

Human Resources - Regular School Board Meeting

Duluth Public Schools, ISD 709

Agenda

Tuesday, April 19, 2016

District Services Center

709 Portia Johnson Dr.

Duluth, MN 55811

6:30 PM

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| 1. Staffing Report Action Items | 3 |
| 2. Other Action Items | |
| <p>A. <u>Resolution HR-4-16-3363 - Approval of Contract - Education Directors Association Collective Bargaining Agreement - Effective Dates: July 1, 2015 through June 30, 2017.</u></p> | <u>5</u> |
| <p>B. <u>Policy 4015 - Renumbering to 413 - Prohibiting Harassment and Violence</u></p> <p>This policy was updated to the MSBA Model Policy in June of 2015 but was not renumbered at that time. Administration is recommending that the policy be renumbered from 4015 to 413 at this time.</p> <p><i>As allowed in Policy 208: If a policy is modified with minor changes that do not affect the substance of the policy or because of a legal change over which the school board has no control, the modified policy may be approved at one meeting at the discretion of the school board.</i></p> <p><u>Recommendation:</u> It is recommended that the Duluth School Board approve the renumbering of Policy 4015 to MSBA Model Policy number 413.</p> | <u>6</u> |
| <p>C. <u>Policy 4180 - Renumbering to 427 - Workload Limits for Certain Special Education Teachers</u></p> <p>This policy was updated to the MSBA Model Policy in September of 2015 but was not renumbered at that time. Administration is recommending that the policy be renumbered from 4180 to 427 at this time.</p> <p><i>As allowed in Policy 208: If a policy is modified with minor changes that do not affect the substance of the policy or because of a legal change over which the school board has no control, the modified policy may be approved at one meeting at the discretion of the school board.</i></p> <p><u>Recommendation:</u> It is recommended that the Duluth School Board approve the renumbering of Policy 4180 to MSBA Model Policy number 427.</p> | <u>8</u> |
| <p>D. <u>Policy 8050 - Renumbering to 209 - Code of Ethics</u></p> <p>This policy was updated to the MSBA Model Policy in July of 2015 but was not renumbered at that time. Administration is recommending that the policy be renumbered from 8050 to 209 at this time.</p> | <u>10</u> |

As allowed in Policy 208: *If a policy is modified with minor changes that do not affect the substance of the policy or because of a legal change over which the school board has no control, the modified policy may be approved at one meeting at the discretion of the school board.*

Recommendation: It is recommended that the Duluth School Board approve the renumbering of Policy 8050 to MSBA Model Policy number 209.

3. Informational Items

A. Regulation 4015R - Renumbering to 413R - Prohibiting Harassment and Violence 13

This regulation was updated as a companion to Policy 4015 in May of 2015. Given that administration is recommending Policy 4015 be renumbered to the MSBA Model Policy 413, this Regulation 4015R is being renumbered to 413R at this time.

Recommendation: It is recommended that the Duluth School Board accept this item as informational.

B. Regulation 4015.1R- Renumbering to 413R-Form - Harassment Complaint Form 21

This regulation was updated as a companion to Policy 4015 in July of 2015. Given that administration is recommending Policy 4015 be renumbered to the MSBA Model Policy 413, this Regulation 4015.1R is being renumbered to 413R-Form at this time.

Recommendation: It is recommended that the Duluth School Board accept this item as informational.

4. Future Items

A. There are no Future HR Items at this time.

HUMAN RESOURCES ACTION ITEMS FOR: 4/19/2016

<u>CERT APPOINTMENT</u>	<u>POSITION/LOCATION/CLASS&STEP/REPLACING</u>	<u>EFFECTIVE DATES</u>
LAURENT, JACOB Total: 1	DEAN OF STUDENTS, TOSA/PIEDMONT, IV 2, NEW POS	03/21/2016
<u>CERT LEAVES</u>	<u>POSITION/LOCATION/LEAVE TYPE</u>	<u>EFFECTIVE DATES</u>
ANTONICH, BRENDA	GRADE 2 TEACHER/MYERS-WILKINS, A" MILITARY LEAVE WITH PAY"	02/09/2016 02/12/2016
BERGUM, LADONNA	SPANISH TEACHER/EAST/SUPERINTENDENT APPROVED LWOP	04/25/2016 04/29/2016
LIEN, CHERYL	ASST. PRINCIPAL/EAST/POLICY #4125 CHG IN DATE	04/01/2016
PASCHEN, KRISTIN	MUSIC SPECIALIST/LESTER & HOMECROFT, PARENTAL LWOP	08/30/2016 01/20/2017
WEBSTER, SAMANTHA Total: 5	ECFE/DW, .300FTE POLICY #4125 LWOP	08/30/2016 06/09/2017
<u>CERT RESIGNATIONS</u>	<u>POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
FRANKE, ALICIA	GRADE 2 TEACHER/LAURA MACARTHUR	06/10/2016
LIEN, CHERYL Total: 2	ASSISTANT PRINCIPAL/EAST	04/01/2016
<u>CERT RETIREMENT</u>	<u>POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
ANDREWS, NANCY		06/10/2016
BOYLE, MARGARET	PRE-KDGN TEACHER/BARNES HDST	06/10/2016
FORD, TED	PHYSICS TEACHER/EAST	06/10/2016
FRANCKOWIAK, GAYLE	SOCIAL STUDIES TEACHER/EAST	06/10/2016
HEILIG, STEPHANIE	PRINCIPAL/MYERS-WILKINS	08/17/2016
KNAPP, LAURIE	PRINCIPAL/EAST	07/08/2016
LEIBFRIED, CHARLES	SUPERVISOR FEDERAL PROG/HOCHS	06/24/2016
MCINTIRE, NANCY	SPEC ED TEACHER/LD/LOWELL	06/10/2016
MORRIS, JOANNE	SPEC ED TEACHER/ECSE	06/30/2016
OBST, CHEREE	PRINCIPAL/HOMECROFT	06/24/2016
OLSON, PATTI	ENGLISH TEACHER/ORDEAN EAST	06/10/2016
ST JOHN-STEBE, TERRI	FAMILY PARTNERSHIP/FACILITATOR/MACARTHUR HDST	06/10/2016
UDESEN, LARRY	PRINCIPAL/STOWE	06/24/2016
VANCAMP, MARCIA	MUSIC VOCAL TEACHER/CHOIR DIRECTOR/DENFELD	06/10/2016
VANHORNWEDER, THOMAS	MATH TEACHER/EAST	06/10/2016
VENBERG, CYNTHIA	DATA COACH TEACHER/LOWELL	06/10/2016
WAGNER, DEBORAH	HOMELESS TUTOR TEACHER/DISTRICT WIDE	06/10/2016
WEBER, CYNTHIA Total: 18	PRE-KDGN TEACHER/PIEDMONT	06/10/2016
<u>CERT TEMP INCREASE</u>	<u>POSITION/LOCATION/CONDITION</u>	<u>EFFECTIVE DATES</u>
LAKE, RONALD	SPECIAL ED TOSA, CIMP PROJECT/DW, 1/6/ OVERLOAD	01/25/2016 06/10/2016
MICKOLAJAK, TODD Total: 2	SPECIAL ED TOSA, CIMP PROJECT/DW/, 1/6 OVERLOAD	01/25/2016 06/10/2016
<u>NONCERT APPOINTMENT</u>	<u>POSITION/LOCATION/WEEKS/RATE OF PAY/REASON</u>	<u>EFFECTIVE DATES</u>
PRECKEL, STEPHANIE Total: 1	OFFICE SUPP SPEC SR/CONGDON PARK, 40/45WKS, \$17.60/HR, J DOLENTZ	03/21/2016
<u>NONCERT DEMOTION</u>	<u>NEW POSITION/LOCATION/OLD POSITION/LOCATION/RATE OF PAY</u>	<u>EFFECTIVE DATES</u>
PILLSBURY, CHARLES Total: 1	SUPV PARA/ORDEAN EAST, SPEC ED PARA, BW/ORDEAN EAST, \$14.23/HR,VOL POS	03/07/2016 06/10/2016
<u>NONCERT LEAVES</u>	<u>POSITION/LOCATION/TYPE OF LEAVE</u>	<u>EFFECTIVE DATES</u>
MAYBERRY, SEAN	INTEGRATION SPEC/LINCOLN PARK/MILITARY LEAVE WITH PAY	04/01/2016 04/28/2016
MAYBERRY, SEAN	INTEGRATION SPEC/LINCOLN PARK/MILITARY LEAVE WITHOUT PAY	04/29/2016 06/03/2016
MAYBERRY, SEAN	INTEGRATION SPEC/LINCOLN PARK/MILITARY LEAVE WITHOUT PAY	08/22/2016 09/30/2016
SIMONSON, JUDITH	HELPER/LAKEWOOD, A" PERSONAL LWOP"	05/31/2016 06/09/2016
STINGL, KATHRYN Total: 5	SPEC ED PARA/MERRITT CREEK, RESCIND LWOP	02/25/2016 03/08/2016
<u>NONCERT LONG TERM SUB</u>	<u>POSITION/LOCATION/WEEKS/RATE OF PAY/REPLACING</u>	<u>EFFECTIVE DATES</u>
SHEA, KERRI Total: 1	HELPER/DENFELD, 18.75HRS/WK, \$10.82/HR	03/01/2016 06/09/2016

<u>NONCERT PERM INCREASE</u>	<u>POSITION/LOCATION/CONDITION</u>	<u>EFFECTIVE DATES</u>
DOLENTZ, JACQUELINE Total: 1	OFFICE SUPP SPEC SR/HOCHS/FINANCE, 40/45WKS TO 40/52WKS, C SWOR	04/11/2016
<u>NONCERT PROMOTION</u>	<u>NEW POSITION/LOCATION OLD POSITION/LOCATION/RATE OF PAY</u>	<u>EFFECTIVE DATES</u>
CHRISTJOHN, DUSTIN KINNEAR, LINDA Total: 2	SPEC ED PARA, MALE REQ/EAST, SUPV PARA/DENFELD \$15.08/HR, TEMP POS HR MANAGER/HOCHS,HR/BENEFIT COORDINATOR/HOCHS,HR/\$1,444.00 WK	03/08/2016 06/10/2016 04/04/2016
<u>NONCERT RESIGNATION</u>	<u>POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
CIANNI, MARY DESCHAMPE, JESSICA Total: 2	SPEC ED PARA, STUDENT SPEC/LAURA MACARTHUR SCHOOL BUS DRIVER II/TRANSPORTATION	03/18/2016 03/30/2016
<u>NONCERT RETIREMENT</u>	<u>POSITION/LOCATION</u>	<u>EFFECTIVE DATES</u>
ABRAMSON, TAMI BERNDT, BETTY CARLSON, CHARLES RUDH, BARBARA STACKLAND, THOMAS Total: 5	SPEC ED PARA/CUED LANGUAGE TRANSLITERATOR/MYERS-WILKINS EXECUTIVE ASSISTANT/FACILITIES SCHOOL CUSTODIAN II/LAURA MACARTHUR SPEC ED PROG PARA/MERRITT CREEK ACADEMY SPEC ED PARA, BW/CONGDON	06/10/2016 07/15/2016 08/31/2016 08/26/2016 06/10/2016
<u>NONCERT TEMP DECREASE</u>	<u>POSITION/LOCATION/CONDITION</u>	<u>EFFECTIVE DATES</u>
RAMSEY, EMILY Total: 1	PRE-LICENSED SIGN LANGUAGE INTERPRETER/DW, .8125 TO .5625	03/11/2016 06/10/2016
<u>NONCERT TEMP INCREASE</u>	<u>POSITION/LOCATION/CONDITION</u>	<u>EFFECTIVE DATES</u>
CAMPBELL, JAMES SHEMWELL, ETHNA Total: 2	SPEC ED PARA, BW/LAURA MACARTHUR, .84375 TO 1.0 SPEC ED PARA, BW/MYERS-WILKINS, .6 TO .68125	03/14/2016 06/09/2016 02/23/2016 05/26/2016

RESOLUTION

Education Directors Association

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

413 PROHIBITING HARASSMENT AND VIOLENCE

GENERAL STATEMENT OF POLICY

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

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

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

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

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

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

It shall be a violation of this policy for any student or school personnel of ISD 709 to inflict, threaten to inflict, or attempt to inflict violence relating to: Race, Color, Creed, Religion, National Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, Age, Gender Identity, Gender Expression, and Any or All Other Protected Groups as identified by state and/or federal statute as well as any other forms of violence as defined by this policy upon any pupil or school personnel.

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

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

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

Cross References: Resolution 413R (Prohibiting Harassment and Violence)
Resolution 413.1R (Harassment Complaint Form)

Replacing: Policy 4015
First Reading: 05-19-2015
Adopted: 06-16-2015
04-19-2016 ISD 709 (*Renumbering only*)

427 WORKLOAD LIMITS FOR CERTAIN SPECIAL EDUCATION TEACHERS

I. PURPOSE

The purpose of this policy is to establish general parameters for determining the workload limits of special education staff who provide services to children with disabilities receiving direct special education services 60 percent or less of the instructional day.

II. DEFINITIONS

A. Special Education Staff; Special Education Teacher

"Special education staff" and "special education teacher" both mean a teacher employed by the school district who is licensed under the rules of the Minnesota Board of Teaching to instruct children with specific disabling conditions.

B. Direct Services

"Direct services" means special education services provided by a special education teacher when the services are related to instruction, including cooperative teaching.

C. Indirect Services

"Indirect services" means special education services provided by a special education teacher which include ongoing progress reviews; cooperative planning; consultation; demonstration teaching; modification and adaptation of the environment, curriculum, materials, or equipment; and direct contact with children with disabilities to monitor and observe.

D. Workload

"Workload" means a special education teacher's total number of minutes required for all due process responsibilities, including direct and indirect services, evaluation and reevaluation time, management of individualized education programs (IEPs), travel time, parental contact, and other services required in the IEPs.

III. GENERAL STATEMENT OF POLICY

A. Workload limits for special education teachers shall be determined by the appropriate special education administrator, in consultation with the building principal and the superintendent.

B. In determining workload limits for special education staff, the school district shall take into consideration the following factors: student contact minutes, evaluation and reevaluation time, indirect services, management of IEPs, travel time, and other services required in the IEPs of eligible students.

IV. COLLECTIVE BARGAINING AGREEMENT UNAFFECTED

This policy shall not be construed as a reopening of negotiations between the school district and the special education teachers' exclusive representative, nor shall it be construed to alter or limit in any way the managerial rights or other authority of the school district set forth in the Public Employers Labor Relations Act or in the collective bargaining agreement between the school district and the special education teachers' exclusive representative.

Legal References: Minn. Stat. § 179A.07, Subd. 1 (Inherent Managerial Policy)
 Minn. Rule 3525.0210, Subps. 14, 27, 44, and 49 (Definitions of "Direct Services," "Indirect Services," "Teacher," and "Workload")
 Minn. Rule 3525.2340, Subp. 4.B. (Case Loads for School-Age Educational Service Alternatives)

Cross References: MSBA/MASA Model Policy 427 (Workload Limits for Certain Special Education Teachers)
 MSBA/MASA Model Policy 508 (Extended School Year for Certain Students with Individualized Education Programs)
 MSBA/MASA Model Policy 608 (Instructional Services - Special Education)

Replacing: Policy 4180
 First Reading: 08-18-2015
 Adopted: 09-22-2015
04-19-2016 ISD709 (*Renumbered only*)

209 CODE OF ETHICS

I. PURPOSE

The purpose of this policy is to assist the individual school board member in understanding his or her role as part of a school board and in recognizing the contribution that each member must make to develop an effective and responsible school board.

II. GENERAL STATEMENT OF POLICY

Each school board member shall follow the code of ethics stated in this policy.

A. AS A MEMBER OF THE SCHOOL BOARD, I WILL:

1. Attend school board meetings.
2. Come to the meetings prepared for discussion of the agenda items.
3. Listen to the opinions and views of others (including, but not limited to, other school board members, administration, staff, students, and community members.)
4. Vote my conscience after informed discussion, unless I abstain because a conflict of interest exists.
5. Uphold the decision of the school board, even if my position concerning the issue was different.
6. Recognize the integrity of my predecessors and associates and appreciate their work.
7. Be primarily motivated by a desire to provide the best possible education for the students of my school district.
8. Inform myself about the proper duties and functions of a school board member.

B. IN PERFORMING THE PROPER FUNCTIONS OF A SCHOOL BOARD MEMBER, I WILL:

1. Focus on education policy as much as possible.
2. Remember my responsibility is to set policy – not to implement policy.
3. Consider myself a trustee of public education and do my best to protect, conserve, and advance its progress.
4. Recognize that my responsibility, exercised through the actions of the school board as a whole, is to see that the schools are properly run – not to run them myself.

5. Work through the superintendent – not over or around the superintendent.
6. Delegate the implementation of school board decisions to the superintendent.

C. TO MAINTAIN RELATIONS WITH OTHER MEMBERS OF THE SCHOOL BOARD, I WILL:

1. Respect the rights of others to have and express opinion.
2. Recognize that authority rests with the school board in legal session – not with the individual members of the school board except as authorized by law.
3. Model civility to students, employees, and all elements of the community by behaving in a respectful, professional manner towards other school board members and district employees.
4. Keep an open mind about how I will vote on any proposition until the board has met and fully discussed the issue.
5. Make decisions by voting in school board meetings after all sides of debatable questions have been presented.
6. Ensure that committees be appointed to serve only in an advisory capacity to the school board.

D. IN MEETING MY RESPONSIBILITIES TO MY COMMUNITY, I WILL:

1. Attempt to appraise and plan for both the present and future educational needs of the school district and community.
2. Ensure that business transactions of the school district be ethical and open.
3. Strive to uphold my responsibilities and accountability to the taxpayers in my school district.

E. IN WORKING WITH THE SUPERINTENDENT OF SCHOOLS AND STAFF, I WILL:

1. Hold the superintendent responsible for the administration of the school district.
2. Give the superintendent authority commensurate with his or her responsibilities.
3. Vote on all personnel matters before the school board based on the needs of the school district, rather than any personal bias or personal motivation.
4. Consider the recommendation of the superintendent in hiring all employees.
5. Participate in school board action after considering the recommendation of the superintendent and only after the superintendent has furnished adequate information supporting the recommendation.

6. Insist the superintendent keep the school board adequately informed at all times.
7. Recognize the status of the superintendent as the chief executive officer and a non-voting, ex officio member of the school board.
8. Refer all complaints to the proper administrative officer or insist that they be presented in writing to the whole school board for proper referral according to the chain of command.
9. Present any personal criticisms of employees to the superintendent.

F. IN FULFILLING MY LEGAL OBLIGATIONS AS A SCHOOL BOARD MEMBER, I WILL:

1. Comply with all federal, state, and local laws relating to my work as a school board member.
2. Comply with all school district policies as adopted by the school board.
3. Abide by all rules and regulations as promulgated by the Minnesota Department of Education and other state and federal agencies with jurisdiction over school districts.
4. Recognize that school district business may be legally transacted only in an open meeting of the school board.
5. Avoid conflicts of interest and refrain from using my school board position for personal gain.
6. Take no private action that will compromise the school board or administration. By way of example this includes, but is not limited to, refraining from making any promise regarding votes on any proposition in advance of meetings at which the proposition will be considered by the school board and complying with all applicable laws restricting gifts to school board members.
7. Guard the confidentiality of information that is protected under applicable law.

Subject to applicable law, violation of this policy may constitute grounds for censure, removal from internal school board officer position (e.g., chair, vice chair, secretary), removal from school board committee(s), and/or removal from the school board.]

Legal References: Minn. Stat. § 123B.02, Subd. 1 (School District Powers)
Minn. Stat. § 123B.09, (School Board Powers)
Minn. Stat. § 123B.143, Subd. 1 (Superintendent)

Cross References: MSBA/MASA Model Policy 209 (Code of Ethics)

Replacing: Policy 8050
First Reading: 06-16-2015
Adopted: 07-21-2015
04-19-2016 ISD 709 (Renumbered only)

413R PROHIBITING HARASSMENT AND VIOLENCE

I. HARASSMENT AND VIOLENCE DEFINED

A. Sexual Harassment

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

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

This policy pertains to students and school personnel. It equally protects students and personnel of all genders from harassment.

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

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

B. Protected Groups Harassment

Protected Groups: Race, Color, Creed, Religion, National Origin, Sex, Marital Status, Disability, Status with Regard to Public Assistance, Sexual Orientation, Age,

Gender Identity, Gender Expression, and Any and All Other Protected Groups as identified by state and/or federal statute.

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

1. Has the purpose or effect of creating an intimidating, hostile, or offensive work, business, or academic environment;
2. Has the purpose or effect of substantially interfering with an individual's work, business, or academic performance; or

C. General Harassment

Definition. General harassment is defined as unwelcome repeated conduct or communication directed towards an individual which:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive work, business, or academic environment;
2. Has the purpose or effect of substantially interfering with an individual's work, business, or academic performance.

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

D. Sexual Violence

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

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

E. Protected Groups Violence

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

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

F. Assault

Definition. Assault is:

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

II. **RETALIATION**

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

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

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

III. **CONFIDENTIALITY**

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

IV. **INDIVIDUALS COVERED BY THIS POLICY**

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

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

Any person who believes they have been the victim of sexual, sexual orientation, ethnic/racial, religious, and/or disability harassment or violence by a pupil or other

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

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

B. Reporting the Complaint.

1. A student, who believes they have been a victim of harassment or violence by any individual covered by this policy, may report the alleged harassing behavior to any school personnel.
2. Any person who believes he or she has been the victim of sexual, sexual orientation, gender identity, gender expression, ethnic/racial, or religious harassment or violence by a pupil or school personnel of ISD 709 should report the alleged acts immediately to an appropriate ISD 709 official designated by this policy.
3. ISD 709 encourages the reporting party or complainant:
 - a. Whenever it is a safe or reasonable alternative, to first seek corrective action by telling the individual initiating the harassment to stop.
 - b. To use the report form available from the principal of each building or available from the ISD 709 office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the Senior Human Resources Manager or to the Superintendent.
4. The building principal is the person responsible for receiving oral or written reports of harassment or violence under this policy at the building level.
5. Any person with knowledge or belief of conduct which may constitute harassment or violence as defined in this policy should report the alleged acts immediately to an appropriate school district official designated by this policy.
6. Any ISD 709 personnel who receive a report of harassment or violence under this policy is obligated to report the incident in writing to the building principal immediately.
7. If a complainant is uncomfortable bringing the report to the building principal, he or she may report directly to the Senior Human Resources Manager or to the Superintendent.
8. Upon receipt of a complaint involving an ISD 709 personnel, the building principal must notify the Senior Human Resources Manager immediately. The principal may request, but may not insist upon a written complaint. A written

statement of the alleged facts will be forwarded as soon as possible by the principal to the Senior Human Resources Manager. If the complaint was given verbally, the principal shall personally reduce the report to written form and file it with the Senior Human Resources Manager within 24 hours. Failure of the principal or other adult ISD 709 personnel to forward any harassment or violence report or complaint as provided herein may result in investigation and disciplinary action as appropriate.

9. If the report involves the building principal, it should be made or filed directly with the Superintendent or the Senior Human Resources Manager.
10. Failure to act on a report involving ISD 709 personnel will result in an investigation and disciplinary action as appropriate.

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

1. The name of the complainant;
2. A brief description of the offending behavior - including times, places, and names;
3. The name of or identifying information about the alleged perpetrator; and
4. The names or descriptions of any witnesses to the harassment or violence.

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

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

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

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

If, after having contacted the third party, either party decides not to proceed with the early resolution approach, his/her wishes will be respected. If no agreements are reached, or either party opts out of the mediation prior to

agreements being made, the complaint will be processed subject to formal complaint procedures listed below.

2. Formal Process.

- a. Timing. The investigator should make a decision about whether the harassment or violence reported can be substantiated as soon as possible. If the investigation exceeds 30 calendar days, the investigator must report the reason that the investigation has exceeded 30 days to the Senior Human Resources Manager, and the Administrator may take over the investigation. If the Senior Human Resources Manager was the initial investigator, the Senior Human Resources Manager must report the reason that the investigation has exceeded 30 days to the Superintendent, and the Superintendent may take over the investigation. An impartial third party may also be appointed to complete the investigation if the 30 day limit is exceeded.
- b. Standard of Proof. In determining whether the alleged conduct can be substantiated, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred will be investigated. Allegations of the harassment and violence will be evaluated using a preponderance of the evidence standard - meaning that prior to imposing any sanctions the investigator must conclude that it is more likely than not that the harassment or violence occurred.
- c. School District Action. If warranted, based on results of the investigation, ISD 709 will take appropriate action. Such action will be taken in accordance with the Pupil Fair Dismissal Act, ISD 709 policies, any applicable Collective Bargaining Agreements, and other Minnesota and federal laws. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge.
- d. Release of Data to the Complainant. Consistent with the requirements of the Minnesota Government Data Practices Act, Minnesota Statute Section 13.01 et seq., the results of the School District's investigation will be made available to the complainant. The information provided to the complainant and the timing of the dissemination of information may be significantly limited by the requirements of the Minnesota Government Data Practices Act, and in certain circumstances, by the attorney-client privilege and/or the attorney-work product doctrine.
- e. Release of Data to the Subject of the Investigation and Others. The release of data regarding a harassment or violence complaint, including data regarding the resultant investigation and ISD 709 action, shall be governed by the requirements of the Minnesota Government Data Practices Act. In certain circumstances, the Government Data Practices Act may require the classification of the data as private and/or confidential. In certain circumstances, data may also be protected by the attorney-client privilege and/or may constitute attorney-work product. When allegations of harassment are made against an employee, the employee does not have access to data that would identify the complainant or their witnesses if ISD 709 determines that the employee's access to the data would:
 - 1) Threaten the personal safety of the complainant or witness; or
 - 2) Subject the complainant or witness to harassment.

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

- f. Appeals. Either party involved in the report who is dissatisfied with the investigation or resolution of an allegation of harassment or violence may appeal in writing to the Senior Human Resources Manager or the Superintendent within ten (10) days of receiving written notice of the outcome of the investigation.
- g. Submission of a Complaint or Report. Submission of a good faith complaint or report of sexual, sexual orientation, gender identity, gender expression, racial/ethnic, religious, or disability harassment or violence by a student or school personnel will not affect the complainant or reporter's future employment, grades, access to educational or school activities or work assignments. ISD 709 does not tolerate retaliation as a result of the submission of a complaint or report.

VI. NON EXCLUSIVITY

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

VII. INTENT

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

VIII. HARASSMENT VIOLENCE AS ABUSE

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

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

IX. DISSEMINATION OF POLICY AND TRAINING

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

- A. This policy, or a summary of this policy, shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members. ISD 709 shall conspicuously post the name of the Senior Human Resources Manager and Climate Coordinator contact information, including mailing address and telephone number in each ISD 709 school building.
- B. This policy shall be made available in each principal's office and in the ISD 709 Office.
- C. This policy shall appear in the student handbook.
- D. All ISD 709 employees and students who subsequently become part of the educational community shall be informed of this policy during their orientation. All non-student recipients of this policy, now or in the future, shall be required to sign an acknowledgment form indicating that they have read this policy, understand it, and agree to abide by it.
- E. Each administrator shall be responsible for promoting understanding and acceptance, monitoring of, and compliance with state and federal laws, board policies, and procedures governing harassment and violence in his or her building.
- F. ISD 709 will provide policy training, including discussions of this policy with students and school personnel.
- G. This policy shall be reviewed at least annually for compliance with state and federal law.

Cross References: Policy 413 (Prohibiting Harassment and Violence)
Resolution 413.1R (Harassment Complaint Form)

Replacing: Resolution 4015R
Accepted: 05-19-2015
04-19-206 ISD 709 (*Renumbered only*)

Name of Person Filing Complaint (Complainant): _____

Address: _____

Telephone: _____ (Home) _____ (School/Work Location)

Status of Person Filing the Complaint: Student Employee Parent Other _____ (Specify)

Type of Complaint: Sexual General Protected Group (select group from list below)

Protected Group: Race Color Creed Religion National Origin Sex Age Marital Status
 Disability Public Assistance Sexual Orientation Gender Identity/Expression Other Protected Group

Name of Person You Are Reporting (Respondent): _____

Status of Person You Are Reporting: Student Employee Parent Other _____ (Specify)

Statement of Complaint (Include type of harassment/violence, who was involved in the specific incidents in which it occurred, names of witnesses, etc.): _____

(Continue on reverse side or attach pages as needed.)

I UNDERSTAND THAT IN ACCORDANCE WITH DISTRICT POLICY #413, INDEPENDENT SCHOOL DISTRICT 709 WILL ADDRESS THIS COMPLAINT.

Signature of Complainant: _____ Date: _____

Signature of Person Receiving The Complaint: _____ Date Received: _____

Printed Name of Person Receiving The Complaint: _____

Name of Building Administrator (if different from person receiving initial complaint): _____

Original to Human Resources Date Distributed: _____
(Human Resources will distribute a copy to the District's Climate Coordinator)

Copies Distributed To: Building Administrator Date Distributed: _____

(To be completed by Human Resources)

REPORT NUMBER: Year: _____ Building Code: _____ Number In Sequence By Year: _____