



REGULAR BOARD MEETING MINUTES

Thursday, August 27th, 2020, 4:45 pm
 Minnesota Transitions Charter School District Office
 2872, 26th Avenue South, Minneapolis, MN 55406

PURSUANT TO MINNESOTA STATUTE 13D.021, AND THE CURRENT STATE OF EMERGENCY IN MINNESOTA DUE TO THE COVID-19 PANDEMIC, THE BOARD CHAIR AND CHIEF LEGAL COUNSEL FOR MTCS HAVE DETERMINED THAT IT IS NOT PRUDENT TO CONDUCT AN IN-PERSON MEETING OF THE SCHOOL BOARD, NOR IS IT FEASIBLE TO ALLOW ANY MEMBER OF THE PUBLIC TO BE PRESENT AT THE REGULAR MEETING LOCATION IN ORDER TO ATTEND THE MEETING. ALL MEMBERS WILL PARTICIPATE BY ELECTRONIC MEANS. THE REGULAR BOARD MEETING OF THURSDAY, AUGUST 27th, 2020, WILL MEET VIA ZOOM CONFERENCE CALL, AND MEMBERS OF THE PUBLIC WHO WISH TO ATTEND THE MEETING BY DO SO BY REGISTERING AT THE WEBSITE BELOW:

Please register for this meeting at

<https://zoom.us/meeting/register/tJUdp-2vpzMoE9TB16J15mrUsgvklfw-dYh>

After registering, you will receive a confirmation email containing information about joining the meeting.

1. Call to order at 4:55
2. Pledge of Allegiance
I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.
3. MTCS Mission Statement:
We are a student-centered learning community that inspires and supports all learners to achieve excellence through equitable, relevant learning experiences.
4. Roll call and noting of quorum (*Roll by Voice - 7 current members, 4 constitutes quorum - Role call and Voting to be completed in the following order:*
 - a. *Renee Smetana*
 - b. *Wendy Lorenz-Walraven*
 - c. *Gwen Peyton*
 - d. *Jacob Hinz*
 - e. *Kelly Nyberg*
 - f. *Britta Hagstrom*
 - g. *Martin Lukaszewski*

Renee Smetana, Teacher (present)

Wendy Lorenz-Walraven, Licensed social worker, teacher (present)

Gwen Peyton, Community member (present)

Britta Hagstrom, Teacher (present)
Martin Lukaszewski, Board Chair (present)

Jacob Hinz, Teacher (absent for deployment)
Kelly Nyberg, Teacher (absent)

Also present:
Jenny Buck
Jen Gisler
Scott Marine
Kristi Thao
Lona Gayton
Connie McTavish
Sara Guyette
Marisa Rivera Lugo

5. Approval of agenda

Motion to approve the agenda with the additions of emergency policies e and f considerations(as written or with the following changes ...) made by Wendy Lorenz-Walraven and seconded by Renee Smetana. Roll call voice vote to approve, Renee Smetana, Wendy Lorenz-Walraven, Gwen Peyton, Britta Hagstrom, Martin Lukaszewski vote yes, motion approved 5-0.

6. Open forum/public comment
(none)

7. Consent Agenda

- a. [Approval of July Board Minutes](#)
- b. [Approval of Accounts Payable](#)
- c. [HR Resignations, Terminations, New Hires](#)

(Motion to accept and approve the Consent Agenda)

Motion to approve the agenda (as written or with the following changes) made by Gwen Peyton, seconded by Britta Hagstrom. Roll call voice vote to approve, Renee Smetana, Wendy Lorenz-Walraven, Gwen Peyton, Britta Hagstrom, Martin Lukaszewski vote yes, motion approved 5-0.

8. Reports - School Community (Resume Post-Stay at Home)

9. Reports - Board

- a. Executive Committee Report - Marty
- b. Board Chair Report - Marty
- c. [Finance Report](#)- Report from Finance Committee
- d. Superintendent - [August 2020 Superintendent's Report](#)
- e. Board Committee reports (Resume Fall 2020)
 - i. Academic - Cancelled
 - ii. Policy - Cancelled

- iii. Compensation - Cancelled
- iv. Diversity and Equity - Cancelled

10. DLR Group Presentation

11. Open Forum/Public Comments Regarding DLR Presentation

Due to time constraints, public comments will be limited to two minutes each.

12. Action Items

- a. DLR Presentation
- b. [Approval of 2020-2021 Transportation Contract with CSTMN](#)
Motion to approve CSTMN Transportation contract made by Britta Hagstrom seconded by Renee Smetana. *Roll call voice vote to approve, Renee Smetana, Wendy Lorenz-Walraven, Gwen Peyton, Britta Hagstrom, Martin Lukaszewski vote yes, motion approved 5-0.*
- c. [Resolution Related to Conducting Annual Meeting](#)
Resolution read aloud by Martin Lukaszewski. Motion to approve and pass the resolution for the Annual Meeting, motion made by Britta Hagstrom, seconded by Wendy Lorenz-Walraven, with friendly amendment adding specific school voting locations. *Roll call voice vote to approve, Renee Smetana, Wendy Lorenz-Walraven, Gwen Peyton, Britta Hagstrom, Martin Lukaszewski vote yes, motion approved 5-0. Duly passed and adopted and included in minutes.*
- d. [FY21 Policy Consideration](#)
- e. Emergency Policy - Title IX
 - i. (1st Read - August 2020, Adopt Aug, 2nd Read Permanent Sept)
- f. Emergency Policy - Face Covering
 - i. (1st read only - effective till October 26, 2021)
Motion to approve and include in these minutes, the emergency policy resolution as shown to members and attached. All members had the opportunity to read. Motion moved by Wendy Lorenz-Walraven and seconded by Renee Smetana. *Roll call voice vote to approve, Renee Smetana, Wendy Lorenz-Walraven, Gwen Peyton, Britta Hagstrom, Martin Lukaszewski vote yes, motion approved 5-0 and included in minutes.*

13. Discussions

- a. Coronavirus - Most Recent Updates - Brian Erlandson, Martin Lukaszewski
- b. Upcoming Meetings:
 - i. September 24, 2020
 - ii. October 22, 2020 (Annual Meeting)
 - iii. November 5, 2020 (Board Training - Working Session)
 - iv. November 19, 2020
 - v. December 3, 2020 (Board Self-Evaluation - Working Session)
 - vi. December 17, 2020

14. Adjourn Meeting

Motion to Adjourn 6:40

RESOLUTION RELATING TO CONDUCTING THE ANNUAL MEETING AND RELATED ACTIONS

WHEREAS, pursuant to Article III, Section 1, the annual meeting of the MTCS membership shall be held on call of the Board of Directors;

WHEREAS, at the annual meeting of membership, members shall vote on the election of Directors on the Board of Directors;

WHEREAS, three Directors' terms will expire and two additional director positions are vacant and will be voted upon at the 2020 annual meeting; and

WHEREAS, pursuant to the Bylaws, Board Policy 215, and state law, the Board and School are required to take specific actions to call and prepare for this election at the annual meeting.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Board of Directors hereby calls for and sets the annual meeting for Thursday, October 22, 2020, at 5 p.m. at the MTCS High School. The following Board Member terms are expiring, and will be up for election: Britta Hagstrom, Staff Member; Renee Smetana, Staff Member; Kelly Nyberg, Staff Member; and two currently vacant Board Member positions: Parent (expires 2021) and one open seat.
2. The Board hereby sets the record date for purposes of Minnesota Statutes Section 317A.437, subdivision 1, as Monday, September 21, 2020. The parents or guardians of any students who enroll after September 21, or any staff members who are hired after September 21, will not be eligible to vote at the annual meeting.
3. The Board hereby directs Administration to deliver the required notice of the annual meeting and election to members on or prior to September 22, 2020. The Committee directs that this notice be delivered electronically to all members, and/or through the Skylink notice system. The notice must also provide voters with instructions for the online voting system and notify them that they may vote at a computer or site designated by the Board, specifically listing those sites.
4. The Board hereby designates the deadline for individuals to declare their candidacy for the election as the end of the business day on Friday, October 2, 2020.
5. The Board hereby directs Administration to deliver voting instructions and a sample ballot via electronic or other delivery methods in early October 2020. Administration is also delegated the authority to determine the applicable voting

periods for the election, and the authority to determine what options may be given to members to vote on a paper ballot, if requested.

6. The Board hereby elects to conduct the election through electronic means, and approves the Election Buddy software for use in the 2020 Board Election. The Board designates Jenny Buck, Director of Marketing and Communications, to facilitate the online election, and take all actions outlined in Board Policy 215.
7. The Board hereby designates Tamlee Berndtson as the Election Judge for the election, and this individual shall be responsible for certifying the results as outlined in Board Policy 215.
8. Voting for the annual meeting election shall take place online through Election Buddy. However, the Board is designating the following voting locations as places where a computer will be made available in the main office for individuals to use to vote in the Election: Banaadir North; Banaadir South; MTS Elementary; MTS Secondary; P.E.A.S.E Academy; Minnesota Virtual, and Powell Leadership Academy. A staff member must be in attendance at the voting location to ensure the security of the Election and to assist voters with questions regarding the online voting process.
9. The following sites to use for voting purposes are amended to include:

Banaadir Academy 5-12 –1130 N 7th St., Minneapolis, MN 55411

Banaadir Elementary K-4 – 1800 NE 2nd St., Minneapolis, MN 55418

MTS Elementary, 2526 27th Ave. S, Minneapolis, MN 55406

MTS Secondary, 350 Central Parkway, Bloomington, MN. 55425

General Colin L. Powell Leadership Academy, 350 Central Parkway,
Bloomington, MN. 55425

P.E.A.S.E. Academy, 601 13th Ave. SE, Minneapolis, MN 55414

The motion for the adoption of this Resolution was duly seconded by _____
and on a roll call vote the following voted in favor of the Resolution:

Renee
Wendy
Gwen
Britta
Martin

And the following voted against this Resolution:

none voted against the resolution.

Whereupon this resolution was declared duly passed and adopted.

522 SEX NONDISCRIMINATION POLICY, TITLE IX GRIEVANCE PROCEDURE AND PROCESS

I. GENERAL STATEMENT OF POLICY

- A. Minnesota Transitions Charter School (“MTCS”) prohibits discrimination on the basis of sex in all forms, including sexual harassment.
- B. MTCS does not discriminate on the basis of sex in its education programs or activities, and it is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. MTCS is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment

II. SEX DISCRIMINATION COMPLAINTS NOT INVOLVING SEXUAL HARASSMENT

Complaints of sex discrimination that do not constitute sexual harassment, as defined below, or retaliation from making a complaint of sexual harassment, should be reported to the building principal or building supervisor. The building principal or supervisor is then responsible for notifying MTCS’s Title IX Coordinator of the complaint. If a complaint involves the building principal or supervisor, it should be reported directly to the Title IX Coordinator. The Title IX Coordinator will ensure an investigation is completed in accordance with the requirements of applicable MTCS policies. The District’s Title IX Coordinators are Annemarie Lanning and Tamlee Berndtson. The Title IX Coordinators’ contact information is:

Annemarie Lanning, HR and Finance Support

Email: alanning@schoolmanagementservices.org
hr@emailmtcs.org
Phone: 612-722-9013

Minnesota Transitions Charter School
2872 26th Avenue South
Minneapolis, MN 55406

Tamlee Berndtson, Marss and HR Assistant

Email: tberndtson@emailmtcs.org
hr@emailmtcs.org
Phone: 612-235-5663

Minnesota Transitions Charter School
2872 26th Avenue South
Minneapolis, MN 55406

III. GENERAL POLICY PROHIBITING SEXUAL HARASSMENT

- A. MTCS prohibits sexual harassment that occurs within its education programs and activities. When MTCS has actual knowledge of sexual harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.
- B. This policy applies to sexual harassment that occurs within MTCS's education programs and activities. This policy does not apply to sexual harassment that occurs outside the scope of MTCS's education programs and activities. This policy does not apply to sexual harassment that occurs outside the geographic boundaries of the United States, even if the sexual harassment occurs in MTCS's education programs or activities
- C. Any student, parent, or guardian having questions regarding the application of Title IX and its regulations and/or this policy and grievance process should discuss them with the Title IX Coordinator. MTCS's Title IX Coordinator(s) is/are:

Annemarie Lanning

Email: alanning@schoolmanagementservices.org
hr@emailmtcs.org
Phone: 612-722-9013

Minnesota Transitions Charter School
2872 26th Avenue South
Minneapolis, MN 55406

Tamlee Berndtson

Email: tberndtson@emailmtcs.org
hr@emailmtcs.org
Phone: 612-235-5663

Minnesota Transitions Charter School
2872 26th Avenue South

Questions relating solely to Title IX and its regulations may be referred to the Title IX Coordinator(s), the Assistant Secretary for Civil Rights of the United States Department of Education, or both

- D. The effective date of this policy is August 14, 2020, and it applies to alleged violations of this policy occurring on or after August 14, 2020.

IV. DEFINITIONS

- A. “Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to MTCS’s Title IX Coordinator or to any employee of MTCS. This standard is not met when the only official of MTCS with actual knowledge is the respondent.
- B. “Complainant” means a person who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX. A Title IX Coordinator who signs a formal complaint is not a complainant unless the Title IX Coordinator is alleged to be the victim of the conduct described in the formal complaint.
- C. “Day” or “days” means, unless expressly stated otherwise, business days (i.e. day(s) that MTCS office is open for normal operating hours, Monday - Friday, excluding State-recognized holidays).
- D. “Deliberately indifferent” means clearly unreasonable in light of the known circumstances. MTCS is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.
- E. “Education program or activity” means locations, events, or circumstances over which MTCS exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and includes MTCS education programs or activities that occur on or off of MTCS property.
- F. “Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that MTCS investigate the allegation of sexual harassment.
 - 1. A formal complaint filed by a complainant must be a physical document or an electronic submission. The formal complaint must contain the complainant’s physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint, and must be submitted to the Title IX Coordinator in person, by mail, or by email.
 - 2. A formal complaint shall state that, at the time of filing the formal complaint, the complainant was participating in, or attempting to participate in, an education program or activity of MTCS with which the formal complaint is filed.

3. A parent or guardian of a child younger than 18 years old may file a formal complaint on behalf of their child.
- G. “Informal resolution” means options for resolving a formal complaint that do not involve a full investigation and adjudication. Informal resolution may encompass a broad range of conflict resolution strategies, including mediation or restorative justice.
- H. “Relevant questions” and “relevant evidence” are questions, documents, statements, physical items, or information that are related to the allegations raised in a formal complaint and have any tendency to make the allegations more or less likely to be true. Relevant evidence includes evidence that is both inculpatory and exculpatory. Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions or evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions or evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.
- I. “Remedies” means actions designed to restore or preserve the complainant’s equal access to education after a respondent is found responsible for sexual harassment. Remedies may include the same individualized services that constitute supportive measures, but need not be non-punitive or non-disciplinary, nor must they avoid burdening the respondent.
- J. “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under Title IX.
- K. “Sexual harassment” means any of three types of misconduct on the basis of sex that occurs in a MTCS education program or activity and is committed against a person in the United States:
1. *Quid pro quo* harassment by a MTCS employee (conditioning the provision of an aid, benefit, or service of MTCS on an individual’s participation in unwelcome sexual conduct);
 2. Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; or
 3. Any instance of sexual assault (as defined in the Clery Act, 20 U.S.C. §1092(f)(6)A(v)), dating violence, domestic violence, or stalking (as defined in the Violence Against Women Act, 34 U.S.C. §12291).
- L. “Supportive measures” means individualized services provided to the complainant or respondent without fee or charge that are reasonably available, non-punitive, non-disciplinary, not unreasonably burdensome to the other party, and designed

to ensure equal educational access, protect safety, and deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, alternative educational services as defined under Minn. Stat. § 121A.41, as amended, mutual restrictions on contact between the parties, changes in work or school locations, leaves of absence, increased security and monitoring of certain areas of MTCS buildings or property, and other similar measures.

M. “Title IX Personnel” means any person who addresses, works on, or assists with MTCS’s response to a report of sexual harassment or formal complaint, and includes persons who facilitate informal resolutions. The following are considered Title IX Personnel:

1. “Title IX Coordinator” means an employee of MTCS that is designated and authorized to coordinate MTCS’s efforts to comply with and carry out its responsibilities under Title IX. The Title IX Coordinator is responsible for acting as the primary contact for the parties and ensuring that the parties are provided with all notices, evidence, reports, and written determinations to which they are entitled under this policy and grievance process. The Title IX Coordinator is also responsible for effective implementation of any supportive measures or remedies. The Title IX Coordinator must be free from conflicts of interest and bias when administering the grievance process.
2. “Investigator” means a person who investigates a formal complaint. The investigator of a formal complaint may not be the same person as the Decision-maker or the Appellate Decision-maker in that formal complaint. The Investigator may be a MTCS employee, MTCS official, or a third party designated by MTCS.
3. “Decision-maker” means a person who makes a determination regarding responsibility after the investigation has concluded. The Decision-maker for a formal complaint cannot be the same person as the Title IX Coordinator, the Investigator, or the Appellate Decision-maker in that formal complaint. The Decision-maker may be an administrator, supervisor, or other individual qualified to determine and impose appropriate remedies if a determination of responsibility is made.
4. “Appellate Decision-maker” means a person who considers and decides appeals of determinations regarding responsibility and dismissals of formal complaints. The Appellate Decision-maker for a formal complaint cannot be the same person as the Title IX Coordinator, Investigator, or Decision-maker in that formal complaint. The Appellate Decision-maker may be a MTCS employee, or a third party designated by MTCS.
5. “Informal resolution facilitator” means a person who facilitates the informal resolution process if desired by the parties. The Informal

resolution facilitator may be the Title IX Coordinator, but may not be the Investigator, Decision-maker or Appellate Decision-maker in the formal complaint proposed for informal resolution.

6. The superintendent of MTCS may delegate functions assigned to a specific MTCS employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, Investigator, Decision-maker, Appellate Decision-maker, and Informal resolution facilitator, to any suitably qualified individual and such delegation may be rescinded by the superintendent at any time. MTCS may also, in its discretion, appoint suitably qualified persons who are not MTCS employees to fulfill any function under this policy, including, but not limited to, Investigator, Decision-maker, Appellate Decision-maker, and Informal resolution facilitator.

V. REPORTING PROHIBITED CONDUCT

- A. Any student who believes they have been the victim of unlawful sex discrimination or sexual harassment, or any person (including the parent of a student) with actual knowledge of conduct which may constitute unlawful sex discrimination or sexual harassment should report the alleged acts as soon as possible to the Title IX Coordinator.
- B. Any employee of MTCS who has experienced, has actual knowledge of, or has witnessed unlawful sex discrimination, including sexual harassment, or who otherwise becomes aware of unlawful sex discrimination, including sexual harassment, must promptly report the allegations to the Title IX Coordinator without screening or investigating the report or allegations.
- C. A report of unlawful sex discrimination or sexual harassment may be made at any time, including during non-business hours, and may be made in person, by mail, by telephone, or by e-mail using the Title IX Coordinator's contact information. A report may also be made by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
- D. Sexual harassment may constitute both a violation of this policy and criminal law. To the extent the alleged conduct may constitute a crime, MTCS may report the alleged conduct to law enforcement authorities. MTCS encourages complainants to report criminal behavior to the police immediately.

VI. RETALIATION PROHIBITED

- A. Neither MTCS nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation,

proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of sexual harassment, filing a formal complaint, or participating in an investigation, constitutes a violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

- B. Any person may submit a report or formal complaint alleging retaliation to the Title IX Coordinator in the manner described in this policy and it will be addressed in the same manner as other complaints of sexual harassment.
- C. Charging an individual with violation of MTCS policies for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

VII. DISSEMINATION OF POLICY

- A. This policy shall be made available to all students, parents/guardians of students, MTCS employees, and employee unions.
- B. MTCS shall conspicuously post the name of the Title IX Coordinator, including office address, telephone number, and work e-mail address on its website and in each handbook that it makes available to parents, employees, students, unions, or applicants.
- C. MTCS must provide applicants for admission and employment, students, parents or legal guardians of secondary school students, employees, and all unions holding collective bargaining agreements with MTCS, with the following:
 - 1. The name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator;
 - 2. Notice that MTCS does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner;
 - 3. A statement that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the United States Department of Education, or both; and

4. Notice of MTCS's grievance procedures and grievance process referenced in this policy, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how MTCS will respond.

VIII. RECORDKEEPING

- A. MTCS must create, and maintain for a period of seven calendar years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, MTCS must document:
 1. The basis for MTCS's conclusion that its response to the report or formal complaint was not deliberately indifferent;
 2. The measures MTCS has taken that are designed to restore or preserve equal access to MTCS's education program or activity; and
 3. If MTCS does not provide a complainant with supportive measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. Such a record must be maintained for a period of seven years.
 4. The documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.
- B. MTCS must also maintain for a period of seven calendar years records of:
 1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
 2. Any appeal and the result therefrom;
 3. Any informal resolution and the result therefrom; and
 4. All materials used to train Title IX Personnel.

IX. APPLICATION OF LAWS OTHER THAN TITLE IX

- A. If a formal complaint is dismissed because the allegations, if true, would not constitute sexual harassment as described above or if a Decision-maker or Appellate decision-maker makes a determination that a respondent is not responsible for sexual harassment under these procedures, the Title IX Coordinator will consider whether the alleged conduct may constitute a violation of one or both of the alternative definitions below. If an investigation has already

been conducted, the Title IX Coordinator may review the investigation to determine whether prohibited sexual harassment has occurred. If the Title IX Coordinator concludes that it has, the Title IX Coordinator shall report those findings to the Decision-maker and the Decision-maker shall impose or recommend remedies. If no investigation has taken place, the complaint shall be investigated consistent with Policy 103.

B. Alternative Definitions of Sexual Harassment

i. Minnesota Human Rights Act (Applicable to Employees and Students)

“Sexual harassment” includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

- (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or education;
- (2) 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
- (3) that conduct or communication has the purpose or effect of substantially interfering with an individual’s employment or education, or creating an intimidating, hostile, or offensive employment, or educational environment.

ii. Title VII (Applicable to Employees)

“Sexual harassment” mean unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

X. GRIEVANCE PROCEDURE AND PROCESS

The grievance procedure and process adopted by MTCS shall be included with the Policy as an addendum, and may be reviewed and revised as deemed appropriate by MTCS.

Legal References: Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
Minn. Stat. § 121A.40 – 121A.575 (Minnesota Pupil Fair Dismissal Act)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)
29 C.F.R. Part 1604 (Implementing Regulations of Title VII)
34 C.F.R. Part 106 (Implementing Regulations of Title IX)
20 U.S.C. § 1400, *et seq.* (Individuals with Disabilities Education Improvement Act of 2004)
29 U.S.C. § 794 (Section 504 of the Rehabilitation Act of 1973)
42 U.S.C. § 12101, *et seq.* (Americans with Disabilities Act of 1990, as amended)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act of 1974)
20 U.S.C. § 1092 *et seq.* (Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”))

Cross References: Policy 102 (Equal Educational Opportunity)
Policy 413 (Harassment and Violence)
Policy 506 (Student Discipline)
Policy 528 (Student Parental, Family, and Marital Status Nondiscrimination)

Title IX Grievance Procedure and Process
Addendum to Policy 522

I. BASIC REQUIREMENTS FOR GRIEVANCE PROCESS

A. Equitable Treatment

1. MTCS shall treat complainants and respondents equitably. However, equality or parity with respect to supportive measures provided to complainants and respondents is not required.
2. MTCS will not impose any disciplinary sanctions or take any other actions against a respondent that do not constitute supportive measures until it has completed this grievance process and the respondent has been found responsible.
3. MTCS will provide appropriate remedies to the complainant when a determination of responsibility for sexual harassment has been made against a respondent.

B. Objective and Unbiased Evaluation of Complaints

1. Title IX Personnel, including the Title IX Coordinator, Investigator, Decision-maker, and Appellate Decision-maker, shall be free from conflicts of interest or bias for or against complainants or respondents generally or a specific complainant or respondent.
2. Throughout the grievance process, Title IX Personnel will objectively evaluate all relevant evidence, inculpatory and exculpatory, and shall avoid credibility determinations based solely on a person's status as a complainant, respondent, or witness.

- C. Title IX Personnel will presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

D. Confidentiality

To the extent permitted by governing law and regulations, MTCS will not release private educational or personnel data about complainants, respondents, witnesses, allegations of sexual harassment, investigations, decisions, dismissals, and/or findings of responsibility. However, MTCS's obligations under the implementing regulations for Title IX may require disclosure of certain private educational or personnel data to other parties and/or witnesses.

E. Right to an Advisor; Right to a Support Person

Complainants and respondents have the right, at their own expense, to be assisted by an advisor of their choice during all stages of any grievance proceeding, including all meetings and investigative interviews. The advisor may be, but is not required to be, an attorney. In general, an advisor is not permitted to speak for or on behalf of a complainant or respondent, appear in lieu of complainant or respondent, participate as a witness, or participate directly during any phase of the grievance process. An advisor to a complainant or respondent may prepare written submissions on behalf of the party.

F. Notice

MTCS will send written notice of any investigative interviews or meetings to any party whose participation is invited or expected. The written notice will include the date, time, location, participants, and purpose of the meeting or interview, and will be provided so as to allow sufficient time for the party to prepare to participate.

G. Consolidation

MTCS may, in its discretion, consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

H. Evidence

1. During the grievance process, MTCS will not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
2. MTCS shall not access, consider, disclose, or otherwise use a party's medical, psychological, and similar treatment records unless MTCS obtains the party's voluntary, written consent.

I. Burden of Proof

1. The burden of gathering evidence and the burden of proof shall remain upon MTCS and not upon the parties.
2. The grievance process shall use a preponderance of the evidence standard (i.e. whether it is more likely than not that the respondent engaged in sexual harassment) for all formal complaints of sexual harassment,

including when MTCS employees are respondents.

J. Timelines

1. Any informal resolution process must be completed within thirty (30) calendar days following the parties' agreement to participate in such informal process.
2. An appeal of a determination of responsibility or of a decision dismissing a formal complaint must be received by MTCS within five (5) calendar days of the date the determination of responsibility or dismissal was provided to the parties.
3. Any appeal of a determination of responsibility or of a dismissal will be decided within thirty (30) calendar days of the day the appeal was received by MTCS.
4. MTCS will seek to conclude the grievance process, including any appeal, within 120 calendar days of the date the formal complaint was received by MTCS.
5. Although MTCS strives to adhere to the timelines described above, in each case, MTCS may extend the time frames for good cause. Good cause may include, without limitation: the complexity of the allegations; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other evidence (e.g., forensic evidence) involved; the availability of the parties, advisors, witnesses, and evidence (e.g., forensic evidence); concurrent law enforcement activity; intervening MTCS holidays, breaks, or other closures; the need for language assistance or accommodation of disabilities; and/or other unforeseen circumstances.

K. Potential Remedies and Disciplinary Sanctions

1. The following is the range of possible remedies that MTCS may provide a complainant and disciplinary sanctions that MTCS might impose upon a respondent, following determination of responsibility: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual or unilateral restrictions on contact between the parties, changes in transportation, changes in work locations, leaves of absence, monitoring of certain areas of MTCS buildings or property, warning, suspension, exclusion, expulsion, transfer, remediation, termination, or discharge.
2. If the Decision-maker determines a student-respondent is responsible for violating this policy, the Decision-maker will impose or recommend

appropriate remedies, including disciplinary sanctions/consequences. The discipline of a student-respondent must comply with the applicable provisions of Policy 506 – Student Discipline, the Minnesota Pupil Fair Dismissal Act, the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

II. INITIAL RESPONSE AND ASSESSMENT BY THE TITLE IX COORDINATOR

- A. When the Title IX Coordinator receives a report, the Title IX Coordinator shall promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filling a formal complaint .
- B. MTCS will offer supportive measures to the complainant whether or not the complainant decides to make a formal complaint. MTCS must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair MTCS's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.
- C. If the complainant does not wish to file a formal complaint, the allegations will not be investigated by MTCS unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation against the complainant's wishes is not clearly unreasonable in light of the known circumstances.
- D. Upon receipt of a formal complaint, MTCS must provide written notice of the formal complaint to the known parties with sufficient time to prepare a response before any initial interview. This written notice must contain:
 - 1. The allegations of sexual harassment, including sufficient details known at the time, the identities of the parties involved in the incident (if known), the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
 - 2. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
 - 3. A statement explaining that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
 - 4. A statement that the parties may inspect and review evidence gathered pursuant to this policy;

5. A statement informing the parties of any code of conduct provision that prohibits knowingly making false statements or knowingly submitting false information; and
6. A copy of Policy 522 and this Grievance Procedures document.

III. STATUS OF RESPONDENT DURING PENDENCY OF FORMAL COMPLAINT

A. Emergency Removal of a Student

1. MTCS may remove a student-respondent from an education program or activity of MTCS on an emergency basis before a determination regarding responsibility is made if:
 - a. MTCS undertakes an individualized safety and risk analysis;
 - b. MTCS determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal of the student-respondent; and
 - c. If MTCS determines the student-respondent poses such a threat, it will so notify the student-respondent and the student-respondent will have an opportunity to challenge the decision immediately following the removal. In determining whether to impose emergency removal measures, the Title IX Coordinator shall consult related MTCS policies, including Policy 506 – Student Discipline. MTCS must take into consideration applicable requirements of the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, prior to removing a special education student or Section 504 student on an emergency basis.

B. Employee Administrative Leave

MTCS may place a non-student employee on administrative leave during the pendency of the grievance process of a formal complaint. Such leave will typically be paid leave unless circumstances justify unpaid leave in compliance with legal requirements. MTCS must take into consideration applicable requirements of any applicable collective bargaining agreement or individual contract, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act prior to removing an individual with a qualifying disability.

IV. INFORMAL RESOLUTION OF A FORMAL COMPLAINT

- A. At any time prior to reaching a determination of responsibility, informal resolution may be offered and facilitated by MTCS at MTCS's discretion, but only after a formal complaint has been received by MTCS.
- B. MTCS may not require as a condition of enrollment or continued enrollment, or of employment or continued employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment.
- C. The informal resolution process may not be used to resolve allegations that a MTCS employee sexually harassed a student.
- D. MTCS will not facilitate an informal resolution process without both parties' agreement, and will obtain their voluntary, written consent to participate in the informal resolution process. MTCS will provide to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, the parties' right to withdraw from the informal resolution process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- E. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

V. DISMISSAL OF A FORMAL COMPLAINT

- A. Under federal law, MTCS must dismiss a Title IX complaint, or a portion thereof, if the conduct alleged in a formal complaint or a portion thereof:
 - 1. Would not meet the definition of sexual harassment, even if proven;
 - 2. Did not occur in MTCS's education program or activity; or
 - 3. Did not occur against a person in the United States.
- B. MTCS may, in its discretion, dismiss a formal complaint or allegations therein if:
 - 1. The complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein;
 - 2. The respondent is no longer enrolled or employed by MTCS; or

3. Specific circumstances prevent MTCS from gathering sufficient evidence to reach a determination.
- C. MTCS shall provide written notice to both parties of a dismissal. The notice must include the reasons for the dismissal and grounds upon which an appeal may be made.
- D. Dismissal of a formal complaint or a portion thereof does not preclude MTCS from addressing the underlying conduct in any manner that MTCS deems appropriate, including an investigation pursuant to other MTCS policies.

VI. INVESTIGATION OF A FORMAL COMPLAINT

- A. If a formal complaint is received by MTCS, MTCS will assign or designate an Investigator to investigate the allegations set forth in the formal complaint.
- B. If during the course of the investigation MTCS decides to investigate any allegations about the complainant or respondent that were not included in the written notice of a formal complaint provided to the parties, MTCS must provide notice of the additional allegations to the known parties.
- C. When a party's participation is invited or expected in an investigative interview, the Investigator will coordinate with the Title IX Coordinator to provide written notice to the party of the date, time, location, participants, and purposes of the investigative interview with sufficient time for the party to prepare.
- D. During the investigation, the Investigator must provide the parties with an equal opportunity to present witnesses for interviews, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence.
- E. Prior to the completion of the investigative report, the Investigator, through the Title IX Coordinator, will provide the parties and their advisors (if any) with an equal opportunity to inspect and review any evidence directly related to the allegations. The evidence shall be provided in electronic format or hard copy and shall include all relevant evidence, evidence upon which MTCS does not intend to rely in reaching a determination regarding responsibility, and any inculpatory or exculpatory evidence whether obtained from a party or another source. The parties will have ten (10) days to submit a written response, which the Investigator will consider prior to completion of the investigative report.
- F. The Investigator will prepare a written investigative report that fairly summarizes the relevant evidence. The investigative report may include credibility determinations that are not based on a person's status as a complainant, respondent or witness. The investigative report may include recommended findings of fact and conclusions. MTCS will send the parties and their advisors

(if any) a copy of the report in electronic format or hard copy, for their review and written response at least ten (10) days prior to a determination of responsibility.

VII. DETERMINATION REGARDING RESPONSIBILITY

- A. After MTCS has sent the investigative report to both parties and before MTCS has reached a determination regarding responsibility, the Decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness. The time allowed for submitting questions and answers is at the discretion of the Decision-maker.
- B. The Decision-maker must provide the relevant questions submitted by the parties to the other parties or witnesses to whom the questions are offered, and then provide each party with the answers, and allow for additional, limited follow-up questions from each party.
- C. The Decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant.
- D. When the exchange of questions and answers has concluded, and the parties have been provided at least ten days to review and submit a written response to the investigative report, the Decision-maker must issue a written determination regarding responsibility that applies the preponderance of the evidence standard to the facts and circumstances of the formal complaint. The written determination of responsibility must include the following:
 - 1. Identification of the allegations potentially constituting sexual harassment;
 - 2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
 - 3. Findings of fact supporting the determination;
 - 4. Conclusions regarding the application of MTCS's code of conduct to the facts;
 - 5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions MTCS imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by MTCS to the complainant; and
 - 6. MTCS's procedures and permissible bases for the complainant and respondent to appeal and the date by which an appeal must be made.

- E. In determining appropriate disciplinary sanctions, the Decision-maker 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 incident occurred.
- F. The written determination of responsibility must be provided to the parties simultaneously.
- G. The Title IX Coordinator is responsible for the effective implementation of any remedies.
- H. The determination regarding responsibility becomes final either on the date that MTCS provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

VIII. APPEALS

- A. MTCS shall offer the parties an opportunity to appeal a determination regarding responsibility or MTCS's dismissal of a formal complaint or any allegations therein, on the following bases:
 - 1. A procedural irregularity that affected the outcome of the matter (e.g., a material deviation from established procedures);
 - 2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
 - 3. The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- B. If notice of an appeal is timely received by MTCS, MTCS will notify the parties in writing of the receipt of the appeal, assign or designate the Appellate Decision-maker, and give the parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
- C. After reviewing the parties' written statements, the Appellate Decision-maker must issue a written decision describing the result of the appeal and the rationale for the result.
- D. The written decision describing the result of the appeal must be provided simultaneously to the parties.

- E. The decision of the Appellate Decision-maker is final. No further review beyond the appeal is permitted.

Adopted and effective on August 27, 2020.

413 HARASSMENT AND VIOLENCE

I. PURPOSE

The purpose of this policy 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 orientation, including gender identity or expression, or disability.

II. GENERAL STATEMENT OF POLICY

- A. The policy of MTCS 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 orientation, including gender identity or expression, or disability. MTCS 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 orientation, including gender identity or expression, or disability.
- B. A violation of this policy occurs when any student, teacher, administrator, or other MTCS personnel harasses a student, teacher, administrator, or other MTCS personnel or group of students, teachers, administrators, or other MTCS 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, including gender identity or expression, or disability, as defined by this policy. (For purposes of this policy, MTCS personnel includes school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the district.)
- C. A violation of this policy occurs when any student, teacher, administrator, or other MTCS personnel inflicts, threatens to inflict, or attempts to inflict violence upon any student, teacher, administrator, or other MTCS personnel or group of students, teachers, administrators, or other MTCS 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, including gender identity or expression, or disability.
- D. MTCS 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, including gender identity or expression, or disability, and to discipline or take appropriate action against any student, teacher, administrator, or other MTCS personnel who is found to have violated this policy.

- E. Because there are multiple, overlapping laws governing MTCS's response to allegations of sexual harassment, all allegations of sexual harassment are subject to Policy 522.

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, including gender identity or expression, 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 or mental impairment which substantially limits one or more major life activities;

- b. has a record of such an impairment; or
 - c. is regarded as having such an impairment.
- 2. “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.
- 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. “National origin” means the place of birth of an individual or of any of the individual’s lineal ancestors.
- 5. “Sex” includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.
- 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, 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.
- 7. “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. “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 who is the target or victim of acts of harassment or violence.
- 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, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression, 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, teacher, administrator, or other MTCS personnel, or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy toward a student, teacher, administrator, or other MTCS personnel or group of students, teachers, administrators, or other MTCS personnel should report the alleged acts immediately to an appropriate MTCS official designated by this policy. A person may report conduct which may constitute harassment or violence anonymously. However, MTCS may not rely solely on an anonymous report to determine discipline or other remedial responses.
- B. MTCS encourages the reporting party or complainant to use the report form available from the principal or building supervisor of each building or available

from the MTCS office, but oral reports shall be considered complaints as well.

- C. Nothing in this policy shall prevent any person from reporting harassment or violence directly to a MTCS human rights officer or to the superintendent. If the complaint involves the building report taker, the complaint shall be made or filed directly with the superintendent or the MTCS human rights officer by the reporting party or complainant.
- D. In Each School Building. The building principal, the principal's designee, or the building supervisor (hereinafter the "building report taker") is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy at the building level. Any adult MTCS personnel who receives a report of harassment or violence prohibited by this policy shall inform the building report taker immediately. If the complaint involves the building report taker, the complaint shall be made or filed directly with the superintendent or the MTCS human rights officer by the reporting party or complainant. The building report taker 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.

E 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 building report taker immediately. School district personnel who fail to inform the building report taker 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.

- F. Upon receipt of a report, the building report taker must notify the MTCS human rights officer 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 human rights officer. If the report was given verbally, the building report taker shall personally reduce it to written form within 24 hours and forward it to the human rights officer. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action against the building report taker.
- G. In the MTCS. MTCS hereby designates Brian Erlandson, Superintendent, 2872 26th Ave. S., Minneapolis, MN 55406, (612) 722-9013, berlandson@emailmtcs.org, as the MTCS human rights officer(s) to receive reports or complaints of harassment or violence prohibited by this policy. If the complaint involves a human rights officer, the complaint shall be filed directly with the Building Principal or Supervisor.

- H. MTCS shall conspicuously post the name of the human rights officer(s), including mailing addresses and telephone numbers.
- I. 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.
- J. Use of formal reporting forms is not mandatory.
- K. 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.
- L. MTCS 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 MTCS's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.
- M. Retaliation against a victim, good faith reporter, or a witness of violence or harassment is prohibited.
- N. False accusations or reports of violence or harassment against another person are prohibited.
- O. 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 MTCS's policies and procedures.

Consequences for 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 MTCS property and events and/or termination of services and/or contracts.

V. INVESTIGATION

- A. By authority of MTCS, the human rights officer, within three (3) days of the

receipt of a report or complaint alleging harassment or violence prohibited by this policy, shall undertake or authorize an investigation. The investigation may be conducted by MTCS officials or by a third party designated by MTCS.

- 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, MTCS 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, MTCS may take immediate steps, at its discretion, to protect the target or victim, the complainant, and students, teachers, administrators, or other MTCS 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 MTCS human rights officer shall make a written report to the superintendent upon completion of the investigation. If the complaint involves the superintendent, the report may be filed directly with the school 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. MTCS ACTION

- A. Upon completion of an investigation that determines a violation of this policy has occurred, MTCS 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. MTCS action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law, and applicable MTCS policies and regulations.
- B. MTCS is not authorized to disclose to a victim private educational or personnel data regarding an alleged perpetrator who is a student or employee of MTCS.

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, MTCS 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

MTCS will discipline or take appropriate action against any student, teacher, administrator, or other MTCS 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 MTCS 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 students and staff members.

- B. This policy shall be given to each MTCS employee and independent contractor who regularly interacts with students at the time of initial employment with MTCS.
- C. This policy shall appear in the student handbook.
- D. MTCS will develop a method of discussing this policy with students and employees.
- E. MTCS 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 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: Policy 102 (Equal Educational Opportunity)
Policy 401 (Equal Employment Opportunity)
Policy 402 (Disability Nondiscrimination Policy)
Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
Policy 406 (Public and Private Personnel Data)
Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)

Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)
Policy 506 (Student Discipline)
Policy 514 (Bullying Prohibition Policy)
Policy 515 (Protection and Privacy of Pupil Records)
Policy 521 (Student Disability Nondiscrimination)
Policy 522 (Student Sex Nondiscrimination)
Policy 524 (Internet Acceptable Use and Safety Policy)
Policy 525 (Violence Prevention)
Policy 526 (Hazing Prohibition)
Policy 528 (Student Parental, Family, and Marital Status
Nondiscrimination)

808 COVID-19 FACE COVERING POLICY

[Note: The Governor's Emergency Executive Order 20-81 generally requires Minnesotans to wear a face covering in certain settings and circumstances, including in various school settings. Emergency Executive Order 20-82 states that all Minnesota public schools must adhere to parameters determined by Minnesota Department of Health ("MDH") in implementing or shifting between in-person learning, hybrid learning and distance learning. MDH's Safe Learning Plan for 2020-21 and the 2020-2021 Planning Guide for Schools requires school district and charter schools to develop and implement a face covering policy that is clearly posted and communicated to students, staff, families, and potential visitors to the school building. The provisions of this policy substantially reflect the requirements of the 2020-2021 Planning Guide for Schools, Executive Order 20-81, and Executive Order 20-82.]

I. PURPOSE

The purpose of this policy is to establish requirements for employees, students, and other persons (including visitors, guests, contractors, etc.) present on school property to wear face coverings in classrooms, preschool, child care settings and other indoor areas, as well as outdoor areas where a physical distance of 6 feet cannot be maintained between persons, in order to minimize exposure to COVID-19.

II. GENERAL OF STATEMENT OF POLICY

A. The policy of the school district is to comply with Executive Order 20-81, Executive Order 20-82, and applicable face covering requirements from the Minnesota Department of Health and the Minnesota Department of Education.

B. Face coverings are meant to protect other people in case the wearer does not know they are infected.

C. Unless an exception described in Part IV below applies, all students, staff, and other people present indoors in school buildings and district offices or riding on school transportation vehicles are required to wear a face covering.

D. A violation of this policy occurs when any student, staff, or other person present in a

school building, in the school district office, or on a school transportation vehicle fails to wear a face covering, unless an enumerated exception applies.

808-1

III. DEFINITION OF FACE COVERING

A. A face covering must be worn to cover the nose and mouth completely, should not be overly tight or restrictive, and should feel comfortable to wear. The following are included in the definition of face covering:

1. Paper or disposable mask;
2. Cloth face mask;
3. Scarf;
4. Neck gaiter;
5. Bandana;
6. Religious face covering; and
7. Medical-grade masks and respirators

B. A face shield is a clear plastic barrier that covers the face and allows visibility of facial expressions and lip movements for speech perception. A face shield should extend below the chin anteriorly, to the ears laterally, and there should be no exposed gap between the forehead and the shield's headpiece.

C. Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are not sufficient face coverings because they allow exhaled droplets to be released into the air.

IV. EXCEPTIONS AND ALTERNATIVES; TEMPORARY REMOVAL OF FACE

COVERING

A. Face coverings should not be placed on anyone under age 2, anyone who has trouble breathing or is unconscious, anyone who is incapacitated or otherwise unable to remove the face covering without assistance, or anyone who cannot tolerate a face covering due to a developmental, medical, or behavioral health condition.

B. A face shield may be used as an alternative to a face covering in the following situations:

1. A student in grades kindergarten through eighth grade may wear a face shield when wearing a face covering is problematic.
2. A teacher of any grade level may wear a face shield when wearing a face covering may impede the educational process.

808-2

3. Staff, students, or visitors who cannot tolerate a face covering due to a developmental, medical, or behavioral health condition may wear a face shield instead of a face covering.
4. Staff providing direct support student services may wear a face shield instead of a face covering when a face covering would impede the service being provided.

C. Staff, students, and other people present in school buildings or in district offices may temporarily remove their face covering or face shield in the following situations:

1. When engaging in classes or activities conducted outdoors, though people participating in these activities should maintain six feet of distance to the extent possible;
2. When engaging in indoor physical activity where the level of exertion makes wearing a face covering difficult, though people participating in these activities should maintain six feet of distance to the extent possible;
3. During activities, such as swimming or showering, where the face