

Math and Science Academy

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413 HARASSMENT AND VIOLENCE

[Note: State law (Minn. Stat. § 121A.03) requires that school districts adopt a sexual, religious, and racial harassment and violence policy that conforms with the Minnesota Human Rights Act, Minn. Stat. Ch. 363A (MHRA). This policy complies with that statutory requirement and addresses the other classifications protected by the MHRA and/or federal law. While the recommendation is that school districts incorporate the other protected classifications, in addition to sex, religion, and race, into this policy, they are not specifically required to do so by Minn. Stat. § 121A.03. The Minnesota Department of Education (MDE) is required to maintain and make available a model sexual, religious, and racial harassment policy in accordance with Minn. Stat. § 121A.03. MDE's policy differs from that of MSBA and imposes greater requirements upon school districts than required by law. For that reason, MSBA recommends the adoption of its model policy by school districts. Each school board must submit a copy of the policy the board has adopted to the Commissioner of the MDE.]

MSA's policy (this policy) mostly follows the MSBA model policy]

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is free from harassment and violence, including, but not limited to being harassed on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual or affectional orientation, gender identity or expression, membership or activity on a local commission, or disability.

[Note: The Minnesota Human Rights Act defines "sexual orientation" to include "having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness." Minn. Stat. § 363A.03, Subd. 44.]

II. GENERAL STATEMENT OF POLICY

- A.** The policy of Math and Science Academy (MSA) is to maintain a learning and working environment that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual or affectional orientation, gender identity or expression, membership or activity on a local commission, or disability. MSA prohibits any form of harassment or violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual or affectional orientation, gender identity or expression, membership or activity on a local commission, or disability.
- B.** MSA prohibits discrimination, harassment, violence, or other offensive behavior by or toward a student and adult non-student, MSA employee, or third party in all MSA environments including all academic, extra-curricular, co-curricular, and MSA-sponsored activities on MSA property, including but not limited to schools, the school bus, school functions, or MSA-sponsored events held at other locations. MSA prohibits retaliation for good faith reporting of such conduct.
- C.** A violation of this policy occurs when any student and adult non-student, teacher, administrator, or other MSA personnel harasses a student and adult non-student, teacher, administrator, or other MSA personnel or group of student and adult non-students and adult non-students, teachers, administrators, or other MSA 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 or affectional orientation, gender identity or expression, membership or activity on a local commission, or disability, as defined by this policy. (For purposes of this policy, school personnel include MSA Board of Director (BOD) members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of MSA.)
- D.** A violation of this policy occurs when any student and adult non-student, teacher, administrator, or other MSA personnel inflicts, threatens to inflict, or attempts to inflict violence upon any student and adult non-student, teacher, administrator, or other MSA personnel or group of student and adult non-students and adult non-students, teachers, administrators, or other MSA 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 or affectional orientation, gender identity or expression, membership or activity on a local commission, or disability.
- E.** 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 or affectional orientation, gender identity or expression, membership or activity on a local commission, or disability, and to discipline or take appropriate action against any student

and adult non-student, teacher, administrator, or other MSA personnel who is found to have violated this policy.

III. DEFINITIONS

A. 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.

B. Harassment; Definition

“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 or affectional orientation, gender identity or expression, membership or activity on a local commission, 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. Immediately; Definition

“Immediately” means as soon as possible but in no event longer than 24 hours.

D. Protected Classifications; Definitions

1. “National origin” means the place of birth of an individual or of any of the individual’s lineal ancestors.
2. “Sex” includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

3. “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.
4. “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.
5. “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.
6. “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, “Sexual orientation” does not include a physical or sexual attachment to children by an adult.
7. “Affectional orientation” means one's natural preference for a romantic partner of one gender or the other, or the absence of gender preference in a romantic relationship; one’s aroantic, biromantic, heteroromantic, homoromantic, or panromantic identity.
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9. “Gender Identity or Expression” means having or being perceived as having a self-image or identity not traditionally associated with one’s biological maleness or femaleness. Student and adult non-students and adult non-students have the right to be addressed by the names and pronouns that correspond to their gender identity. Using the student and adult non-student’s preferred name and pronoun promotes the safety and wellbeing of the student and adult non-student. The intentional or persistent refusal to respect the gender identity of an employee or student and adult non-student after notification of the preferred pronoun/name used by the employee or student and adult non-student is a violation of this policy (413).

10. “Local commissions” means are agencies of a city, county, groups of counties, unions, or other organizations that have been established by charter or ordinance, or have been formed with a special purpose (i.e. task force, committee, etc.).
11. “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 impairment which materially limits one or more major life activities;
 - b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.

E. Remedial Response; Definition

“Remedial response” means a measure to stop and correct acts of harassment or violence, prevent acts of harassment or violence from recurring, and protect, support, and intervene on behalf of a student and adult non-student who is the target or victim of acts of harassment or violence.

F. Sexual Harassment; Definition

1. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or an education; or
 - b. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual’s employment or education; or
 - c. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual’s employment or education, or creating an intimidating, hostile, or offensive employment or educational environment.
2. Sexual harassment may include, but is not limited to:
 - a. unwelcome verbal harassment or abuse;
 - b. unwelcome pressure for sexual activity;

- c. unwelcome, sexually motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of student and adult non-student(s) by teachers, administrators, or other MSA personnel to avoid physical harm to persons or property;
- d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
- e. 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 or educational status; or
- f. unwelcome behavior or words directed at an individual because of sexual orientation, gender identity, or expression.

G. Sexual Violence; Definition

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

H. 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 or affectional orientation, gender identity or expression, membership or activity on a local commission, or disability.

IV. REPORTING PROCEDURES

- A.** Any person who believes he or she has been the target or victim of harassment or violence on the basis of race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression, or disability by a student and adult non-student, teacher, administrator, or other MSA personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student and adult non-student, teacher, administrator, or other MSA personnel or group of student and adult non-students, teachers, administrators, or other MSA personnel should report the alleged acts immediately to an appropriate MSA official designated by this policy. A person may report conduct which may constitute harassment or violence anonymously. However, MSA may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B.** MSA, hereby designates the MSA Director (Director) as MSA's human rights officer to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves the Director, the complaint shall be filed directly with the MSA Board of Directors (BOD).

MSA's Human Rights Officer:
John Gawarecki, MSA Director
8430 Woodbury Crossing
Woodbury, Minnesota 55125
(651) 578-7507
jgawarecki@mnmsa.org

- C.** MSA shall conspicuously post the name of its human rights officer, including mailing address and telephone number,
- D.** Individuals may choose to use form 413 as a method of reporting harassment. This form is available on the MSA website under Board of Directors Policies.
- E.** Any adult MSA personnel who receives a report of harassment or violence prohibited by this policy shall inform the Director immediately. The Director shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as a primary contact on policy and procedural matters.

- F.** A teacher, school administrator, volunteer, contractor, or other school employee shall be particularly alert to possible situations, circumstances, or events that might include acts of harassment or violence. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence shall make reasonable efforts to address and resolve the harassment or violence and shall inform the Director immediately. MSA personnel who fail to inform the Director of conduct that may constitute harassment or violence or who fail to make reasonable efforts to address and resolve the harassment or violence in a timely manner may be subject to disciplinary action.
- G.** Upon receipt of a report, the Director may request, but may not insist upon, a written complaint. If the report was given verbally, the Director shall personally reduce it to written form within 24 hours. If the complaint involves the Director, the complaint shall be made or filed directly with the BOD.
- H.** 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, work assignments, or educational or work environment.
- I.** Use of formal reporting forms is not mandatory.
- J.** 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.
- K.** 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.
- L.** Retaliation against a victim, good faith reporter, or a witness of violence or harassment is prohibited.
- M.** False accusations or reports of violence or harassment against another person are prohibited.
- N.** A person who engages in an act of violence or harassment, reprisal, retaliation, or false reporting of violence or harassment, or permits, condones, or tolerates violence or harassment shall be subject to discipline or other remedial responses for that act in accordance with MSA's policies and procedures.

Consequences for student and adult non-students and adult non-students who commit, or are a party to, prohibited acts of violence or harassment or who engage in reprisal or

intentional false reporting may range from remedial responses or positive behavioral interventions up to and including suspension and/or expulsion.

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

Consequences for other individuals engaging in prohibited acts of violence or harassment may include, but not be limited to, exclusion from MSA property and events and/or termination of services and/or contracts.

V. INVESTIGATION

- A.** Within three (3) days of the receipt of a report or complaint alleging harassment or violence prohibited by this policy, the Director shall 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, the following should be considered: 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 target or victim, the complainant, and student and adult non-students and adult non-students, teachers, administrators, or other MSA personnel pending completion of an investigation of alleged harassment or violence prohibited by this policy.
- E.** The alleged perpetrator of the act(s) of harassment or violence shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.
- F.** The investigation will be completed as soon as practicable. The Director shall make a written report upon completion of the investigation. 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. If the complaint involves the Director, the report will be compiled by the BOD.

VI. MATH AND SCIENCE ACADEMY ACTION

- A.** Upon completion of an investigation that determines a violation of this policy has occurred, MSA 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 behavior. MSA action taken for violation of this policy will be consistent with requirements of Minnesota and federal law, and applicable MSA policies and regulations.
- B.** MSA is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student and adult non-student or employee of MSA. School officials will notify the parent(s) or guardian(s) of targets or victims of harassment or violence and the parent(s) or guardian(s) of alleged perpetrators of harassment or violence who have been involved in a reported and confirmed harassment or violence incident of the remedial or disciplinary action taken, to the extent permitted by law.
- C.** In order to prevent or respond to acts of harassment or violence committed by or directed against a child with a disability, MSA shall, where determined appropriate by the child's individualized education program (IEP) or Section 504 team, allow the child's IEP or Section 504 plan to be drafted to address the skills and proficiencies the child needs as a result of the child's disability to allow the child to respond to or not to engage in acts of harassment or violence.

VII. RETALIATION OR REPRISAL

MSA will discipline or take appropriate action against any student and adult non-student, teacher, administrator, or other MSA personnel who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy, who testifies, assists, or participates in an investigation of retaliation or alleged harassment or violence, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment, or intentional disparate treatment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the harassment or violence. Remedial responses to the harassment or violence shall be tailored to the particular incident and nature of the conduct.

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 throughout each school building in areas accessible to student and adult non-students and staff members.
- B.** This policy shall be given to each MSA employee and independent contractor who regularly interacts with students and adult non-students and at the time of initial employment with MSA.
- C.** This policy shall appear in the student and adult non-student handbooks.
- D.** MSA will develop a method of discussing this policy with student and adult non-students and employees.
- E.** MSA may 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, resourcefulness, and/or sexual abuse prevention.
- F.** This policy shall be reviewed at least annually for compliance with state and federal law.

Legal References: Minn. Stat. § 120B.232 (Character Development Education)
Minn. Stat. § 120B.234 (Child Sexual Abuse Prevention Education) Minn.
Stat. § 121A.03, Subd. 2 (Sexual, Religious, and Racial Harassment and
Violence Policy)

Minn. Stat. § 121A.031 (School Student and adult non-student Bullying 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)

Cross References: MSA Policy 102 (Equal Educational Opportunity)
MSA Policy 401 (Equal Employment Opportunity)
MSA Policy 402 (Disability Nondiscrimination Policy)
MSA Policy 406 (Public and Private Personnel Data)
MSA Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
MSA Policy 506 (Student and adult non-student Discipline)
MSA Policy 514 (Bullying Prohibition Policy)
MSA Policy 515 (Protection and Privacy of Pupil Records)
MSA Policy 521 (Student and adult non-student Disability Nondiscrimination)
MSA Policy 522 (Student and adult non-student Sex Nondiscrimination)
MSA Policy 524 (Internet Acceptable Use and Safety Policy)
MSA Policy 526 (Hazing Prohibition)
MSA Policy 528 (Student and adult non-student Parental, Family Marital Status Nondiscrimination)