

*Adopted: Orig. 6/23/2013*

*Revised: 8/25/2020*

## **525 POLICY ON STAFF NOTIFICATION OF VIOLENT BEHAVIOR BY STUDENTS**

### **I. PURPOSE**

This policy addresses staff notification of violent behavior by students. The purpose of this policy is to address the circumstances in which data should be provided to District staff members about students with a history of violent behavior in order to serve the student and protect students and staff members. The policy incorporates a written notice to assure that appropriate data are made available to District staff members and to guarantee an accurate record of the data provided. Development of this policy was required by the 2003 Legislature (See 2003 Session Laws, Special Session Chapter 9, Article 2, §53) and helps districts comply with Minn. Stat. §§121A.64 and 121A.75. Data about students are governed by both state and federal law, Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act) and 20 U.S.C §1232g (Family Educational Rights and Privacy Act or FERPA). More detailed information on school district practice and policy regarding student records and data can be found in the District's Data Practices Policy (Protection and Privacy of Pupil Records Policy) and approved Records Retention Schedule.

### **II. DEFINITIONS**

- A. For purposes of this Policy on Staff Notification of Violent Behavior by Students (Policy) and the model notification form, terms have the meaning given them.
  - 1. Director means the person or persons responsible for performing the District's obligations under this Policy.
  - 2. District staff means the instructional personnel responsible for the course or room to which a student is assigned at any given time.
  - 3. History of Violent Behavior
    - a. A student will be considered to have a history of violent behavior if incident(s) of violence have occurred as follows:
      - i. Violent behavior that occurs prior to January 1 of a given school year will be considered to give rise to notice requirements under this Policy for that school year and the following school year.
      - ii. Violent behavior that occurs on or after January 1 of a given school year will be considered to give rise to notice requirements under this Policy for that school year and the two following school years.
    - b. If a student has an incident of violence within these time frames, that incident and all other past related or similar incidents of violence will be

reported.

4. Incident(s) of Violence means willful conduct in which a student has threatened or caused physical injury to a person(s) or significant damage to property, regardless of whether related to a disability or whether discipline was imposed. This does not include injury or damage that is accidental or is the result of negligence. An incident of violence includes an incident described in notices received from either law enforcement or the juvenile courts.
5. Legitimate Educational Interest for purposes of federal and state law, is when a District staff member is determined to have a legitimate educational interest in data related to a history of violent behavior if the data requested are:
  - a. Necessary for that District staff member to perform appropriate tasks that are specified in his or her position description or by a contract agreement;
  - b. Used solely within the context of District business and not for purposes extraneous to the District staff member's areas of responsibility or to the District;
  - c. Relevant to the accomplishment of a job-related task or to a determination about the student; and
  - d. Consistent with the purposes for which the data are maintained.
6. District Staff Member includes:
  - a. A person licensed by the State and appointed by the School Board to an administrative, supervisory, instructional or other professional position such as a teacher, school social worker or school psychologist;
  - b. A person employed by or under contract to the School Board to perform a special task such as paraprofessional, school bus driver, secretary, clerk, occupational therapist, or the school board attorney for the period of his or her performance as an employee or contractor; and
  - c. A substitute for persons listed above for the period of his or her performance as substitute.

### **III. STAFF NOTIFICATION**

#### **A. Recipients of Notice**

Each District staff member of a student with a history of violent behavior (see Section II. C., above), will receive written notification from the Director prior to placement of the student in the teacher's classroom. In addition, the Director will give notice to other District staff members who have a legitimate educational interest, as defined in this policy, in the data.

#### **B. Determination of Who Receives Notice**

Detailed determination of which District staff members have a legitimate educational interest will be made by the District's official appointed by the School Board under the Minnesota Government Data Practices Act. In the event the District official makes this detailed determination, the District official will provide guidance to whomever determines

what data will be shared. A District staff member who receives notice under this policy may provide notice to someone substituting for him or her or for another District staff member who has received notice.

#### C. Form of Written Notice

The notice given to District staff members must be in writing and must include the following:

1. Name of the student;
2. Date of notice;
3. The history of violent behavior as defined in Section II of this Policy; and
4. Reminder of the private nature of the data provided. If appropriate, the notice will also include any or all of the following:
  - a. Explanation of what occurred in each incident of violent behavior if known, specifically including any mitigating factors;
  - b. Types of situations that might trigger violent behavior by the student, if known; Successful strategies or interventions, if known; and
  - c. Documents that the District staff member may review to assist understanding of the student (e.g. IEP or § 504 plan).

#### D. Record of Notice

The Director must keep a copy of the notice or other documentation to provide a record of those District staff members notified under this section. Retention of the written notice provided to school staff members is governed by the approved Records Retention Schedule.

#### E. Law Enforcement Reports

The administration must immediately forward to appropriate District staff members those notices related to an incident of violent behavior received from law enforcement pursuant to Minn. Stat. §121A.75. The law enforcement notice must be followed by the formal written notice set forth above within a reasonable time, not to exceed ten business days. All other notices received from law enforcement pursuant to Minn. Stat. §121A.75 must be disseminated as required by that section. Retention of the law enforcement notice is governed by Minn. Stat. §121A.75, subd. 2(e).

#### F. Model Notice

A model form for District Staff Member Notification is attached as Appendix I.

### **IV. NOTICE TO OTHER SCHOOL DISTRICTS**

When transferring records of a student with a history of violent behavior, administration must send to an enrolling school district, charter school or alternative education program all student records, including all data about the student's history of violent behavior, consistent with this Policy. Transferring the records is not a violation of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g or the Minnesota 4

Government Data Practices Act, Minn. Stat. Ch. 13, provided the annual FERPA parental notice requirements are met. These written records within the student's file are educational records and are to be transmitted to an enrolling school district, as set forth in Minn. Stat. §120A.22, subd. 7.

## **V. PARENTAL NOTICE**

The District official will notify parents that it gives classroom teachers and other District staff members notice about students' history of violent behavior. This will be included as part of the Annual Notice of Rights required by FERPA and shall be provided to a parent/guardian at the time a Notice about the student's violent behavior under this Policy is first provided or if it is changed. In addition, the District official will notify parents that this Notice is an educational record and will be transferred to an enrolling school district. Parents will be given notice that they have the right to review and challenge records or data, (including the data documenting the history of violent behavior), under both state and federal law as set forth in the District Data Practices Policy.

## **VI. TRAINING NEEDS**

Pursuant to Minn. Stat. § 121A.64, representatives of the School Board and representatives of the District staff will discuss the needs of students and staff. The parties may discuss necessary training which may include training on conflict resolution and positive behavior interventions and may discuss necessary intervention services such as student behavioral assessments.

*Legal References:* Minn. Stat. § 120A.22, subd. 7 (Education Records)  
Minn. Stat. § 121A.64 (Notification of Students with Violent Behavior)  
Minn. Stat. § 121A.75 (Law Enforcement Notice to Schools)  
Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)  
34 C.F.R. §§ 99.1-99.67 (Rules implementing FERPA)  
Minn. Stat. §13.04, subd. 4 (Process for challenging data under state law)  
34 C.F.R. §§99.20 – 99.22 (Process for challenging data under federal law)