - h. Designation of who has control over and responsibility for student after removal from class.
  2. The school procedures for teachers to return a student to class after removal will include the following:
    - a. Specific procedures to be followed by a teacher, administrator, or other MSA employee to return a student to class after removal;
    - b. Actions or approvals required such as notes, conferences, and/or readmission plans;
    - c. Procedures for consideration of whether there is a need for further assessment;
    - d. Procedures for consideration of whether there is a need for a review of the adequacy of the current Individualized Education Plan (IEP) and/or the student's Behavior Intervention Plan (BIP) of a student who is removed from class or disciplined; and
    - e. Any procedures determined appropriate for referring students in need of special services to those services.
  3. The school procedures for teachers to notify parents/guardians and other employees who work with the student will include the following:
    - a. Specific procedures for notifying students and parents/guardians of violations of the rules of conduct and resulting in disciplinary action;

- b. Actions or approvals required, such as notes, conferences, and/or readmission plans; and
  - c. The person(s) responsible for communicating with parents/guardians and employees who work with the student and the extent of information to be shared.
4. When a student is removed from class, employees should consider the following prior to return to class:
- a. Staff Procedures for Detecting and Addressing Substance Abuse Problems of Students While on Minnesota State Academies Premises.
  - b. Establishment of a chemical abuse pre-assessment team pursuant to Minn. Stat. § 121A.26;
  - c. Establishment of a MSA and community advisory team to address chemical abuse problems pursuant to Minn. Stat. § 121A.27; and
  - d. Establishment of teacher reporting procedures to the chemical abuse pre-assessment team pursuant to Minn. Stat. § 121A.29.
  - e. Teacher procedures for immediate and appropriate interventions tied to violations of rules and regulations as outlined in the Parent-Student Handbook.
  - f. Any procedures determined appropriate for encouraging early involvement of parents/guardians in attempts to improve a student's behavior and/or early detection of behavioral problems.

## **IX. DISMISSAL**

“Dismissal” means the denial of the current educational program to any student, including suspension, exclusion, and/or expulsion. Dismissal does not include removal from class.

MSA shall not deny due process or equal protection of the law to any student involved in a dismissal proceeding which may result in suspension, exclusion or expulsion.

MSA shall not dismiss any student without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property.

Violations leading to suspension, based upon severity, may also be grounds for actions leading to expulsion, and/or exclusion. A student may be dismissed on any of the following grounds:

1. Willful violation of any reasonable MSA Board regulation, including those found in this policy;

2. Willful conduct that significantly disrupts the rights of others to an education, or the ability of MSA employees to perform their duties, or MSA sponsored extracurricular activities; or
3. Willful conduct that endangers the student or other students, or surrounding persons, including MSA employees, or property of MSA.

### **Suspension Procedures**

1. "Suspension" means an action by MSA administrators, under policies developed by the MSA Board, prohibiting a student from attending MSA for a period of no more than ten (10) days; provided, however, if a suspension is longer than five (5), the suspending administrator shall provide the superintendent with a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) day or less when a student with a disability does not receive regular or special education instruction during that dismissal period.
2. MSA is a special-education placement. Thus, MSA must follow all laws, rules, and regulations in the Individuals with Disabilities Education Act (IDEA). Based on this, decisions regarding suspension, expulsion, and/or exclusion must be made on the following principles:
  - a. The school principal can remove a student who is receiving special education services from his or her educational program for a maximum of 10 cumulative days per school year (including in-school suspension if regular education services are not provided).
  - b. A student can be suspended for more than 10 school days in a school year, but must receive a free appropriate public education on the 11th day and after.
  - c. The IEP team must consider if the student's behavior was caused by his/her disability. If the behavior was not caused by the disability, disciplinary action can be applied as would be with any other student. If the team decides that the behavior was caused by the disability, the student may not be suspended or removed. The team may, however, change the student's placement through the IEP process.
  - d. After a student has been suspended for 10 school days in a school year, the student's IEP team must convene to develop a FBA and a BIP. If one already exists, the IEP team must consider what revisions may be needed. Relevant members of the child's IEP team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the curriculum and to progress toward meeting the goals in the child's IEP. That meeting must occur as soon as possible after the tenth (10<sup>th</sup>) cumulative day of suspension has elapsed.

- e. A principal or instructional supervisor may order that a student with a disability be placed in another educational setting for no more than 45 calendar days if the student is in possession of a dangerous weapon or is selling, using, or possessing drugs at school or a school function, or has inflicted severe bodily injury on another at school, or school premises or at a school function under MSA jurisdiction.
- f. MSA shall implement alternative educational services when the suspension exceeds five (5) days. Alternative educational services may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessments, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center under Minn. Stat. § 123A.05 selected to allow the pupil to progress toward meeting graduation standards under Minn. Stat. § 120B.02, although in a different setting.
- g. MSA shall not suspend a student without an informal administrative conference with the student. The informal administrative conference shall take place before the suspension, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension. At the informal administrative conference, a MSA administrator shall notify the student of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the student may present the student's version of the facts. A separate administrative conference is required for each period of suspension.
- h. Each suspension action must include a readmission plan. The plan shall include, when appropriate, a provision for implementing alternative educational services upon readmission which must not be used to extend the current suspension. A readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. MSA administration must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening, or examination of the student as a ground, by itself, to prohibit the student from attending class or participating in MSA educational activities, or as a basis of a charge of child abuse, child neglect, or medical or educational neglect.

MSA administration may not impose consecutive suspensions against the same student for the same course of conduct, or incident of misconduct, except where the student will create an immediate and substantial danger to self or to surrounding persons or property or when MSA is in the process of initiating an expulsion, in which case MSA administration may extend the suspension to a total of fifteen (15) days.

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3. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56, shall be personally served upon the student at or before the time the suspension is to take effect, and upon the student's parent or guardian by mail within forty-eight (48) hours of the conference.
4. MSA administrators shall make reasonable efforts to notify the student's parents/guardians of the suspension as soon as possible following the incident.
5. In the event a student is suspended without an informal administrative conference on the grounds that the student will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the student and the student's parent or guardian within forty-eight (48) hours of the suspension. Service by mail shall be complete upon mailing.
6. Notwithstanding the foregoing provisions, the student may be suspended pending the MSA Board's decision in an expulsion or exclusion proceeding, provided that alternative educational services are implemented to the extent that suspension exceeds five (5) days.

### **Expulsion and Exclusion Procedures**

1. "Expulsion" means a MSA Board action to prohibit an enrolled student from further attendance for up to twelve (12) months from the date the student is expelled. The authority to expel rests with the MSA Board.
2. "Exclusion" means an action taken by the MSA Board to prevent enrollment or re-enrollment of a student for a period that shall not extend beyond the academic year. The authority to exclude rests with the MSA Board.
3. All expulsion and exclusion proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§121A.40-121A.56.

4. No expulsion or exclusion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the student and parent/guardian.
5. The student and parent or guardian shall be provided written notice of MSA's intent to initiate expulsion or exclusion proceedings. This notice shall be served upon the student and their parent/guardian personally or by mail, and shall contain a complete statement of the facts; a list of the witnesses and a description of their testimony; state the date, time and place of hearing; be accompanied by a copy of the Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56; describe alternative educational services accorded the student in an attempt to avoid the expulsion proceedings; and inform the student and parent or guardian of their right to: (1) have a representative of the student's own choosing, including legal counsel at the hearing; (2) examine the student's records before the hearing; (3) present evidence; and (4) confront and cross-examine witnesses. MSA shall advise the student's parent/ guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Minnesota Department of Education (MDE).
6. The hearing shall be scheduled within ten (10) days of the service of the written notice unless an extension, not to exceed five (5) days, is requested for good cause by MSA, student, parent, or guardian.
7. All hearings shall be held at a time and place reasonably convenient to the student and parent/guardian and shall be closed, unless the student and parent/guardian requests an open hearing.
8. MSA shall record the hearing proceedings at MSA's expense, and a party may obtain a transcript at its own expense.
9. The student shall have a right to a representative of the student's own choosing, including legal counsel, at the student's sole expense. MSA shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from MDE. The MSA Board may appoint an attorney to represent MSA in any proceeding.
10. If the student designates a representative other than the parent or guardian, the representative must have a written authorization from the student and the parent/guardian providing them with access to and/or copies of the student's records.
11. All expulsion or exclusion hearings shall take place before and be conducted by an independent hearing officer designated by MSA. The

hearing shall be conducted in a fair and impartial manner. Testimony shall be given under oath and the hearing officer shall have the power to issue subpoenas and administer oaths.

12. At a reasonable time prior to the hearing, the student, parent or guardian, or authorized representative shall be given access to all MSA records pertaining to the student, including any tests or reports upon which the proposed dismissal action may be based.
13. The student, parent or guardian, or authorized representative, shall have the right to compel the presence of any MSA employee or agent or any other person who may have evidence upon which the proposed dismissal action may be based, and to confront and cross-examine any witnesses testifying for MSA.
14. The student, parent or guardian, or authorized representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.
15. The student cannot be compelled to testify in the dismissal proceedings.
16. The hearing officer shall prepare findings and a recommendation based solely upon substantial evidence presented at the hearing, which must be made to the MSA Board and served upon the parties within two (2) days after the close of the hearing.
17. The MSA Board shall base its decision upon the findings and recommendation of the hearing officer and shall render its decision at a meeting held within five (5) days after receiving the findings and recommendation. The MSA Board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's findings and recommendation provided that neither party presents any evidence not admitted at the hearing. The decision by the MSA Board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the Commissioner of Education (Commissioner) of the basis and reason for the decision.
18. A party to an expulsion or exclusion decision made by the MSA Board may appeal the decision to the Commissioner within twenty-one (21) calendar days of MSA Board action pursuant to Minn. Stat. § 121A.49. The decision of the MSA Board shall be implemented during the appeal to the Commissioner.

19. MSA shall report any suspension, expulsion or exclusion action taken to the appropriate public service agency, when the student is under the supervision of such agency.
20. MSA must report, through the MDE electronic reporting system, each expulsion or exclusion within thirty (30) days of the effective date of the action to the Commissioner. This report must include a statement of alternative educational services given the student and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status. The dismissal report must include state student identification numbers of affected students.
21. Whenever a student fails to return to MSA within ten (10) days of the termination of dismissal, a MSA administrator shall inform the student and their parent or guardian by mail of the student's right to attend and to be reinstated at MSA.
22. A MSA administrator shall prepare and enforce an admission or readmission plan for any student who is excluded or expelled from MSA. The plan may include measures to improve the student's behavior, including completing a character education program consistent with Minn. Stat. § 120B.232, Subd. 1, and require parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving the student's behavior. The readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

**X. NOTIFICATION OF POLICY VIOLATIONS**

Notification of any violation of this policy and resulting disciplinary action shall be as provided herein, or as otherwise provided by the Pupil Fair Dismissal Act or other applicable law. The teacher, director, or other MSA designee may provide additional notification as deemed appropriate.

**XI. STUDENT DISCIPLINE RECORDS**

The policy of MSA is that complete and accurate student discipline records be maintained. The collection, dissemination, and maintenance of student discipline records shall be consistent with applicable MSA policies and federal and state law, including the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13.

**XII. MANIFESTATION DETERMINATION PROCESS**

Students who are currently identified as eligible under the IDEA or Section 504 will be subject to the provisions of this policy, unless the student's IEP or 504 plan specifies a necessary modification.

Before initiating an expulsion or exclusion of a student with a disability, relevant members of the child's IEP team and the child's parent shall, consistent with federal law, conduct a manifestation determination and determine whether the child's behavior was (1) caused by or had a direct and substantial relationship to the child's disability and (2) whether the child's conduct was a direct result of a failure to implement the child's IEP. If the student's educational program is appropriate and the behavior is not a manifestation of the student's disability, MSA will proceed with discipline – up to and including expulsion – as if the student did not have a disability, unless the student's educational program provides otherwise. If the team determines that the behavior subject to discipline is a manifestation of the student's disability, the team shall conduct a functional behavioral assessment and implement a behavioral intervention plan for such student provided that MSA had not conducted such assessment prior to the manifestation determination before the behavior that resulted in a change of placement. Where a behavioral intervention plan previously has been developed, the team will review the behavioral intervention plan and modify it as necessary to address the behavior.

When a student who has an IEP is excluded or expelled for misbehavior that is not a manifestation of the student's disability, MSA shall continue to provide special education and related services during the period of expulsion or exclusion.

### **XIII. DISTRIBUTION OF POLICY**

MSA will include references to this policy in the Parent-Student Handbook distributed annually to all students and parents/guardians. This policy shall also be posted on the MSA website for students and parents/guardians to read. This policy shall also be available upon request from the superintendent's office.

### **XIV. REVIEW OF POLICY**

The director and representatives of parents, students and staff on each campus' site councils shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced. Any recommended changes shall be submitted to the superintendent for consideration by the MSA Board, which shall conduct an annual review of this policy.

#### **Legal References:**

*Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)*  
*Minn. Stat. § 120B.02 (Educational Expectations for Minnesota Students)*  
*Minn. Stat. § 120B.232 (Character Development Education)*  
*Minn. Stat. § 121A.26 (Minnesota State Academies Pre-assessment Teams)*  
*Minn. Stat. § 121A.27 (Minnesota State Academies and Community Advisory Team)*  
*Minn. Stat. § 121A.29 (Reporting; Chemical Abuse)*  
*Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)*  
*Minn. Stat. § 121A.575 (Alternatives to Pupil Suspension)*  
*Minn. Stat. § 121A.582 (Reasonable Force)*

*Minn. Stat. §§ 121A.60-121A.61 (Removal from Class)*  
*Minn. Stat. § 123A.05 (Area Learning Center Organization)*  
*Minn. Stat. § 124D.03 (Enrollment Options Program)*  
*Minn. Stat. § 124D.08 (Enrollment in Nonresident District)*  
*Minn. Stat. Ch. 125A (Students with Disabilities)*  
*Minn. Stat. Ch. 260A (Truancy)*  
*Minn. Stat. Ch. 260C (Juvenile Court Act)*  
*20 U.S.C. §§ 1400-1487 (Individuals with Disabilities Education Improvement Act of 2004)*  
*29 U.S.C. § 794 et seq. (Rehabilitation Act of 1973, § 504)*  
*34 C.F.R. § 300.530(e)(1) (Manifestation Determination)*

**Cross References:**

*MSBA/MASA Model Policy 413 (Harassment and Violence)*  
*MSBA/MASA Model Policy 501 (Minnesota State Academies Weapons)*  
*MSBA/MASA Model Policy 502 (Search of Student Lockers, Desks, Personal Possessions, and Student's Person)*  
*MSBA/MASA Model Policy 503 (Student Attendance)*  
*MSBA/MASA Model Policy 505 (Distribution of Non-Minnesota State Academies-Sponsored Materials on Minnesota State Academies Premises by Students and Employees)*  
*MSBA/MASA Model Policy 514 (Bullying Prohibition Policy)*  
*MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)*  
*MSBA/MASA Model Policy 525 (Violence Prevention)*  
*MSBA/MASA Model Policy 526 (Hazing Prohibition)*  
*MSBA/MASA Model Policy 527 (Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches)*  
*MSBA/MASA Model Policy 610 (Field Trips)*  
*MSBA/MASA Model Policy 709 (Student Transportation Safety Policy)*

Policy #: <b>514</b>
<b>Title: BULLYING PROHIBITION</b>
Date of Initial Approval: 03-17-2004
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Reviewers: MSAB Director; MSAD Director; MSA Director of Student Support Services

**I. PURPOSE**

A safe and civil environment is needed for students to learn and attain high academic standards and to promote healthy human relationships. Bullying, like other violent or disruptive behavior, is conduct that interferes with a student's ability to learn and/or a teacher's ability to educate students in a safe environment. The school district cannot monitor the activities of students at all times and eliminate all incidents of bullying between students, particularly when students are not under the direct supervision of school personnel. However, to the extent such conduct affects the educational environment of the school district and the rights and welfare of its students and is within the control of the school district in its normal operations, the school district intends to prevent bullying and to take action to investigate, respond to, and to remediate and discipline for those acts of bullying which have not been successfully prevented. The purpose of this policy is to assist the school district in its goal of preventing and responding to acts of bullying, intimidation, violence, reprisal, retaliation, and other similar disruptive and detrimental behavior.

**II. GENERAL STATEMENT OF POLICY**

- A. An act of bullying, by either an individual student or a group of students, is expressly prohibited on school premises, on school district property, at school functions or activities, or on school transportation. This policy applies not only to students who directly engage in an act of bullying but also to students who, by their indirect behavior, condone or support another student's act of bullying. This policy also applies to any student whose conduct at any time or in any place constitutes bullying or other prohibited conduct that interferes with or obstructs the mission or operations of the school district or the safety or welfare of the student or other students, or materially and substantially interferes with a student's educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services, or privileges. This policy also applies to an act of cyberbullying regardless of whether such act is committed on or off school district property and/or with or without the use of school district resources.
- B. No teacher, administrator, volunteer, contractor, or other employee of the school district shall permit, condone, or tolerate bullying.
- C. Apparent permission or consent by a student being bullied does not lessen or negate the prohibitions contained in this policy.
- D. Retaliation against a victim, good faith reporter, or a witness of bullying is prohibited.
- E. False accusations or reports of bullying against another student are prohibited.

F. A person who engages in an act of bullying, reprisal, retaliation, or false reporting of bullying or permits, condones, or tolerates bullying shall be subject to discipline or other remedial responses for that act in accordance with the school district's policies and procedures, including the school district's discipline policy (See MSBA/MASA Model Policy 506). The school district may take into account the following factors:

1. The developmental ages and maturity levels of the parties involved;
2. The levels of harm, surrounding circumstances, and nature of the behavior;
3. Past incidences or past or continuing patterns of behavior;
4. The relationship between the parties involved; and
5. The context in which the alleged incidents occurred.

Consequences for students who commit prohibited acts of bullying may range from remedial responses or positive behavioral interventions up to and including suspension and/or expulsion. The school district shall employ research-based developmentally appropriate best practices that include preventative and remedial measures and effective discipline for deterring violations of this policy, apply throughout the school district, and foster student, parent, and community participation.

Consequences for staff who permit, condone, or tolerate bullying or engage in an act of reprisal or intentional false reporting of bullying may result in disciplinary action up to and including termination or discharge.

Consequences for other individuals engaging in prohibited acts of bullying may include, but not be limited to, exclusion from school district property and events.

G. The school district will act to investigate all complaints of bullying reported to the school district and will discipline or take appropriate action against any student, teacher, administrator, volunteer, contractor, or other employee of the school district who is found to have violated this policy.

### III. DEFINITIONS

For purposes of this policy, the definitions included in this section apply.

- A. "Bullying" means intimidating, threatening, abusive, or harming conduct that is objectively offensive and:
1. an actual or perceived imbalance of power exists between the student engaging in the prohibited conduct and the target of the prohibited conduct, and the conduct is repeated or forms a pattern; or
  2. materially and substantially interferes with a student's educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services, or privileges.

The term, "bullying," specifically includes cyberbullying as defined in this policy.

- B. "Cyberbullying" means bullying using technology or other electronic communication, including, but not limited to, a transfer of a sign, signal, writing, image, sound, or data,

including a post on a social network Internet website or forum, transmitted through a computer, cell phone, or other electronic device. The term applies to prohibited conduct which occurs on school premises, on school district property, at school functions or activities, on school transportation, or on school computers, networks, forums, and mailing lists, or off school premises to the extent that it substantially and materially disrupts student learning or the school environment.

- C. "Immediately" means as soon as possible but in no event longer than 24 hours.
- D. "Intimidating, threatening, abusive, or harming conduct" means, but is not limited to, conduct that does the following:
  - 1. Causes physical harm to a student or a student's property or causes a student to be in reasonable fear of harm to person or property;
  - 2. Under Minnesota common law, violates a student's reasonable expectation of privacy, defames a student, or constitutes intentional infliction of emotional distress against a student; or
  - 3. Is directed at any student or students, including those based on a person's actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socioeconomic status, physical appearance, sexual orientation including gender identity and expression, academic status related to student performance, disability, or status with regard to public assistance, age, or any additional characteristic defined in the Minnesota Human Rights Act (MHRA). However, prohibited conduct need not be based on any particular characteristic defined in this paragraph or the MHRA.
- E. "On school premises, on school district property, at school functions or activities, or on school transportation" means all school district buildings, school grounds, and school property or property immediately adjacent to school grounds, school bus stops, school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school district purposes, the area of entrance or departure from school grounds, premises, or events, and all school-related functions, school-sponsored activities, events, or trips. School district property also may mean a student's walking route to or from school for purposes of attending school or school-related functions, activities, or events. While prohibiting bullying at these locations and events, the school district does not represent that it will provide supervision or assume liability at these locations and events.
- F. "Prohibited conduct" means bullying or cyberbullying as defined in this policy or retaliation or reprisal for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about bullying.
- G. "Remedial response" means a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of a student who is the target or victim of prohibited conduct.
- H. "Student" means a student enrolled in a public school or a charter school.

#### IV. REPORTING PROCEDURE

- A. Any person who believes he or she has been the target or victim of bullying or any person with knowledge or belief of conduct that may constitute bullying or prohibited conduct under this policy shall report the alleged acts immediately to an appropriate school district official designated by this policy. A person may report bullying anonymously. However, the school district may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. The school district encourages the reporting party or complainant to use the report form available from the principal or building supervisor of each building or available in the school district office, but oral reports shall be considered complaints as well.
- C. The building principal, the principal's designee, or the building supervisor (hereinafter the "building report taker") is the person responsible for receiving reports of bullying or other prohibited conduct at the building level. Any person may report bullying or other prohibited conduct directly to a school district human rights officer or the superintendent. If the complaint involves the building report taker, the complaint shall be made or filed directly with the superintendent or the school district human rights officer by the reporting party or complainant.

The building report taker shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as the primary contact on policy and procedural matters. The building report taker or a third party designated by the school district shall be responsible for the investigation. The building report taker shall provide information about available community resources to the target or victim of the bullying or other prohibited conduct, the perpetrator, and other affected individuals as appropriate.

- D. A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include bullying. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute bullying or other prohibited conduct shall make reasonable efforts to address and resolve the bullying or prohibited conduct and shall inform the building report taker immediately. School district personnel who fail to inform the building report taker of conduct that may constitute bullying or other prohibited conduct, or who fail to make reasonable efforts to address and resolve the bullying or prohibited conduct in a timely manner may be subject to disciplinary action.
- E. Reports of bullying or other prohibited conduct are classified as private educational and/or personnel data and/or confidential investigative data and will not be disclosed except as permitted by law. The building report taker, in conjunction with the responsible authority, shall be responsible for keeping and regulating access to any report of bullying and the record of any resulting investigation.
- F. Submission of a good faith complaint or report of bullying or other prohibited conduct will not affect the complainant's or reporter's future employment, grades, work assignments, or educational or work environment.

- G. The school district will respect the privacy of the complainant(s), the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the school district's obligation to investigate, take appropriate action, and comply with any legal disclosure obligations.

**V. SCHOOL DISTRICT ACTION**

- A. Within three days of the receipt of a complaint or report of bullying or other prohibited conduct, the school district shall undertake or authorize an investigation by the building report taker or a third party designated by the school district.
- B. The building report taker or other appropriate school district officials may take immediate steps, at their discretion, to protect the target or victim of the bullying or other prohibited conduct, the complainant, the reporter, and students or others, pending completion of an investigation of the bullying or other prohibited conduct, consistent with applicable law.
- C. The alleged perpetrator of the bullying or other prohibited conduct shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.
- D. Upon completion of an investigation that determines that bullying or other prohibited conduct 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. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited conduct. Remedial responses to the bullying or other prohibited conduct shall be tailored to the particular incident and nature of the conduct and shall take into account the factors specified in Section II.F. of this policy. School district action taken for violation of this policy will be consistent with the requirements of applicable collective bargaining agreements; applicable statutory authority, including the Minnesota Pupil Fair Dismissal Act; the student discipline policy (See MSBA/MASA Model Policy 506) and other applicable school district policies; and applicable regulations.
- E. The school district is not authorized to disclose to a victim 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 students who are targets of bullying or other prohibited conduct and the parent(s) or guardian(s) of alleged perpetrators of bullying or other prohibited conduct who have been involved in a reported and confirmed bullying incident of the remedial or disciplinary action taken, to the extent permitted by law.
- F. In order to prevent or respond to bullying or other prohibited conduct committed by or directed against a child with a disability, the school district shall, when determined appropriate by the child's individualized education program (IEP) team 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 bullying or other prohibited conduct.

**VI. RETALIATION OR REPRISAL**

The school district will discipline or take appropriate action against any student, teacher, administrator, volunteer, contractor, or other employee of the school district who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged bullying or prohibited conduct, who provides information about bullying or prohibited conduct, who testifies, assists, or participates in an investigation of alleged bullying or prohibited conduct, or who testifies, assists, or participates in a proceeding or hearing relating to such bullying or prohibited conduct. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment, or intentional disparate treatment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the prohibited conduct. Remedial responses to the prohibited conduct shall be tailored to the particular incident and nature of the conduct and shall take into account the factors specified in Section II.F. of this policy.

**VII. TRAINING AND EDUCATION**

- A. The school district shall discuss this policy with school personnel and volunteers and provide appropriate training to school district personnel regarding this policy. The school district shall establish a training cycle for school personnel to occur during a period not to exceed every three school years. Newly employed school personnel must receive the training within the first year of their employment with the school district. The school district or a school administrator may accelerate the training cycle or provide additional training based on a particular need or circumstance. This policy shall be included in employee handbooks, training materials, and publications on school rules, procedures, and standards of conduct, which materials shall also be used to publicize this policy.
- B. The school district shall require ongoing professional development, consistent with Minn. Stat. § 122A.60, to build the skills of all school personnel who regularly interact with students to identify, prevent, and appropriately address bullying and other prohibited conduct. Such professional development includes, but is not limited to, the following:
1. Developmentally appropriate strategies both to prevent and to immediately and effectively intervene to stop prohibited conduct;
  2. The complex dynamics affecting a perpetrator, target, and witnesses to prohibited conduct;
  3. Research on prohibited conduct, including specific categories of students at risk for perpetrating or being the target or victim of bullying or other prohibited conduct in school;
  4. The incidence and nature of cyberbullying; and
  5. Internet safety and cyberbullying.
- C. The school district annually will provide education and information to students regarding bullying, including information regarding this school district policy prohibiting bullying, the harmful effects of bullying, and other applicable initiatives to prevent bullying and other prohibited conduct.

- D. The administration of the school district is directed to implement programs and other initiatives to prevent bullying, to respond to bullying in a manner that does not stigmatize the target or victim, and to make resources or referrals to resources available to targets or victims of bullying.
  
- E. The administration is encouraged to provide developmentally appropriate instruction and is directed to review programmatic instruction to determine if adjustments are necessary to help students identify and prevent or reduce bullying and other prohibited conduct, to value diversity in school and society, to develop and improve students' knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting bullying or other prohibited conduct, and to make effective prevention and intervention programs available to students.

The administration must establish strategies for creating a positive school climate and use evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct.

The administration is encouraged, to the extent practicable, to take such actions as it may deem appropriate to accomplish the following:

1. Engage all students in creating a safe and supportive school environment;
  2. Partner with parents and other community members to develop and implement prevention and intervention programs;
  3. Engage all students and adults in integrating education, intervention, and other remedial responses into the school environment;
  4. Train student bystanders to intervene in and report incidents of bullying and other prohibited conduct to the schools' primary contact person;
  5. Teach students to advocate for themselves and others;
  6. Prevent inappropriate referrals to special education of students who may engage in bullying or other prohibited conduct; and
  7. Foster student collaborations that, in turn, foster a safe and supportive school climate.
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- F. The school district may implement violence prevention and character development education programs to prevent or reduce policy violations. Such programs may offer instruction on character education including, but not limited to, character qualities such as attentiveness, truthfulness, respect for authority, diligence, gratefulness, self-discipline, patience, forgiveness, respect for others, peacemaking, and resourcefulness.
  
  - G. The school district shall inform affected students and their parents of rights they may have under state and federal data practices laws to obtain access to data related to an incident and their right to contest the accuracy or completeness of the data. The school district may accomplish this requirement by inclusion of all or applicable parts of its protection and privacy of pupil records policy (See MSBA/MASA Model Policy 515) in the student handbook.

## VIII. NOTICE

- A. The school district will give annual notice of this policy to students, parents or guardians, and staff, and this policy shall appear in the student handbook.
- B. This policy or a summary thereof must be conspicuously posted in the administrative offices of the school district and the office of each school.
- C. This policy must be given to each school employee and independent contractor who regularly interacts with students at the time of initial employment with the school district.
- D. Notice of the rights and responsibilities of students and their parents under this policy must be included in the student discipline policy (See MSBA/MASA Model Policy 506) distributed to parents at the beginning of each school year.
- E. This policy shall be available to all parents and other school community members in an electronic format in the language appearing on the school district's or a school's website.
- F. The school district shall provide an electronic copy of its most recently amended policy to the Commissioner of Education.

## IX. POLICY REVIEW

To the extent practicable, the school board shall, on a cycle consistent with other school district policies, review and revise this policy. The policy shall be made consistent with Minn. Stat. § 121A.031 and other applicable law. Revisions shall be made in consultation with students, parents, and community organizations.

### **Legal References:**

*Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)*  
*Minn. Stat. § 120A.05, Subds. 9, 11, 13, and 17 (Definition of Public School)*  
*Minn. Stat. § 120B.232 (Character Development Education)*  
*Minn. Stat. § 121A.03 (Sexual, Religious and Racial Harassment and Violence)*  
*Minn. Stat. § 121A.031 (School Student Bullying Policy)*  
*Minn. Stat. § 121A.0311 (Notice of Rights and Responsibilities of Students and Parents under the Safe and Supportive Minnesota Schools Act)*  
*Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)*  
*Minn. Stat. § 121A.69 (Hazing Policy)*  
*Minn. Stat. § 124D.10 (Charter School)*  
*Minn. Stat. Ch. 363A (Minnesota Human Rights Act)*  
*20 U.S.C. § 1232g et seq. (Family Educational Rights and Privacy Act)*  
*34 C.F.R. §§ 99.1 - 99.67 (Family Educational Rights and Privacy)*

### **Cross References:**

*MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)*  
*MSBA/MASA Model Policy 413 (Harassment and Violence)*  
*MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)*  
*MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)*  
*MSBA/MASA Model Policy 423 (Employee-Student Relationships)*  
*MSBA/MASA Model Policy 501 (School Weapons Policy)*  
*MSBA/MASA Model Policy 506 (Student Discipline)*  
*MSBA/MASA Model Policy 507 (Corporal Punishment)*

*MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)*  
*MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)*  
*MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)*  
*MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)*  
*MSBA/MASA Model Policy 525 (Violence Prevention)*  
*MSBA/MASA Model Policy 526 (Hazing Prohibition)*  
*MSBA/MASA Model Policy 529 (Staff Notification of Violent Behavior by Students)*  
*MSBA/MASA Model Policy 709 (Student Transportation Safety Policy)*  
*MSBA/MASA Model Policy 711 (Video Recording on School Buses)*  
*MSBA/MASA Model Policy 712 (Video Surveillance Other Than on Buses)*

Policy #: <b>522</b>
Title: <b>STUDENT SEX, GENDER, GENDER IDENTITY NONDISCRIMINATION</b>
Date of Initial Approval: 05-03-2007
Revision/Re-authorization Dates: 01-22-2015; 06-29-2017; 06-12-2018; 06-27-2019; 10-21-2020; 06-02-2021
Reviewers: MSAB Director; MSAD Director; MSA Director of Student Support Services

**I. PURPOSE**

Students are protected from discrimination on the basis of sex and gender/gender identity pursuant to Title IX of the Education Amendments of 1972 and the Minnesota Human Rights Act. The purpose of this policy is to provide equal educational opportunity for all students and to prohibit discrimination on the basis of sex, gender, or gender identity.

**II. GENERAL STATEMENT OF POLICY**

- A. The Minnesota State Academies (MSA) provides equal educational opportunity for all students and does not unlawfully discriminate on the basis of sex, gender, or gender identity. No student will be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any educational program or activity operated by the school district on the basis of sex, gender, or gender identity.
- B. It is the responsibility of every MSA employee to comply with this policy.
- C. The MSA Governing Board hereby designates the Superintendent as its Title IX coordinator. This employee coordinates the MSA efforts to comply with and carry out its responsibilities under Title IX.
- D. Any student, parent or guardian having questions regarding the application of Title IX and its regulations and/or this policy should discuss them with the Title IX coordinator. Questions relating solely to Title IX and its regulations may be referred to the Assistant Secretary for Civil Rights of the United States Department of Education. In the absence of a specific designee, an inquiry or complaint should be referred to the superintendent or the school district human rights officer.

**III. REPORTING GRIEVANCE PROCEDURES**

- A. Any student who believes he or she has been the victim of unlawful sex, gender, or gender identity discrimination by a teacher, administrator or other school employee, or any person with knowledge or belief of conduct which may constitute unlawful sex, gender, or gender identity discrimination toward a student should report the alleged acts immediately to an appropriate MSA official designated by this policy or may file a grievance. MSA encourages the reporting party or complainant to use the report form available from the Director of each school or available from the Superintendent's office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting unlawful sex, gender, or gender identity discrimination toward a student directly to a school district human rights officer or to the Superintendent.
- B. At MSAB or MSAD. The Director is the person responsible for receiving oral or written reports or grievances of unlawful sex, gender, or gender identity discrimination toward

a student at MSAB or MSAD. Any MSA employee who receives a report of unlawful sex, gender, or gender identity discrimination toward a student shall inform the Director immediately.

- C. Upon receipt of a report or grievance, the Director must notify the MSA human rights officer immediately, without screening or investigating the report. The Director 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 director to the human rights officer. If the report was given verbally, the director shall personally document it into written form within 24 hours and forward it to the human rights officer. Failure to forward any report or complaint of unlawful sex, gender, or gender identity discrimination toward a student as provided herein may result in disciplinary action against the director. If the complaint involves the director, the complaint shall be made or filed directly with the Superintendent or the MSA human rights officer by the reporting party or complainant.
- D. The MSA board hereby designates the MSA's Human Resources Coordinator as the MSA human rights officer to receive reports, complaints or grievances of unlawful sex, gender, or gender identity discrimination toward a student. If the complaint involves the human rights officer, the complaint shall be filed directly with the Superintendent.
- E. MSA shall conspicuously post the name of the Title IX coordinator and human rights officer(s), including office mailing addresses and telephone numbers.
- F. Submission of a good faith complaint, grievance or report of unlawful sex, gender, or gender identity discrimination toward a student will not affect the complainant or reporter's future employment, grades, or work assignments.
- G. Use of formal reporting forms is not mandatory.
- H. MSA 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 MSA's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

#### **IV. INVESTIGATION**

- A. By authority of MSA, the human rights officer, upon receipt of a report, complaint or grievance alleging unlawful sex, gender, or gender identity discrimination toward a student shall promptly undertake or authorize an investigation. The investigation may be conducted by MSA officials or by a third party designated by MSA.
- 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, MSA 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, MSA may take immediate steps, at its discretion, to protect the complainant, students, teachers, administrators, or other school personnel pending completion of an investigation of alleged unlawful sex, gender, or gender identity discrimination toward a student.
- E. The investigation will be completed as soon as practicable. MSA's human rights officer shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the MSA Governing Board. 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.

**V. MINNESOTA STATE ACADEMIES ACTION**

- A. Upon conclusion of the investigation and receipt of a report, MSA will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. MSA action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and MSA policies.
- B. The result of MSA investigation of each complaint filed under these procedures will be reported in writing to the complainant by MSA in accordance with state and federal law regarding data or records privacy.

**VI. REPRISAL**

MSA will discipline or take appropriate action against any pupil, teacher, administrator or other Academies personnel who retaliates against any person who reports alleged unlawful sex, gender, or gender identity discrimination toward a student or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such unlawful sex, gender, or gender identity discrimination. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

**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, or contacting the Office of Civil Rights for the United States Department of Education.

**VIII. DISSEMINATION OF POLICY AND EVALUATION**

- A. This policy shall be made available to all students, parents/guardians of students, staff members, employee unions and organizations.

B. MSA shall review this policy and the school district's operation for compliance with state and federal laws prohibiting discrimination on a continuous basis.

**Legal References:**

*Minn. Stat. § 121A.04 (Athletic Programs; Sex, Gender, or Gender Identity Discrimination)*

*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)*

**Cross References:**

*MSBA/MASA Model Policy 102 (Equal Educational Opportunity)*

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

*MSBA/MASA Model Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)*

**Appendices:**

*Appendix 522-A (Report Form)*

Policy #: <b>616</b>
Title: <b>SCHOOL DISTRICT SYSTEM ACCOUNTABILITY</b>
Date of Initial Approval: 04-27-2017
Revision/Re-authorization Dates: 06-12-2018; 11-29-2018; 09-16-2020; 06-02-2021
Reviewers: MSAB Director; MSAD Director; MSA Director of Student Support Services

**I. PURPOSE**

The purpose of this policy is to develop strategies and educational programming aligned with best practices, which promotes higher academic achievement for all students and ensures broad-based community participation in decisions regarding the implementation of the Minnesota Academic Standards.

**II. GENERAL STATEMENT OF POLICY**

Implementation of the Minnesota Academic Standards will require a new level of accountability for the Minnesota State Academies (MSA). MSA will establish a process to ensure adherence to the graduation requirements of the Minnesota Academic Standards. MSA will implement a system to review and improve instruction, curriculum, and assessment which includes substantial input by students, parents/guardians, and community members. MSA will be accountable to the public and the state through annual reporting.

**III. DEFINITIONS**

A. **“Credit”** means a student’s successful completion of a course of study or a student’s mastery of the applicable subject matter, as determined by MSA.

B. **“Graduation Standards”** means the credit requirements and Minnesota Academic Standards that school districts must offer and certify that students complete to be eligible for a high school diploma.

C. **“World’s Best Workforce”** means striving to: meet school readiness goals; have all third grade students achieve grade-level literacy; close the academic achievement gap among all racial and ethnic groups of students and between students living in poverty and students not living in poverty; have all students attain career and college readiness before graduating from high school; and have all students graduate from high school.

**IV. ESTABLISHMENT OF GOALS, IMPLEMENTATION, EVALUATION, AND REPORTING**

A. School District Goals

1. The MSA board will establish district-wide goals which provide broad direction for the Academies. Incorporated in these goals are the graduation and education standards contained in the Minnesota Academic Standards. The broad goals shall be reviewed annually and approved by the MSA board. The MSA board shall adopt annual goals based on the recommendations of

the School Accountability Committee (Advisory Committee for Comprehensive Continuous Improvement of Student Achievement).

2. The district goals should address recommendations identified through the School Accountability Committee process. MSA's goal setting process will include consideration of individual campus goals. MSA's district goals should be based on an evaluation of student progress, effectiveness of instructional approaches, and review of curriculum resources and materials.

**B. School Accountability Committee**

1. By September 30th of each year, the School Accountability Committee will meet to advise and assist the Academies in the implementation of the school district system accountability and comprehensive continuous improvement process.

2. The School Accountability Committee, working in cooperation with other committees of MSA, such as the Technology Committee and/or the Site Councils of both Academies, will provide active community participation in:

a. Reviewing the Academies' instructional and curriculum plan, with emphasis on implementing the Minnesota Graduation Standards, including review and approval of courses;

b. Reviewing and updating the Academies' annual Work's Best Workforce Report

c. Identifying annual instruction and curriculum improvement goals for recommendation to the MSA board;

d. Making recommendations regarding the evaluation process that will be used to measure the Academies' progress toward its goals;

e. Advising the MSA administration about development of the annual budget.

3. The School Accountability Committee shall meet the following criteria:

a. The School Accountability Committee shall ensure active community participation in all planning for instruction and curriculum affecting Graduation Standards.

b. The School Accountability Committee shall make recommendations to the MSA board on district-wide standards, assessments, and program evaluation. These recommendations should be reviewed by each Academy's site council prior to submission to the board.

c. Sub-committees may be created to develop and implement an education effectiveness plan and to carry out methods to improve instruction, curriculum, and assessments as well as methods to implement

use of technology in meeting the district improvement plan. Sub-committees that focus on development/updates of curricular content and materials must include one board member.

d. The Academies may develop separate plans appropriate to each Academy's population to evaluate student progress and shall use information gained from those assessments to ensure student progress towards meeting Graduation Standards.

4. The School Accountability Committee shall be comprised of representatives from each Academy (parent and student representatives are mandated members of this committee) and shall reflect the diversity of the school community.

Included in its membership should be:

- a. The Directors of each Academy
- b. The Director of Student Support Services (or designee)
- c. One representative from each Academy Site Council
- d. One parent from each Academy
- e. School District Assessment Coordinator (if different than "a" or "b" above.)
- f. One student from each Academy

*\*A person cannot serve in more than one role on this committee (except for the school district assessment coordinator)*

5. The School Accountability Committee shall utilize the timeline below for each school year:

Beginning of the school year: Review the authorizing legislation and the roles and responsibilities of the committee as determined by the MSA board. Agree on the process to be used. Become familiar with the instruction and curriculum of the cycle content area.

End of the school year: Review evaluation results and prepare recommendations. Present recommendations to the school board for its input and approval.

Regularly throughout the year: The Directors shall submit progress reports to the Board about activities of the Academies promoting progress towards meeting annual school goals.

C. System for Reviewing All Instruction and Curriculum.

Incorporated in the process of establishing district goals will be analysis of the Academies' progress toward implementation of the Minnesota Academic Standards. Instruction and curriculum shall be reviewed and evaluated by taking into account instructional strategies, best/effective practices, student outcomes, and principal evaluations under *Minn. Stat. § 123B.147, Subd. 3, and teacher evaluations under Minn. Stat. § 122A.40, Subd. 8, or 122A.41, Subd. 5.* The School Accountability Committee shall establish a schedule for regular and comprehensive review of each curricular area.

D. Implementation of Graduation Requirements

1. The School Accountability Committee will also serve as MSA's Graduation Standards Implementation Committee and shall advise the MSA board on implementation of the state and local graduation requirements, including consideration of MSA's K-12 curriculum, assessment, student learning opportunities, and other related issues. Recommendations of this committee shall be posted as a part of the MSA board packet. The MSA board shall receive public input and comment and shall adopt or update this policy annually.

2. The MSA board shall annually review and determine if student achievement levels at each Academy meet federal expectations. If the board determines that student achievement levels at an Academy do not meet federal expectations and the site has not made adequate yearly progress for two consecutive school years, the School Accountability Committee shall work with the Academy Directors to implement a plan to raise student achievement levels to meet federal expectations. The School Accountability Committee may seek assistance from the Commissioner of the Minnesota Department of Education (MDE) or their staff in developing a plan which must include parental involvement components.

3. The educational assessment system component utilized by the Academies to measure individual students' educational progress must be based, to the extent annual tests are administered, on indicators of achievement growth that show an individual student's prior achievement. Indicators of achievement and prior achievement must be based on highly reliable statewide or district wide assessments. The MSA board will utilize models appropriate to MSA's student population for measuring individual student progress. The MSA board will also coordinate with MDE in evaluating student progress on statewide assessments.

E. Evaluation of Student Progress Committee.

The Directors of each Academy, the Special Education Director, and the District Assessment Coordinator (if different than the Directors) shall develop a plan for assessment of student progress toward the Graduation Standards, and gathering program evaluation data for use by the School Accountability Committee in the instruction and curriculum review process.

F. Educational Planning and Assessment System.

Each Academy Director, working in conjunction with the School Accountability Committee, must select assessments appropriate to MSA's student population to provide a longitudinal, systematic approach to student educational and career planning, assessment, instructional support, and evaluation.

**G. Reporting.**

Annually, the MSA board shall invite community members to a board meeting to review and revise, where appropriate, student achievement goals, assessment outcomes, plans, strategies, and practices for improving curriculum and instruction, and to review each Academy's success in realizing the previously adopted student achievement goals and related benchmarks and the improvement plans leading to the world's best workforce. The MSA Board shall publish a report on the MSA website with updated student achievement goals and plans/strategies for achievement of those goals. The Academies shall periodically survey affected constituencies about their connection to and level of satisfaction with school and include the results within its summary report.

**Legal References:**

- Minn. Stat. § 120B.02 (Educational Expectations for Minnesota's Students)
- Minn. Stat. § 120B.018 (Definitions)
- Minn. Stat. § 120B.11 (School District Process)
- Minn. Stat. § 120B.128 (Educational Planning and Assessment System (EPAS) Program)
- Minn. Stat. § 120B.35 (Student Achievement Levels)
- Minn. Stat. § 120B.36 (School Accountability; Appeals Process)
- Minn. Stat. § 122A.40, Subd. 8 (Employment; Contracts; Termination)
- Minn. Stat. § 122A.41, Subd. 5 (Teacher Tenure Act; Cities of the First Class; Definitions)
- Minn. Stat. § 123B.04 (Site Decision Making Agreement)
- Minn. Stat. § 123B.147, Subd. 3 (Principals)
- Minn. Stat. § 125A.62, Subd.5 (Planning, evaluation, and reporting)
- Minn. Rules Parts 3501.0640-3501.0655 (Academic Standards for Language Arts)
- Minn. Rules Parts 3501.0700-3501.0745 (Academic Standards for Mathematics)
- Minn. Rules Parts 3501.0800-3501.0815 (Academic Standards for the Arts)
- Minn. Rules Parts 3501.0900-3501.0955 (Academic Standards in Science)
- Minn. Rules Parts 3501.1300-3501.1345 (Academic Standards for Social Studies)

**Cross References:**

- MSBA/MASA Model Policy 104 (School District Mission Statement)
- MSBA/MASA Model Policy 601 (School District Curriculum and Instruction Goals)
- MSBA/MASA Model Policy 613 (Graduation Requirements)
- MSBA/MASA Model Policy 614 (School District Testing Plan and Procedure)
- MSBA/MASA Model Policy 615 (Testing Accommodations, Modifications, and Exemptions for IEPs, Section 504 Plans, and LEP Students)
- MSBA/MASA Model Policy 617 (School District Ensurance of Preparatory and High School Standards)
- MSBA/MASA Model Policy 618 (Assessment of Student Achievement)
- MSBA/MASA Model Policy 619 (Staff Development for Standards)
- MSBA/MASA Model Policy 620 (Credit for Learning)