

August 4, 2014

To: District Superintendents, Charter School Directors
From: Monica Herrera, Director, Safety, Health and Nutrition Division
Subject: State's Draft Model Anti-Bullying Policy

On April 9, 2014, Governor Dayton signed the Safe and Supportive Minnesota Schools Act. The legislation provides local school districts the guidance, support and flexibility to adopt clear and enforceable school policies to help protect all children from bullying, and reinforces the principles of tolerance and respect in our schools through four components.

1. **Locally-Implemented School Policies** – Directs public and charter schools to adopt local policies to prevent and prohibit school bullying. School districts will also have the option to adopt anti-bullying policy language drafted by the state.
2. **Defines Bullying** – Defines what behaviors, and patterns of behaviors, should be considered bullying in Minnesota schools – including online forms of bullying through social media.
3. **Helps Train Teachers and Staff** – Designates a staff member at each school to monitor and investigate reports of bullying behavior. It also provides regular training and professional development for teachers and staff to identify and prevent bullying behavior.
4. **Provides Support for Schools** – Creates a School Safety Technical Assistance Center at the Minnesota Department of Education to help schools with training for teachers and staff, gather data on bullying in Minnesota schools, review best practices, and help school districts develop and implement anti-bullying policies at the local level.

As part of creating the School Safety Technical Assistance Center, the legislation directed the Minnesota Department of Education to create a model policy to advise local school districts and charter schools in implementing the different components of the act. Local school districts and charter schools may choose to adopt this policy or develop their own policy as long as it meets the criteria specified in the legislation.

Attached is a draft model policy designed to provide guidance to school districts. Please note that this draft policy is subject to approval by the School Safety and Technical Assistance Council at their first meeting in September. Again, you may adopt this policy or you may choose to develop your policy own that meets the statutory requirements. A school district or school that does not adopt and implement a locally-developed policy must adopt the state model policy. Local districts may supplement the state's model policy. In addition, districts and schools may ask for help with implementing the state model policy.

There will be a breakout session at this week's MDE/MASA Back to School Conference, led by Rose Hermodson. Registered attendees have received instructions to view a video "flipped presentation" on the subject ahead of the breakout sessions.

Minnesota Department of Education Model Student Bullying Prohibition Policy

August 2014

PURPOSE

The _____ (school district/charter school) strives to provide safe, secure and respectful learning environments for all students in school buildings, on school grounds, school buses and at school-sponsored activities. Bullying, like other disruptive or violent behavior, is conduct that interferes with a student's ability to learn and a teacher's ability to educate.

This policy protects students against bullying and harassment on the basis of actual or perceived race, ethnicity, color, creed, 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, status with regard to public assistance, age, military status, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic defined in Chapter 363A. This policy also protects any student who voluntarily participates in any district function or activity, whether the student is enrolled in the district or not.

DEFINITIONS

- Prohibited conduct ("bullying") means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students creating an actual or perceived imbalance of power between the student engaging in bullying and the target of bullying that has or can be reasonably predicted by repeated forms or pattern to have one or more of the following effects:
 - Placing the student in reasonable fear of harm to the student's person or property.
 - Causing a substantially detrimental effect on the student's physical or mental health.
 - Substantially interfering with the student's educational opportunities and performance.
 - Substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.
- Bullying may take various forms, including without limitation, one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.
- "Cyberbullying" means using electronic information and communication technologies to bully. This may include, but is 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.
- "Remedial response" means a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of the

student who is the target of the prohibited conduct. Remedial response also means a measure to stop and correct retaliation for asserting, alleging, reporting or providing information about prohibited conduct (retaliation) or knowingly making a false report about prohibited conduct (false report), prevent retaliation or false reports from recurring and protect, support and intervene on behalf of the student who is the target of the prohibited conduct.

- “Immediately” means as soon as possible but in no event longer than 24 hours.
- “District employee” includes school board members, administrators, educators, aids, school counselors, social workers, psychologists, other school mental health professionals, nurses and other school-based/linked medical providers/health professionals, cafeteria workers, custodians, bus drivers, athletic coaches, extracurricular activities advisors, paraprofessionals, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the district and its students.

PROHIBITIONS

Bullying of a student or group of students is prohibited:

1. During any school-sponsored or school-sanctioned programs, activities, events or trips.
2. In school buildings, school property, on school buses or other school district-provided transportation, and at designated locations for students to wait for buses and other school district-provided transportation.
3. Through the transmission of information from a school district computer or computer network, or other electronic school equipment.
4. When communicated through any electronic technology or personal electronic device while on school property, on school buses or other school-provided transportation, at bus stops, and at school-sponsored or school-sanctioned events or activities.
5. Off campus communication and use of electronic technology which seriously disrupts any student’s education.

Apparent permission or consent by a student being bullied does not lessen the prohibitions contained in this policy. Retaliation against a victim, good faith reporter, or a witness of bullying is prohibited. False accusations or reports of bullying against another student are also prohibited.

RESPONSE

School principal or designee (hereinafter principal/designee) is the person responsible for receiving reports of bullying at the building level. They will ensure this policy and its procedures are fairly and fully implemented and serve as the primary contact on policy and procedural matters implicating both the district or school and department. If the complaint involves the principal/designee, the complaint shall be made or filed directly with the superintendent.

When investigating a complaint, principal/designee may take into account the following factors:

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

Investigation of a bullying incident shall be initiated within three school days of receipt of a report and be completed within 10 school days, unless the principal/designee grants in writing an additional five-day extension due to extenuating circumstances. **See Attachment A for a template investigation process.**

Consequences - Many student conflicts can be resolved immediately and do not require reporting or creation of an incident report. Schools must respond to bullying in a manner tailored to the individual incident, considering the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. Appropriate responses and consequences are outlined in either the Student Handbook or in **Attachment B**.

Appeal - Any party who is not satisfied with the outcome of the investigation may appeal to the district's human rights officer within 10 school days of notification of the principal/designee's decision. The human rights officer will conduct a review of the appeal and, within 10 school days of receipt of the appeal, will affirm, reverse or modify the findings of the report. The human rights officer shall notify the party requesting the appeal and the principal that its decision is final and shall document that notification in the incident report.

District Employees - When it is determined that a district employee was aware prohibited conduct was taking place but failed to report it, the employee will be considered to have violated this policy. The principal shall consider employee discipline for such violations, making reference to any applicable collective bargaining agreement. Remedies for offending contractors should be imposed according to their district contracts.

Reprisal - The school district will take appropriate action against any student or district employee who retaliates against any person who reports alleged bullying or against any person who testifies, assists or participates in an investigation, or against any person who testifies, assists or participates in a proceeding or hearing relating to such bullying. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment or intentional disparate treatment.

NOTICE AND DISSEMINATION OF REQUIREMENTS

The school district will give annual notice of this policy to students, parents or guardians, and district employees, and this policy shall appear in the student handbook and posted in an electronic format in the languages appearing on its district/school website. This policy should also be:

1. Posted in the district and school building administrative offices and throughout each school building in areas accessible to students and district employees.
2. Included in each school's student handbook on school policies.
3. Be given to each school district employee and independent contractor at the time of entering into the person's employment contract.

PROFESSIONAL DEVELOPMENT AND EDUCATION

Staff - Professional development will be offered annually to build the skills of all district employees to implement this policy. The content of such professional development shall include, but not be limited to:

1. Developmentally appropriate strategies to prevent incidents of bullying and to intervene immediately and effectively to stop them in a manner that does not stigmatize the victim.
2. Information about the complex interaction and power differential that can take place between and among an actor, target and witness to the bullying.
3. Research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk, and any specific interventions that may be particularly effective for addressing bias-based bullying.
4. Recognizing, responding to and reporting bullying.
5. Information about the incidence and nature of cyberbullying.
6. Information about Internet safety issues as they relate to cyberbullying.
7. A review of the district's reporting requirements related to bullying and cyberbullying.

Student Education - Each school shall incorporate into the school curriculum developmentally appropriate programmatic instruction to help students identify, prevent and reduce bullying and create a safe learning environment. The superintendent or designee shall determine the scope and duration of the units of instruction and topics covered but should include evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct to engage all students in creating a safe and supportive school environment. **See Attachment C for more information on student instruction.**

Attachment A – Template for investigation process

SCHOOL DISTRICT ACTION

The principal/designee shall perform the investigation.

1. Investigation of a bullying incident shall be initiated within three school days of receipt of a report and be completed within 10 school days, unless the principal/designee grants in writing an additional five-day extension due to extenuating circumstances. The principal/designee shall document the extension in the investigation report and shall notify the parties involved. The principal/designee will make every effort to protect the confidentiality of those who report bullying incidents and is responsible for keeping and protecting access to any written records of the investigation.
 2. Prior to the investigation of an incident, the principal/designee will take immediate steps, at its discretion, to protect the alleged actor(s), target(s), bystander(s) or reporter pending completion of an investigation. Once an investigation is concluded, further steps will be taken as needed to assure the continued safety of the complainant from additional incidents of bullying or retaliation.
 3. The purpose of the investigation is to make a determination as to whether a reported incident constitutes a case of bullying. These determinations will be made in consideration of the totality of the facts and the circumstances surrounding the incident, such as the nature of the behavior, past incidents or continuing patterns of behavior, the relationship between the parties involved and the context in which the alleged incident occurred.
- Identifying the alleged actor(s), target(s) and bystander(s), as well as any adult who witnessed the incident or may have reliable information about it.
 - Conducting an individual interview in a private setting with the alleged actor and target. The alleged actor and target should never be interviewed together or in public. Individual interviews shall also be conducted in private with student and adult bystanders. The investigation may also consist of any other methods and documents deemed pertinent by the principal/designee.
 - Determining how often the conduct occurred, any past incident or continuing pattern of behavior, and whether the target's education, including but not limited to, a negative impact on academic performance, educational opportunities and participation in school activities was affected.
 - Assessing the individual and school-wide effects of the incident relating to safety, and assigning school staff to create and implement a safety plan to prevent the recurrence of an incidence that will restore a sense of safety for the target and other students who have been impacted.
 - If the principal/designee determines the reported incident may involve criminal activity or the basis for criminal charges, information about the incident must be conveyed to the appropriate law enforcement authorities. As part of making this determination, the principal/designee may wish to consult with either a law enforcement officer or legal

counsel. Law enforcement shall only be contacted if all other available remedies have been exhausted.

- When appropriate, preparing a report identifying his/her recommendation for individual consequences.
- Comprehensively documenting the details of the investigation.
- When the investigation is complete, the principal/designee shall ensure the investigation report is attached to the incident report.

Attachment B – Additional information on disciplinary actions

Remedial actions may include:

For the student harmed: protect, support and intervene on behalf of the student who is the target of the prohibited conduct.

Support may include: referral to student support staff for one-to-one support or social skills training; daily check-in and check-out with a trusted adult in the school; choice to participate in a restorative process, facilitated by a trained facilitator.

For the student who violated the prohibited conduct policy: schools may use multi-tiered levels of response that are individualized, consistent, reasonable, fair, age-appropriate and should match the severity of the student's behavior and their developmental age. The consequences must be a natural and logical match to the prohibited behavior; consequences must be paired with meaningful instruction and guidance; and must be carefully planned with well-defined outcomes.

Consequences may include: A referral to appropriate staff for teaching and re-enforcing appropriate school behavior; mini-courses or skill modules to guide restitution; a referral to participate in a restorative process facilitated by a trained facilitator if the student admits to having caused harm; a meeting between the administrator and the family of the student who did the harm; a coordinated behavior plan that may include behavior contracts with a plan to prevent the prohibited conduct from recurring; individual counseling and one-to-one support to change behavior.

Consequences may also include warning, suspension, exclusion, expulsion or transfer. Schools should avoid using punitive discipline (detention, suspensions, and expulsions) if any other method or consequence can be used with fidelity. The school may review school-wide behavior data as well as the data related to the person who did the harm and the person harmed. If the investigator determines that a violation of this policy may be the result of school climate needs, the district may conduct classroom, school or district-wide training.

When an investigation determines that bullying occurred, the principal/designee shall explain the consequences in a non-hostile manner, and shall impose any consequence immediately and consistently. The principal/designee shall keep communicating and working with all parties involved until the situation is resolved. Some key indicators of resolution include:

- The actor is no longer bullying and is interacting civilly with the target.
- The target reports feeling safe and is interacting civilly with the actor.
- School staff observe an increase in positive behavior and social-emotional competency in the actor and/or the target.
- School staff observe a more positive climate in the physical location where bullying incidents were high.

REMEDIAL RESPONSE AND REFERRALS

The principal/designee shall design and implement remedial measures to correct the problem behavior, prevent another occurrence of the problem, protect and provide support for the target of the bullying, and take corrective action for documented systemic problems related to bullying. The principal/designee shall refer students who bully to positive-behavior small-group interventions (for anger management, trauma or social skills) within the school, if possible, to reinforce the behavioral expectation they violated and increase their social-emotional competency. The principal/designee shall ask a school mental health professional to refer targets of bullying to individual or group therapy where they can openly express their feelings about their bullying experience, or social-skills training and/or groups where they can practice assertiveness and coping mechanisms.

Attachment C – Student Instruction

Administration is encouraged to take such actions as deemed appropriate to accomplish the following goals:

- Engage students in creating a safe and supportive school environment.
- Partner with parents and other community members to develop and implement prevention and intervention programs.
- Engage all students and adults in integrating education, intervention and other remedial responses into the school environment.
- Train student bystanders to intervene in and report incidents of bullying and other prohibited conduct.
- Teach students to advocate for themselves and others.
- Prevent inappropriate referrals to special education of students who may engage in bullying or other prohibited conduct.
- Foster student collaborations to create a more conducive environment for a supportive school climate.

Possible units of instruction could include:

1. Social emotional learning.
2. Appropriate behavior online/on social media and cyberbullying awareness and response.
3. Valuing diversity in school and society.
4. Advocacy skills for themselves and others.
5. Skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting bullying.

The age-appropriate unit of instruction may be incorporated into the current courses of study regularly taught. Schools shall satisfy the documentation requirements established by the superintendent or designee to ensure compliance with this curricular requirement.