

Nerstrand Elementary School Policy 413
Independent Charter School District #4055

Adopted: 1/14/2002

Revised & Approved: 6/18/2014

413 HARASSMENT, VIOLENCE and HAZING PROHIBITION

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is free from religious, racial or sexual harassment, hazing and violence. Nerstrand School prohibits any form of religious, racial or sexual harassment, hazing and violence.

II. GENERAL STATEMENT OF POLICY

A. It is Nerstrand's policy to maintain a learning and working environment free from religious, racial or sexual harassment, hazing and violence. Nerstrand School prohibits any form of religious, racial/sexual harassment, hazing and/or violence.

B. It is a violation of this policy for any pupil, teacher, administrator or other school personnel to harass a pupil, teacher, administrator or other school personnel through conduct or communication of a sexual nature, regarding religion or race as defined by this policy. (For purposes of this policy, school personnel include school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the school.)

C. It is a violation of this policy for any pupil, teacher, administrator or other school personnel of Nerstrand School to inflict, threaten to inflict, or attempt to inflict religious, racial or sexual violence upon any pupil, teacher, administrator or other school personnel.

D. It is a violation of this policy for any pupil, teacher, administrator or other school personnel of Nerstrand School to commit an act against a student or coerce a student into committing an act that creates a substantial risk of harm to a person, in order for the student to be initiated into or affiliated with a student organization, or for any other purpose.

E. Nerstrand School will act to investigate all complaints, either formal or informal, verbal or written, of religious, racial or sexual harassment, hazing or violence, and to discipline or take appropriate action against any pupil, teacher, administrator or other school personnel found to have violated this policy.

III. RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE AND HAZING DEFINED

A. 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 or retaining employment, or of obtaining 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.

B. Racial Harassment; Definition.

Racial harassment consists of physical or verbal conduct relating to an individual's race 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. Religious Harassment; Definition.

Religious harassment consists of physical or verbal conduct which is related to an individual's religion 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.

D. 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.

E. Racial Violence; Definition. Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

F. Religious Violence; Definition. Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.

G. Assault; Definition. Assault is:

1. an act done with intent to cause fear in another of immediate bodily harm or death;
2. the intentional infliction of or attempt to inflict bodily harm upon another; or
3. the threat to do bodily harm to another with present ability to carry out the threat.

H. Hazing; Definition. "Hazing" means committing an act against a student or coercing a student into committing an act that creates a substantial risk of harm to a person, in order for the student to be initiated into or affiliated with a student organization, or for any other purpose. The term "hazing" includes but is not limited to:

1. Any type of physical brutality such as whipping, beating, striking, branding, electronic shocking or placing a harmful substance on the body.
2. Any type of physical activity such as sleep deprivation, exposure to weather, confinement in a restricted area, calisthenics or other activity that subjects a student to an

unreasonable risk of harm or that adversely affects the mental or physical health or safety of a student.

3. Any activity involving the consumption of any alcoholic beverage, drug, tobacco product, or any other food, liquid or substance that subjects a student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.

4. Any activity that intimidates or threatens a student with ostracism that subjects a student to extreme mental stress, embarrassment, shame or humiliation that adversely affects the mental health or dignity of a student or discourages a student from remaining in school.

5. Any activity that causes or requires a student to perform a task that involves violation of state or federal law or of school district policies or regulations.

I. "Student organization" means a group, club or organization having students as its primary members or participants. It includes grade levels, classes, teams, activities or particular school events. A student organization does not have to be an official school organization to come within the terms of this definition.

IV. REPORTING PROCEDURES

A. Any person believing he or she has been the victim of religious, racial or sexual harassment, hazing or violence by a pupil, teacher, administrator or other school personnel of Nerstrand School, or any person with knowledge or belief of conduct which may constitute religious, racial or sexual harassment, hazing or violence toward a pupil, teacher, administrator or other school personnel should report the alleged acts immediately to the Director or other official designated by this policy. Nerstrand School encourages the reporting party or complainant to use the report form available from the Director or available from the school office, but oral reports are considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to any school official.

B. The school Director is the person responsible for receiving oral or written reports of religious, racial or sexual harassment, hazing or violence at the school. Any adult personnel receiving a report of religious, racial or sexual harassment, hazing or violence shall inform the Director immediately.

C. Upon receipt of a report, the Director must notify the School Board Chairperson or designee immediately, without screening or investigating the report. The Director may request, but not insist upon a written complaint. A written statement of the facts alleged is forwarded as soon as is reasonable by the Director, to the Nerstrand School Board Chairperson. If the report was given verbally, the Director shall personally reduce it to written form within (2) two school days and forward it to the Nerstrand School Board Chairperson. Failure to forward any harassment or violence report or complaint as provided herein will result in corrective action against the Director. If the complaint

involves the Director, or the Director is the complainant, the complaint shall be made or filed directly with the Nerstrand School Board Chairperson or local law enforcement.

D. The school board designates the Director as the school human rights officer(s) to receive reports or complaints of religious, racial or sexual harassment, hazing or violence.

E. Nerstrand School shall conspicuously post the name of the Director as the human rights officer, including mailing addresses and telephone numbers.

F. Submission of a good faith complaint or report of religious, racial or sexual harassment, hazing or violence will not affect the complainant or reporter's future employment, grades or work assignments.

G. Use of formal reporting forms is not mandatory.

H. Nerstrand School will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with legal obligations to investigate, take appropriate action, and conform to any discovery or disclosure obligations.

V. INVESTIGATION

A. By authority of the Nerstrand School Board of Directors, the Director, upon receipt of a report or complaint alleging religious, racial or sexual harassment, hazing or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by the Director or by a third party designated by the school board.

B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

C. In determining whether alleged conduct constitutes a violation of this policy, the investigator 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, Nerstrand School 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 religious, racial or sexual harassment or violence.

E. The investigation will be completed as soon as is reasonable. The Director will make a written report to the school board upon completion of the investigation. If the complaint involves a board member, the report may be filed directly with the charter school authorizer. 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. NERSTRAND ELEMENTARY SCHOOL ACTION

A. Upon receipt of a report, the school will take appropriate action. Such action may include, but is not limited to a warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. Action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law and school district policies.

B. The result of the school's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the school in accordance with state and federal law regarding data or records privacy.

VII. REPRISAL

Nerstrand School will discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who retaliate against any person who makes a good faith report of alleged religious, racial or sexual harassment or violence 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 or harassment.

VIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES.

These procedures do not deny the right of any individual to pursue other avenues of recourse, including 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 Nerstrand School 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 the school building in areas accessible to pupils and staff members.

B. This policy shall be posted at school, so it is available to all school employees and contractors annually.

C. This policy is conveyed to families annually through district website.