

Policy #: <b>413</b>
Title: <b>HARASSMENT AND VIOLENCE</b>
Date of Initial Approval: 1995
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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