



Adopted: April 10, 1996

EMID 6067 Board Policy 413
(required policy)

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November 16, 2011; December, 2014; December 16, 2015; February 17, 2016; October
19, 2016; November 15, 2017

413 HARASSMENT AND VIOLENCE

State law requires that districts adopt a sexual, religious, and racial harassment and violence policy that conforms with the Minnesota Human Rights Act, Minn. Stat. Ch. 363A. This policy complies with this statutory requirement but, in addition, addresses other classifications protected by state and/or federal law. While the recommendation is that districts incorporate the other protected classifications, in addition to sex, religion, and race, into this policy, they are not required to do so. The Minnesota Department of Education (MDE) will maintain and make available Model Policy 413 – Harassment and Violence in accordance with Minn. Stat. § 121A.03. Each school board must submit a copy of the policy the board has adopted to the Commissioner of MDE.

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment in EMID's integration programs that is free from harassment and violence on the basis of race, color, creed, religion, national origin, sex, gender identity or expression, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.

II. GENERAL STATEMENT OF POLICY

- A. The policy of EMID 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, gender identity or expression, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability. EMID prohibits any form of harassment or violence on the basis of race, color, creed, religion, national origin, sex, gender identity or expression, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.
- B. A violation of this policy occurs when any EMID pupil, teacher, administrator or other school personnel harasses a pupil, teacher, administrator or other school personnel or group of pupils, teachers, administrators, or other school personnel through conduct or communication based on a person's race, color, creed, religion, national origin, sex, gender identity or expression, 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, school personnel include EMID Board members, school employees, agents, volunteers, contractors/vendors or persons subject to the supervision and control of EMID.)
- C. A violation of this policy occurs when any EMID pupil, teacher, administrator or other school personnel of the EMID inflicts, threatens to inflict, or attempts to inflict



violence upon any pupil, teacher, administrator or other school personnel or group of pupils, teachers, administrators, or other school personnel based on a person's race, color, creed, religion, national origin, sex, gender identity or expression, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability.

- D. EMID 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, gender identity or expression, 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, gender identity or expression, 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. "Immediately" means as soon as possible but in no event longer than 24 hours.

D. Protected Classifications; Definitions

- .1. "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.
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. “Gender identity” refers to a person’s deeply held sense or knowledge of their own gender. “Gender expression” refers to the manner in which persons represent or express gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.
9. “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.

E. 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 pupil(s) by teachers, administrators or other school 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 gender.

F. 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.



- G. 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, gender identity or expression, 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, gender identity or expression, age, marital status, familial status, status with regard to public assistance, sexual orientation, or disability by an EMID pupil, teacher, administrator or other school personnel, 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 school personnel or group of pupils, teachers, administrators, or other school personnel should report the alleged acts immediately to an appropriate district official designated by this policy. EMID encourages the reporting party or complainant to use the report form available from the EMID 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 Executive Director.
- B. Integration Programs. The program directors (hereinafter building report taker) are responsible for receiving oral or written reports of harassment or violence prohibited by the policy. Any adult EMID personnel who receives a report of harassment or violence prohibited by this policy shall immediately inform the building report taker. If a complaint involves the building report taker, the complaint shall be filed directly with the Executive Director by the reporting party or complainant. EMID personnel who fail to inform the building report taker of a report of harassment or violence in a timely manner may be subject to disciplinary action.
- C. Upon receipt of a report, written or verbal, the building report taker must notify the Executive Director immediately, without screening or investigating the report. The building report taker 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 building report taker to the Executive Director. If the report was given verbally, the principal/program director shall personally reduce it to written form within 24 hours and forward it to the Executive Director. Failure to forward any harassment or violence report or complaint as provided herein *may* result in disciplinary action against the building report taker.
- D. EMID hereby designates the Executive Director as the EMID Human Rights Officer to receive reports or complaints of harassment or violence prohibited by



this policy. If the complaint involves the Executive Director, the complaint shall be filed directly with the EMID Board Chair.

- E. EMID will inform appropriate parties of the name of the Human Rights Officer, including mailing address and telephone number.
- 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 or work assignments.
- G. 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 or work assignments.
- H. Use of formal reporting forms is not mandatory.
- I. 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. EMID will respect the privacy of the complainant(s), the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the school district's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

V. INVESTIGATION

- A. By authority of EMID, the Human Rights Officer, upon receipt of a report or complaint alleging harassment or violence prohibited by this policy, shall immediately undertake or authorize an investigation. The investigation may be conducted by EMID officials or by a third party designated by EMID.
- 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, EMID 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, EMID may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel 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 EMID Human Rights Officer shall investigate the complaint and make a written report upon completion of the investigation. If the complaint involves the Executive Director, the report may be filed directly with the 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. DISTRICT ACTION

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

VII. REPRISAL

EMID will discipline or take appropriate action against any pupil, teacher, administrator or other school personnel 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, 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 EMID 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 on the EMID website in areas accessible to students and staff members.
- B. EMID will develop a method of discussing this policy with students and employees.
- C. EMID 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, and resourcefulness.
- D. 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. §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)

Cross References: EMID Policy 102 (Equal Educational Opportunity)
EMID Policy 401 (Equal Employment Opportunity)
EMID Policy 402 (Disability Nondiscrimination Policy)
EMID Policy 403 (Discipline, Suspension and Dismissal of School District Employees)
EMID Policy 406 (Public and Private Personnel Data)
EMID Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
EMID Policy 506 (Student Discipline)
EMID Policy 514 (Bullying Prohibition)
EMID Policy 515 (Protection and Privacy of Pupil Records)
EMID Policy 521 (Student Disability Nondiscrimination)
EMID Policy 522 (Student Sex Nondiscrimination)
EMID Policy 524 (Internet Acceptable Use and Safety Policy)
EMID Policy 525 (Violence Prevention)
EMID Policy 526 (Hazing Prohibition)



EMID Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)