



4002 A

Reporting and Fact Finding Procedures: Harassment and Violence

Regulation 4002 A

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Review Dates:

I. PURPOSE

The purpose of this regulation is to establish the complaint, fact finding and investigation, and reporting procedures for allegations of harassment or violence in violation of Minneapolis Public Schools Policy 4002, Harassment and Violence Prohibition based on the alleged target's status as a member of a protected class.

II. COMPLAINT PROCEDURES

A. Any person who believes he or she has been the victim of harassment or violence based on characteristics establishing a protected class identified below, or any person with knowledge or belief of conduct which may constitute harassment or violence toward a student, employee, or personnel of the District should make a complaint of the alleged acts immediately to an appropriate District responsible authority designated by this regulation.

B. Protected class characteristics that apply to this regulation are :

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| 1. gender | 11 disability; |
| 2. race | 12 gender identity or expression; |
| 3. national origin; | 13 sexual orientation or affectional preference; |
| 4. religion or religious practice; | 14. veteran or military service status; |
| 5. age; | 15. status with regard to receipt of public assistance. |
| 6. marital status; | 16 citizenship status |
| 7. sex | 17. family structure |
| 8. color; | 18. economic status |
| 9. pregnancy | 19. genetic information |
| 10. culture | 20. other protected classes under the Minnesota Human Rights Act. |

C. Complainants are encouraged to use the online reporting system available from the District's Office of Equality and Civil Rights, but oral complaints to the responsible authority shall be accepted.

D. Nothing in this regulation shall prevent any person from making complaints of alleged harassment or violence directly to the District's Office of Equality and Civil Rights or to the Superintendent.

E. The District will respect the privacy of the complainant, the respondent, subject(s), or individual(s) against whom the complaint is made, as well as the witnesses as much

as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations imposed by law. However confidentiality is not guaranteed.

III. DESIGNATION OF APPROPRIATE DISTRICT AUTHORITY

- A. The appropriate District authority for the purposes of Policy 4002 is designated as follows:
1. ***In a School.*** The school principal or site administrator, or her/his designee is the person responsible for receiving complaints. This designation shall be made by the principal on an annual basis.
 - (a) Any adult District personnel who receives a complaint of harassment or violence shall inform the school's responsible authority immediately.
 - (b) If the complaint involves the school's responsible authority, the complaint shall be filed or verbally made directly to the District Office of Equality and Civil Rights.
 2. ***In All Other District Locations.*** The Superintendent or superintendent's designee shall designate the site administrator or other district personnel as the responsible authority for the facility to receive complaints of harassment or violence. The Superintendent or the superintendent's designee shall make this designation on an annual basis.
 - (a) If the complaint involves the responsible authority, the complaint shall be filed or made to the District Office of Equality and Civil Rights.
 - (b) If the complaint involves staff in the District Office of Equality and Civil Rights the complaint shall be filed or verbally made directly to the Superintendent.
- B. The Director of the Office of Equality and Civil Rights shall be designated as an additional responsible authority for all district facilities, and may take complaints from any person.
- C. The name of the appropriate District responsible authority as determined under this section shall be conspicuously posted in each facility. The posting shall include the person's name, title, mailing address, telephone number and email address. The District authority for the site or her /his designee is responsible to see that such postings are made and maintained.

IV. FACT FINDING PROCEDURES

- A. Within one business day after receipt of a complaint of harassment or violence, the appropriate District responsible authority must initiate fact-finding procedures.
1. Failure to initiate fact-finding one business day of receiving a report may result in disciplinary action against the responsible authority.
 2. Responsible authorities will use the forms and procedures outlined in the *District Procedures for Investigating Complaints of Discrimination, Harassment, Violence, Bullying or Retaliation* manual, or other written guidance issued by the District's Office of Equality and Civil Rights.

- B. The responsible authority may request, but may not insist upon, a written complaint.
 - 1. If the complaint is made verbally and the complainant cannot or will not provide a written complaint the responsible authority shall convert the allegations to a written complaint.
 - 2. In the case of verbal complaints converted to a written complaint the responsible authority shall have the complainant attest to the accuracy of the written complaint.
- C. A written notice, including, but not limited to a statement of the facts alleged will be forwarded as soon as practicable by the responsible authority to the Office of Compliance.
 - 1. If the complaint involves the responsible authority, the complaint shall be made or filed directly with the Office of Equality and Civil Rights or the Superintendent.
- D. The fact-finding shall 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 report or complaint.
- E. The fact-finding may also consist of any other methods, including review of video, audio and electronic sources, and documents deemed pertinent by the appropriate District responsible authority.
- F. If the complainant is a student and the individual against whom the allegations are made is an employee of the District, and the facts lead the appropriate District responsible authority to reasonably believe that child abuse has occurred,
 - 1. the responsible authority shall make a report as required by District policy, federal and state law.
 - 2. the responsible authority may take immediate steps, at its discretion, to protect the complainant pending completion of the fact-finding.
- G. If the responsible authority has reason to believe that criminal activity has occurred, the responsible authority shall contact the local police and the District General Counsel's office immediately.
- H. The District will receive complaints up to 365 days from the date of the most recent incident of alleged harassment or violence. Exceptions to this timeframe will be considered on a case-by-case basis.

V. FACT FINDING REPORT

- A. The responsible authority shall complete the fact-finding process as soon as practicable.
- B. The responsible authority shall make a written report to the Office of Equality and Civil Rights upon completion of the fact-finding. If the complaint involves the

Office of Equality and Civil Rights the report shall be filed directly with the Superintendent.

- C. The report shall include a determination of whether the allegations have been substantiated, unsubstantiated or found unable to be substantiated.
 - 1. In determining whether allegations have been substantiated, the fact finder shall consider all the circumstances, witness statements, and credibility of each person interviewed.
 - 2. Credibility of each person shall be determined on the basis of all the facts known, and the interviewer's observations, including, but not limited to:
 - (a) the person's demeanor,
 - (b) any bias exhibited during the interview, and
 - (c) the person's prior conduct.
- D. **Standard of Proof.** The investigator will make a finding using the preponderance of the evidence standard. This standard requires that the information supporting a finding of responsibility be more convincing than the information in opposition to it. Under this standard individuals are presumed not to have violated District policy unless a preponderance of the evidence supports a finding that a violation occurred.
- E. The report shall include a determination of whether the conduct which is the subject of the complaint and substantiated through the fact-finding process appears to be a violation of District policy prohibiting harassment and violence based on the characteristics of protected classes identified in Paragraph II.B. above.
 - 1. In determining whether alleged conduct constitutes a violation of this policy, the fact-finding should consider the surrounding circumstances:
 - (a) the nature of the behavior,
 - (b) past incidents of the behavior,
 - (c) past or continuing patterns of behavior,
 - (d) the relationship between the parties, and
 - (e) the context in which the alleged incident(s) occurred.

VI. DISTRICT ACTION

- A. Upon receipt of a report of substantiated allegations, the District, will take appropriate action. Appropriate action may include, but is not limited to:
 - 1. a warning to discontinue the behavior;
 - 2. a letter of reprimand in an employee's personnel file;
 - 3. remediation, retraining or coaching;
 - 4. a suspension;
 - 5. exclusion;
 - 6. expulsion;
 - 7. transfer; and/or
 - 8. termination or discharge.
- B. Any discipline of an employee shall be in conformance with applicable Collective Bargaining Agreements, contracts or terms of employment, and Federal and State Law.

- C. Any discipline of a student shall be in conformance with the Behavior Standards and Code of Conduct Policy, and Federal and State Law.
- D. In a school, the principal or site administrator, working in conjunction with the Office of Compliance shall take the appropriate action regarding students. In the case of an employee, the District's employee relations department working in conjunction with the Office of Equality and Civil Rights and the principal or site administrator shall take the appropriate action.
- E. In all other District facilities, discipline shall be handled by the individual's supervisor working in conjunction with the District's employee relations department and the Office of Equality and Civil Rights.
- F. In all cases, the District reserves the right to refer the results of its own fact-finding to the criminal authorities for possible criminal charges, whether or not the District takes any action on its own account.
- G. The complainant, and the complainant's parent if a student is under age eighteen, and the individual against whom the allegations have been made, and their parent if the alleged offender is a student under age eighteen, may receive information from the report in conformance with the data practices of the District, Federal and State law following the completion of the fact-finding and after the decision regarding the appropriate action has been made.

Legal References:

42 U.S.C. § 2000e, et seq., (Section 703 of Title VII of the Civil Rights Act of 1964, The Civil Rights Act of 1991)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
City of Minneapolis Ordinance Title VII, Ch. 139

Cross References:

MPS Policy 1040 (Student and Staff Data Protection)
MPS Policy 4000 (Equal Employment Opportunity)
MPS Policy 4001 (Employment Non-discrimination based on Disability)
MPS Policy 5000 (Equal Education Opportunity)
MPS Policy 5200 (Behavior Standards and Code of Conduct)
MPS Policy 5201 (Bullying and Hazing Prohibition)
MPS Policy 5750 (Disability and Nondiscrimination)

MPS Publications:

District Procedures for Investigating Complaints of Discrimination, Harassment, Violence, Bullying or Retaliation, 2017