

POLICY BRIEF #1 – 2014 SAFE & SUPPORTIVE SCHOOLS ACT

BACKGROUND

In 2007, the Minnesota Legislature enacted (MN Statutes 121A.0695), a law which required every school district in the state to enact a board policy prohibiting Intimidation and Bullying.

The law simply stated: *“Each school board shall adopt a written policy prohibiting intimidation and bullying of any student. The policy shall address intimidation and bullying in all forms, including, but not limited to electronic forms and forms involving Internet use.”*

In December 2011 the United States Department of Education published an **“Analysis of State Bullying Laws and Policies”**. The analysis looked at four questions.

- 1] To what extent do state bullying laws cover U.S. Department of Education-identified key legislative and policy components?
- 2] To what extent do state model bullying policies cover U.S. Department of Education-identified key legislative and policy components?
- 3] To what extent do school district bullying policies cover U.S. Department of Education-identified key legislative and policy components?
- 4] How are state laws translated into practice at the school level?

In the analysis **Minnesota’s law received the lowest marks of any state law** against the U.S. Department of Education-identified key legislative and policy components.

In February 2012, Governor Dayton appointed a **Task Force on The Prevention of School Bullying**. The Task Force held hearings and meetings across the state and presented its recommendations in its Final Report in August 2012. The Report called for the repeal of Minnesota’s existing law and replacing it with a law based on the recommendations of the Task Force, which included many of the U.S. Department of Education-identified key components.

In February 2013, Senator Dibble and Rep. Davnie introduced the **SAFE and SUPPORTIVE SCHOOLS ACT** in their respective chamber of the legislature. During the session both bodies held hearings on the bill and it was amended in the process. The House eventually passed the bill, but the Senate did not take final action, so the bill was laid over until the 2014 session. In the 2014 session various Senate committees conducted more hearings on the bill. The bill was amended in various committees and eventually passed the Senate. The House concurred with the changes in the bill and it was sent to the Governor.

The Governor signed the **SAFE AND SUPPORTIVE SCHOOLS ACT** into law on **April 9, 2014**.

Eugene Piccolo
Executive Director



THE SCOPE OF A SCHOOL BULLYING POLICY

“**Bullying by a student against another student** in a public school and which occurs:

- 1] on the school premises, at a school function or activity, or on school transportation,
- 2] by use of electronic technology and communications on the school premises, during a school function or activity, on school transportation, or on the schools computers, networks, forums, and mailing lists, or
- 3] by use of electronic technology and communications off the school premises to the extent that the use substantially and materially disrupts student learning or the school environment.”

DEFINITIONS

Student – means a student enrolled in a public school and a charter school.

Bullying – means intimidating, threatening, abusive, or harming conduct that is objectively offensive **and:**

- 1] there is an actual or perceived imbalance of power between the student engaging in prohibited conduct and the target of the behavior and the conducted is repeated or forms a pattern; **or**
- 2] materially and substantially interferes with a student’s educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services or privileges.

Cyberbullying - means bullying using technology or other electronic communication, including, but not limited to, a transfer of a sign, signal, writing, image, sound or data, including a post on a social network Internet Web site or forum, transmitted through a computer, cell phone or other electronic device.

Intimidating, threatening, abusive and harming conduct may involve, but is not limited to:

- conduct that causes physical harm to a student or a student’s property or causes a student to be in reasonable fear of harm to person or property;
- violates (*under Minnesota common law*) a student’s reasonable expectation of privacy, defames a student or constitutes intentional infliction of emotional distress against a student;
- is directed at any student or students, based on a person’s actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socio-economic status, physical appearance, sexual orientation –including gender identity and expression, academic status related to student performance, disability, or status with regard to public assistance, age, or any additional characteristics defined in MN Human Rights Law

Prohibited Conduct – means bullying or cyberbullying or retaliation for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about bullying. **Prohibited conduct** need not be based on any particular characteristic defined as intimidating, threatening, abusive and harming conduct, nor in Minnesota’s Human Rights Law.

Remedial Response – means a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of the student who is the target of the prohibited conduct.



THE POLICY RESPONSIBILITIES OF A SCHOOL DISTRICT OR CHARTER SCHOOL

Adopt, implement and, review and revise on a cycle consistent with other school policies a written policy to prevent, and prohibit student bullying.

- The district or charter school must develop the policy in consultation with students, parents and community organizations.
- The policy must contain the statutory requirements for a local policy or comply with the provisions of the state model policy

THE BASIC REQUIRED ELEMENTS OF A POLICY

THE POLICY MUST

- comply with the MN Pupil Fair Dismissal Act;
- establish research-based, developmentally appropriate best practices that include preventive and remedial measures and effective discipline for deterring policy violations;
- apply throughout the school or district; and
- Foster **active student, parent and community participation**.

THE POLICY SHALL

- define the roles and responsibilities of students, school personnel and volunteers under the policy;
- specifically list the characteristics of Intimidating, threatening, abusive and harming conduct – as defined in law; and
- Emphasize **remedial responses**.

THE REQUIRED COMPONENTS OF A LOCAL POLICY

The local policy must at minimum:

1. **Designate a staff member as the primary contact person in the school** to receive reports of prohibited conduct, ensure the policy and its procedures including restorative practices, consequences and sanctions are fairly and fully implemented, and serve as the primary contact on policy and procedural matters between the district, school and the department;
2. **Require school employees who witness prohibited conduct** or possess reliable information that would lead a reasonable person to suspect that a student is a target of prohibited conduct to make reasonable efforts to address and resolve the prohibited conduct;
3. **Provide a procedure to begin to investigate reports** of prohibited conduct within three school days of the report, and make the primary contact person responsible for the investigation and any resulting record and for keeping an regulating access to any record;
4. **Indicate how a school will respond to an identified incident of prohibited conduct**, including immediately intervening to protect the target of the prohibited conduct; provide remedial responses to the prohibited conduct, and ensure that remedial responses are tailored to the particular incident and nature of the conduct and the student's developmental age and behavioral history;
5. **Include a presumption that the school official will notify the parent** of the reported target of the prohibited conduct and the parent of the actor engaged in the prohibited conduct. The school administrator does has discretion in this matter consistent with state and federal data practices laws governing access to data;



6. **Prohibits reprisals or retaliation** against any person who asserts, alleges, or reports prohibited conduct or provides information about such conduct and establishes appropriate consequences for a person who engages in reprisal or retaliation;
7. **Allows anonymous reporting** but does not rely solely on an anonymous report to determine discipline;
8. **Provides information about available community resources** to the target, actor, and other affected individuals, as appropriate;
9. **Allows where appropriate for a child with a disability**, to have the child's education program or section 504 plan to address the skills or proficiencies the child's needs to respond to or not engage in prohibited conduct;
10. **Allow the alleged actor in an investigation** of prohibited conduct to present a defense;
11. **Inform affected students and their parents of their rights** under state and federal data practices laws to obtain access to data related to the incident and their right to contest the accuracy or completeness of the data;
12. **Uses new employee training materials, the school publication on school rules**, procedures, and standards of conduct, and the student handbook on school policies to publicize the policy;
13. **Requires ongoing professional development** to build the skills of all school personnel who regularly interact with students, including, but not limited to, educators, administrators, counselors, social workers, psychologists and other school mental health professionals, school nurses, cafeteria workers, custodians, bus drivers, coaches, extracurricular advisors, and paraprofessional to identify, prevent and appropriately address prohibited behavior.

COMMUNICATION OF THE POLICY

THE POLICY SHALL BE:

- **conspicuously posted** in the administrative offices of the school in a summary form;
- **given to each school employee and independent contractor** that interacts with students, at the time of employment or contracting with the school;
- **included in the student handbook** on school policies;
- **available to all parents** and other school community members in electronic format in languages appearing on the school Website, consistent with school policies or practices.
- **included in the student discipline policy** it distributes or otherwise transmits to students and their parents annually at the beginning of the school year notice about the rights and responsibilities of students and their parents under the Act.

THE DISTRICT OR SCHOOL MUST:

- **Discuss** with students, school personnel, and volunteers and provide appropriate training for all school personnel to prevent, identify, and respond to prohibited conduct.
- **Establish a training cycle**, not to exceed a period of three years for the training of school personnel. *Newly employed school personnel must receive the training within the first year of their employment.*
- **Submit an electronic copy** of its prohibited conduct policy to the commissioner.



PROFESSIONAL DEVELOPMENT – PROGRAMMING – SCHOOL CLIMATE

PROFESSIONAL DEVELOPMENT

Professional development **includes, but is not limited to**, information about;

- Developmentally appropriate strategies both to prevent and to immediately and effectively intervene to stop prohibited conduct;
- The complex dynamics affecting an actor, target, and witnesses to prohibited conduct;
- Research on prohibited conduct, including specific categories of students at risk for prohibited conduct in school;
- the incidence and nature of cyberbullying; and
- Internet safety and cyberbullying.

PROGRAMMING FOR STUDENTS

Districts and schools **are encouraged to provide**;

- Developmentally appropriate programmatic instruction to help students identify, prevent, and reduce prohibited conduct;
- Value diversity in school and society;
- Develop and improve student’s knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting prohibited conduct; and,
- Effective prevention and intervention programs.

SCHOOL CLIMATE

Schools **are encouraged to**;

- **Engage all students** in creating a safe and supportive school environment;
- Partner with parents and community members to develop and implement prevention and intervention programs;
- Train student bystanders to intervene in and report incidents of prohibited conduct to the school’s primary contact person;
- Teach students to advocate for themselves and others;
- Prevent inappropriate referrals to special education of students who may engage in prohibited conduct;
- Foster student collaborations that foster a safe and supportive school climate.

RESOURCES AND SUPPORT FOR SCHOOLS

MODEL POLICY

1. The **commissioner must develop and maintain a state model policy.** *(A district or charter school that does not adopt and implement a local policy must implement and may supplement the provisions of the state model policy.)*
2. The **commissioner must post on the department’s Web site information indicating that when a district or school allows non curriculum-related student groups access to school facilities,** the district or school must give all student groups equal access to the school facilities regardless of the content of the group members’ speech.



SCHOOL SAFETY TECHNICAL ASSISTANCE COUNCIL

A **23-member multiagency leadership council** is charged with the following activities:

1. Establishing norms and standards for prevention, intervention and support around issues of prohibited conduct;
2. Advancement of evidence-based policy and best practices to improve school climate and promote school safety;
3. Development and dissemination of resources and training for schools and communities about issues of prohibited conduct and other school safety issues; and
4. Develop policies and procedures for the services provided by the school safety technical assistance Center

(The Minnesota Association of Charter Schools selects the charter school representative on the Council.)

SCHOOL SAFETY TECHNICAL ASSISTANCE CENTER

The school safety technical assistance center at the department is charged with helping districts and schools implement the Safe and Supportive Schools Act through:

1. **Compiling and making available** to all districts and schools evidence-based elements and resources to develop and maintain safe and supportive schools;
2. **Establishing and maintaining** a central repository for collecting and analyzing information about prohibited conduct, including, but not limited to:
 - a. Training materials on strategies and techniques to prevent and appropriately address prohibited conduct;
 - b. model programming;
 - c. remedial responses; and
 - d. other resources for improving the school climate and preventing prohibited conduct; and
3. **Assist districts and schools** to develop strategies and techniques for effectively communicating with and engaging parents in efforts to protect and deter students from prohibited conduct;
4. **Solicit input** from social media experts on how to implement messaging.

The Center has no enforcement, rulemaking, oversight, or regulatory authority.

AUTHORITY OF THE COMMISSIONER

The commissioner **shall develop and post department procedures** for:

1. Periodically reviewing district and school programs and policies for compliance with the law;
2. Investigating, reporting and responding to noncompliance with the law, which may include an annual review of plans to improve a safe and supportive schools climate, and
3. Allowing students, parents and educators to file a complaint about noncompliance with the law to the commissioner.

LEGAL REFERENCES

MN STATUTES:

121A.031 – Policies on Prohibited Conduct - (2014)

124D.10 Subd. (8) – amended (2014)

