

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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R.S., a minor, by and through her mother, S.S.,

Civil No. 12-CV-00588-MJD-LIB

Plaintiffs,

vs.

**JUDGMENT BY CONSENT**

Minnewaska Area School District No. 2149;  
Gregory Ohl, Minnewaska School District  
Superintendent, in his individual and official  
capacities; Mary Walsh, Minnewaska Area  
School District employee, in her individual and  
official capacities; Denise Gades-Dougherty,  
Minnewaska Area School District employee, in  
her individual and official capacities; County  
of Pope; Paul Gerde, Pope County Board  
Chair, in his official capacity; Timothy P.  
Riley, Pope County Sheriff, in his individual  
and official capacities; and Gilbert Mitchell,  
Pope County Deputy Sheriff, in his individual  
and official capacities,

Defendants.

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**BACKGROUND**

1. On March 6, 2012, Plaintiffs, R.S., by and through her mother, S.S., filed a Complaint asserting claims under the First Amendment, the Fourth Amendment, 42 U.S.C. § 1983, 42 U.S.C. §§ 1985 and 1986, the Right to Free Speech under the Minnesota Constitution, the Right to be Free From Unreasonable Searches and Seizures under the Minnesota Constitution, and for Invasion of Privacy, Intentional Infliction of Emotional Distress, and Declaratory Judgment. Plaintiffs' claims arose out of allegations that R.S., then a student in Minnewaska Area School District No. 2149 (the "District"),

had been improperly punished for off-campus speech posted on Facebook and had been forced to disclose her Facebook password to public authorities without proper cause. Plaintiffs also alleged that certain of the District's policies were unconstitutional. Defendants Minnewaska Area School District No. 2149, Gregory Ohl, Mary Walsh and Denise Gades-Dougherty (collectively, the "District Defendants"), and the County of Pope, Paul Gerde, Timothy P. Riley and Gilbert Mitchell (collectively, the "County Defendants") denied the allegations in the Complaint.

2. By order, dated September 6, 2012, the Court partially granted and partially denied the District Defendants' Motion to Dismiss, dismissing Plaintiffs' claims under 42 U.S.C. §§ 1985 and 1986 and for intentional infliction of emotional distress. Case 0:12-CV-00588-MJD-LIB, Doc. No. 28.

3. Plaintiffs settled their claims against the County Defendants, who subsequently were dismissed from this action by Order of the Court, dated October 16, 2013. Case 0:12-CV-00588-MJD-LIB, Doc. No. 102.

4. On October 15, 2013, in a settlement conference with Magistrate Judge Leo I. Brisbois, the Plaintiffs and the District Defendants conditionally settled the remaining claims. Entry of this Judgment by Consent is one of the settlement terms.

5. Plaintiffs and the District Defendants now wish to avoid further costs of litigation, and have agreed voluntarily, as indicated by the signatures below, to resolve Plaintiffs' claims against the District Defendants without the necessity of trial, in part by entering into this Judgment by Consent.

6. After reviewing the terms of this Judgment by Consent, the Court concludes that the entry of this Judgment by Consent comports with federal law and is appropriate under all the circumstances; therefore, it is Ordered, Adjudged and Decreed as follows:

**TERMS OF CONSENT JUDGMENT**

1. JURISDICTION.

- a) Plaintiffs have standing to bring their claims, and the Court has jurisdiction to hear Plaintiffs' claims under 42 U.S.C. § 1983, the Supremacy Clause of the Constitution, and 20 U.S.C. § 1331.

2. PARTIES.

- a) Plaintiffs, in whose favor judgment, in part, shall be entered, are R.S., a minor, by and through her mother, S.S.
- b) Defendant, against whom judgment, in part, shall be entered, is Minnewaska Area School District No. 2149 ("District")

3. INJUNCTIVE RELIEF.

- a) Changes in School Policies.

Within thirty days of entry of this Judgment by Consent, the District will make and, through the term of this Judgment by Consent, shall maintain the changes in School District Policies Numbers 502, 506, and 524, as reflected in Appendix A to this Judgment by Consent.

b) Changes in Student Handbook.

Within thirty days of entry of this Judgment by Consent, the District will make and, through the term of this Judgment by Consent, shall maintain the changes to its Student Handbook reflected in Exhibit B to this Judgment by Consent.

c) Faculty and Staff Training.

During the term of this Judgment by Consent, the District shall provide annual training to its faculty and staff concerning the changes to School District Policy Numbers 502, 506 and 524, and its Student Handbook required by this Judgment by Consent.

4. NO ADMISSION OF LIABILITY.

The District Defendants makes no admission of liability by their agreement to the entry of this Judgment by Consent.

5. VOLUNTARY DISMISSAL.

Plaintiffs have agreed to dismiss their claims against the District Defendants, with prejudice, without any award of costs or attorney's fees to any party. Plaintiffs shall execute a Stipulation of Dismissal with Prejudice against the District Defendants within 30 days of the date of the Judgment by Consent

6. BINDING.

This Judgment by Consent is final and binding on Plaintiffs and the District and their successors.

7. TERM OF JUDGMENT AND ENFORCEMENT.

The parties have the right to enforce this Judgment by Consent as follows:

- a) The United States District Court for the District of Minnesota will retain jurisdiction over this action for the purpose of ensuring compliance and enforcing the provisions of this Judgment by Consent, until the earlier of R.S.'s graduation from high school or June 1, 2017 (the "term of this judgment").
- b) The parties to the Judgment by Consent must negotiate in good faith to resolve any dispute relating to the implementation of this Judgment by Consent before bringing such a dispute to the Court's attention.

8. COST AND ATTORNEYS' FEES.

All parties shall bear their own costs and attorneys' fees.

9. SIGNATORIES.

Counsel for all parties represent that they are fully authorized to enter into the terms and conditions of this Judgment by Consent and legally bind their clients to this Judgment by Consent.

JUDGMENT BY CONSENT IN THE MATTER OF:

This Judgment by Consent in the matter of R.S., a minor, by and through her mother, S.S., v. Minnewaska Area School District No. 2149, et al., Case 0:12-CV-00588-MJD-LIB, Case No. 0:12-CV-00588-MJD-LIB (D. Minn.) is agreed to and approved by the undersigned, on behalf of their clients:

Dated: February 13, 2014

**LINDQUIST & VENNUM LLP**

By 

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UNION OF MINNESOTA**

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ATTORNEYS FOR PLAINTIFFS

Dated: February 12, 2014

**LIND, JENSEN, SULLIVAN &  
PETERSON, A PROFESSIONAL  
ASSOCIATION**

By 

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ATTORNEYS FOR DISTRICT  
DEFENDANTS

IT IS SO ORDERED this 24th day of ~~February~~ <sup>March</sup> 2014, by:

s/Michael J. Davis  
The Honorable Michael J. Davis  
United States District Court Chief Judge

## Appendix A

### 502 SEARCH OF STUDENT LOCKERS, DESKS, PERSONAL POSSESSIONS, ELECTRONIC COMMUNICATIONS/RECORDS AND STUDENT'S PERSON

#### I. PURPOSE

The purpose of this policy is to provide for a safe and healthful educational environment by enforcing the school district's policies against contraband.

#### II. GENERAL STATEMENT OF POLICY

##### A. Lockers and Personal Possessions Within a Locker

Pursuant to Minnesota statutes, school lockers are the property of the school district. At no time does the school district relinquish its exclusive control of lockers provided for the convenience of students. Inspection of the interior of lockers may be conducted by school officials for any reason at any time, without notice, without student consent, and without a search warrant. The personal possessions of students within a school locker may be searched only when school officials have a reasonable suspicion that the search will uncover evidence of a violation of law or school rules. As soon as practicable after the search of a student's personal possessions, the school officials must provide notice of the search to students whose lockers were searched unless disclosure would impede an ongoing investigation by police or school officials.

##### B. Desks

School desks are the property of the school district. At no time does the school district relinquish its exclusive control of desks provided for the convenience of students. Inspection of the interior of desks may be conducted by school officials for any reason at any time, without notice, without student consent, and without a search warrant.

##### C. Personal Possessions and Student's Person

The personal possessions of students and/or a student's person may be searched when school officials have a reasonable suspicion that the search will uncover a violation of law or school rules. The search will be reasonable in its scope and intrusiveness.

##### D. Electronic communications and electronic records, accounts and passwords created by students while they are off-campus may be searched when school officials have reasonable suspicion that the search will uncover a violation of school rules. The search will be reasonable in its scope and intrusiveness.

##### E. Voluntary consent for a search will only be sought when school officials have reasonable suspicion that the search will uncover a violation of law or school rules.



- F. It shall be a violation of this policy for students to use lockers and desks for unauthorized purposes or to store contraband. It shall be a violation for students to carry contraband on their person or in their personal possessions.

### III. DEFINITIONS

- A. "Contraband" means any unauthorized item possession of which is prohibited by school district policy and/or law. It includes but is not limited to weapons and "look-alikes," alcoholic beverages, controlled substances and "look-alikes," overdue books and other materials belonging to the school district, and stolen property.
- B. "Personal possessions" includes but is not limited to purses, backpacks, book bags, packages, and clothing.
- C. "Reasonable suspicion" means that a school official has grounds to believe that the search will result in evidence of a violation of school district policy, rules, and/or law. Reasonable suspicion may be based on a school official's personal observation, a report from a student, parent or staff member, a student's suspicious behavior, a student's age and past history or record of conduct both in and out of the school context, or other reliable sources of information.
- D. "Reasonable scope" means that the scope and/or intrusiveness of the search is reasonably related to the objectives of the search. Factors to consider in determining what is reasonable include the seriousness of the suspected infraction, the reliability of the information, the necessity of acting without delay, the existence of exigent circumstances necessitating an immediate search and further investigation (e.g. to prevent violence, serious and immediate risk of harm or destruction of evidence), and the age of the student.

### IV. PROCEDURES

- A. School officials may inspect the interiors of lockers and desks for any reason at any time, without notice, without student consent, and without a search warrant.
- B. School officials may inspect the personal possessions of a student and/or a student's person based on a reasonable suspicion that the search will uncover a violation of law or school rules. A search of personal possessions of a student and/or a student's person will be reasonable in its scope and intrusiveness. A search of electronic communications and/or electronic records created by students while off campus must be justified by reasonable suspicion to believe that the search will uncover a violation of school rules.
- C. As soon as practicable after a search of personal possessions within a locker pursuant to this policy, the school officials must provide notice of the search to students whose possessions were searched unless disclosure would impede an ongoing investigation by police or school officials.
- D. Whenever feasible, a search of a person shall be conducted in private by a school official of the same sex. A second school official of the same sex shall be present as an observer during the search of a person whenever feasible.
- E. A strip search is a search involving the removal of coverings or clothing from private areas. Mass strip searches, or body cavity searches, are prohibited. Strip searches will be conducted only in

circumstances involving imminent danger.

F. A school official conducting any other search may determine when it is appropriate to have a second official present as an observer.

G. A copy of this policy will be printed in the student handbook or disseminated in any other way which school officials deem appropriate. The school district shall provide a copy of this policy to a student when the student is given use of a locker.

#### **V. DIRECTIVES AND GUIDELINES**

School administration may establish reasonable directives and guidelines which address specific needs of the school district, such as use of tape in lockers, standards of cleanliness and care, posting of pin-ups and posters which may constitute sexual harassment, etc.

#### **VI. SEIZURE OF CONTRABAND**

If a search yields contraband, school officials will seize the item and, where appropriate, turn it over to legal officials for ultimate disposition.

#### **VII. VIOLATIONS**

A student found to have violated this policy and/or the directives and guidelines implementing it shall be subject to discipline in accordance with the school district's Student Discipline Policy, which may include suspension, exclusion, or expulsion, and the student may, when appropriate, be referred to legal officials.

*Legal References:* U. S. Const., amend. IV Minn. Const., art. I, § 10 *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985) Minn. Stat. § 121A.72 (School Locker Policy)

*Cross References:* MSBA/MASA Model Policy 417 (Chemical Use and Abuse) MSBA/MASA Model Policy 418 (Drug-Free Workplace/Drug-Free School) MSBA/MASA Model Policy 501 (School Weapons) MSBA/MASA Model Policy 506 (Student Discipline)

*Adopted: December 16, 2008 Minnewaska Area Schools Revised:*

## **506 STUDENT DISCIPLINE**

### **I. PURPOSE**

The purpose of this policy is to ensure that students are aware of and comply with the school district's expectations for student conduct. Such compliance will enhance the school district's ability to maintain discipline and ensure that there is no interference with the educational process. The school district will take appropriate disciplinary action when students fail to adhere to the Code of Student Conduct established by this policy.

### **II. GENERAL STATEMENT OF POLICY**

The school board recognizes that individual responsibility and mutual respect are essential components of the educational process. The school board further recognizes that nurturing the maturity of each student is of primary importance and is closely linked with the balance that must be maintained between authority and self-discipline as the individual progresses from a child's dependence on authority to the more mature behavior of self-control.

All students are entitled to learn and develop in a setting which promotes respect of self, others and property. Proper positive discipline can only result from an environment which provides options and stresses student self-direction, decision-making and responsibility. Schools can function effectively only with internal discipline based on mutual understanding of rights and responsibilities.

Students must conduct themselves in an appropriate manner that maintains a climate in which learning can take place. Overall decorum affects student attitudes and influences student behavior. Proper student conduct is necessary to facilitate the education process and to create an atmosphere conducive to high student achievement.

Although this policy emphasizes the development of self-discipline, it is recognized that there are instances when it will be necessary to administer disciplinary measures. It is the position of the school district that a fair and equitable district-wide student discipline policy will contribute to the quality of the student's educational experience. This discipline policy is adopted in accordance with and subject to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56.

In view of the foregoing and in accordance with Minn. Stat. § 121A.55, the school board, with the participation of school district administrators, teachers, employees, students, parents, community members, and such other individuals and organizations as appropriate, has developed this policy which governs student conduct and applies to all students of the school district.

### **III. AREAS OF RESPONSIBILITY**

A. The School Board. The school board holds all school personnel responsible for the maintenance of order within the school district and supports all personnel acting

within the framework of this discipline policy.

- B. Superintendent. The superintendent shall establish guidelines and directives to carry out this policy, hold all school personnel, students and parents responsible for conforming to this policy, and support all school personnel performing their duties within the framework of this policy. The superintendent shall also establish guidelines and directives for using the services of appropriate agencies for assisting students and parents. Any guidelines or directives established to implement this policy shall be submitted to the school board for approval and shall be attached as an addendum to this policy.
- C. Principal. The school principal is given the responsibility and authority to formulate building rules and regulations necessary to enforce this policy, subject to final school board approval. The principal shall give direction and support to all school personnel performing their duties within the framework of this policy. The principal shall consult with parents of students conducting themselves in a manner contrary to the policy. The principal shall also involve other professional employees in the disposition of behavior referrals and shall make use of those agencies appropriate for assisting students and parents. A principal, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
- D. Teachers. All teachers shall be responsible for providing a well-planned teaching/learning environment and shall have primary responsibility for student conduct, with appropriate assistance from the administration. All teachers shall enforce the Code of Student Conduct. In exercising the teacher's lawful authority, a teacher may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
- E. Other School District Personnel. All school district personnel shall be responsible for contributing to the atmosphere of mutual respect within the school. Their responsibilities relating to student behavior shall be as authorized and directed by the superintendent. A school employee, school bus driver, or other agent of a school district, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.
- F. Parents or Legal Guardians. Parents and guardians shall be held responsible for the behavior of their children as determined by law and community practice. They are expected to cooperate with school authorities and to participate regarding the behavior of their children.
- G. Students. All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy.
- H. Community Members. Members of the community are expected to contribute to the establishment of an atmosphere in which rights and duties are effectively acknowledged and fulfilled.

**STUDENT RIGHTS**

**STUDENT RESPONSIBILITIES**

All students have the right to an education and the right to learn.

All students have the responsibility:

- A. For their behavior and for knowing and obeying all school rules, regulations, policies and procedures;
- B. To attend school daily, except when excused, and to be on time to all classes and other school functions;
- C. To pursue and attempt to complete the courses of study prescribed by the state and local school authorities;
- D. To make necessary arrangements for making up work when absent from school;
- E. To assist the school staff in maintaining a safe school for all students;
- F. To be aware of all school rules, regulations, policies and procedures, including those in this policy, and to conduct themselves in accord with them;
- G. To assume that until a rule or policy is waived, altered or repealed, it is in full force and effect;
- H. To be aware of and comply with federal, state and local laws;
- I. To volunteer information in disciplinary cases should they have any knowledge relating to such cases and to cooperate with school staff as appropriate;
- J. To respect and maintain the school's property and the property of others;
- K. To dress and groom in a manner which meets standards of safety and health and common standards of decency and which is consistent with applicable school district policy;
- L. To avoid inaccuracies in student newspapers or publications and refrain from indecent or obscene language;
- M. To conduct themselves in an appropriate physical or verbal manner; and
- N. To recognize and respect the rights of others.

**VI. CODE OF STUDENT CONDUCT**

- A. The following are examples of unacceptable behavior subject to disciplinary action by the school district. These examples are not intended to be an exclusive list. Any student who engages in any of these activities shall be disciplined in accordance with this

policy. This policy applies to all school buildings, school grounds, and school property; school-sponsored activities or trips; school bus stops; school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school district purposes; the area of entrance or departure from school premises or events; and all school-related functions. This policy also applies to any student whose conduct at any time or in any place is reasonably foreseeable to cause a material and substantial disruption of normal school activities or interferes with or obstructs the mission or operations of the school district or the safety or welfare of the student, other students, or employees in connection with school-related activities.

1. Violations against property including, but not limited to, damage to or destruction of school property or the property of others, failure to compensate for damage or destruction of such property, arson, breaking and entering, theft, robbery, possession of stolen property, extortion, trespassing, unauthorized usage, or vandalism;
2. The use of profanity or obscene language, or the possession of obscene materials;
3. Gambling, including, but not limited to, playing a game of chance for stakes;
4. Hazing;
5. Attendance problems including, but not limited to, truancy, absenteeism, tardiness, skipping classes, or leaving school grounds without permission;
6. Opposition to authority using physical force or violence;
7. Using, possessing, or distributing tobacco or tobacco paraphernalia;
8. Using, possessing, distributing, or being under the influence of alcohol or other intoxicating substances or look-alike substances;
9. Using, possessing, distributing, or being under the influence of narcotics, drugs, or other controlled substances, or look-alike substances, except as prescribed by a physician, including one student sharing prescription medication with another student;
10. Using, possessing, or distributing items or articles that are illegal or harmful to persons or property including, but not limited to, drug paraphernalia;
11. Using, possessing, or distributing weapons, or look-alike weapons or other dangerous objects;
12. Violation of the school district Weapons Policy;
13. Possession of ammunition including, but not limited to, bullets or other projectiles designed to be used in or as a weapon;
14. Possession, use, or distribution of explosives or any compound or mixture, the primary or common purpose or intended use of which is to function as an explosive;
15. Possession, use, or distribution of fireworks or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation;
16. Using an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is a risk of fire, except where the device is used in a manner authorized by the school;

17. Violation of any local, state or federal law as appropriate;
18. Acts disruptive of the educational process, including, but not limited to, disobedience, disruptive or disrespectful behavior, defiance of authority, cheating, insolence, insubordination, failure to identify oneself, improper activation of fire alarms, or bomb threats;
19. Possession of nuisance devices or objects which cause distractions and may facilitate cheating including, but not limited to, pagers, radios, and phones, including picture phones;
20. Violation of school bus or transportation rules or the school bus safety policy;
21. Violation of parking or school traffic rules and regulations, including, but not limited to, driving on school property in such a manner as to endanger persons or property;
22. Violation of directives or guidelines relating to lockers or improperly gaining access to a school locker;
23. Possession or distribution of slanderous, libelous or pornographic materials;
24. Student attire or personal grooming which creates a danger to health or safety or creates a disruption to the educational process, including clothing which bears a message which is lewd, vulgar, or obscene, apparel promoting products or activities that are illegal for use by minors, or clothing containing objectionable emblems, signs, words, objects, or pictures communicating a message that is racist, sexist, or otherwise derogatory to a protected minority group or which connotes gang membership;
25. Criminal activity;
26. Falsification of any records, documents, notes or signatures;
27. Tampering with, changing, or altering records or documents of the school district by any method including, but not limited to, computer access or other electronic means;
28. Scholastic dishonesty which includes, but is not limited to, cheating on a school assignment or test, plagiarism, or collusion, including the use of picture phones or other technology to accomplish this end;
29. Impertinent or disrespectful language toward teachers or other school district personnel;
30. Sexual and/or racial abuse and/or harassment;
31. Actions, including fighting or any other assaultive behavior, which causes or could cause injury to the student or other persons or which otherwise endangers the health, safety, or welfare of teachers, students, other school district personnel, or other persons;
32. Committing an act which inflicts great bodily harm upon another person, even though accidental or a result of poor judgment;
33. Violations against persons, including, but not limited to, assault or threatened assault, fighting, harassment, interference or obstruction, attack with a weapon, or look-alike weapon, sexual assault, illegal or inappropriate sexual conduct, or indecent exposure;
34. Verbal assaults, or verbally abusive behavior, including, but not limited to, use of language that is discriminatory, abusive, obscene, threatening, intimidating or that degrades other people;
35. Physical or verbal threats including, but not limited to, the staging or reporting of dangerous or hazardous situations that do not exist;

36. Inappropriate, abusive, threatening, or demeaning actions based on race, color, creed, religion, sex, marital status, status with regard to public assistance, disability, national origin or sexual orientation;

37. Violation of school rules, regulations, policies, or procedures;

38. Other acts, as determined by the school district, which are disruptive of the educational process or dangerous or detrimental to the student or other students, school district personnel or surrounding persons, or which violate the rights of others or which damage or endanger the property of the school, or which otherwise interferes with or obstruct the mission or operations of the school district or the safety or welfare of students or employees.

## VII. DISCIPLINARY ACTION OPTIONS

It is the general policy of the school district to utilize progressive discipline to the extent reasonable and appropriate based upon the specific facts and circumstances of student misconduct. The specific form of discipline chosen in a particular case is solely within the discretion of the school district. At a minimum, violation of school district rules, regulations, policies or procedures will result in discussion of the violation and a verbal warning. The school district shall, however, impose more severe disciplinary sanctions for any violation, including exclusion or expulsion, if warranted by the student's misconduct, as determined by the school district. Disciplinary action may include, but is not limited to, one or more of the following:

- A. Student conference with teacher, principal, counselor or other school district personnel, and verbal warning;
- B. Parent contact;
- C. Parent conference;
- D. Removal from class;
- E. In-school suspension;
- F. Suspension from extracurricular activities;
- G. Detention or restriction of privileges;
- H. Loss of school privileges;
- I. In-school monitoring or revised class schedule;
- J. Referral to in-school support services;
- K. Referral to community resources or outside agency services;
- L. Financial restitution;
- M. Referral to police, other law enforcement agencies, or other appropriate authorities;
- N. A request for a petition to be filed in district court for juvenile delinquency adjudication;



- O. Out-of-school suspension under the Pupil Fair Dismissal Act;
- P. Preparation of an admission or readmission plan;
- Q. Saturday school;
- R. Expulsion under the Pupil Fair Dismissal Act;
- S. Exclusion under the Pupil Fair Dismissal Act; and/or
- T. Other disciplinary action as deemed appropriate by the school district.

### VIII. REMOVAL OF STUDENTS FROM CLASS

A. Teachers have the responsibility of attempting to modify disruptive student behavior by such means as conferring with the student, using positive reinforcement, assigning detention or other consequences, or contacting the student's parents. When such measures fail, or when the teacher determines it is otherwise appropriate based upon the student's conduct, the teacher shall have the authority to remove the student from class pursuant to the procedures established by this discipline policy. "Removal from class" and "removal" mean any actions taken by a teacher, principal, or other school district employee to prohibit a student from attending a class or activity period for a period of time not to exceed five (5) days, pursuant to this discipline policy.

Grounds for removal from class shall include any of the following:

1. Willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
2. Willful conduct that endangers surrounding persons, including school district employees, the student or other students, or the property of the school;
3. Willful violation of any school rules, regulations, policies or procedures, including the Code of Student Conduct in this policy; or
4. Other conduct, which in the discretion of the teacher or administration, requires removal of the student from class.

Such removal shall be for at least one (1) activity period or class period of instruction for a given course of study and shall not exceed five (5) such periods.

B. If a student is removed from class more than ten (10) times in a school year, the school district shall notify the parent or guardian of the student's tenth removal from class and make reasonable attempts to convene a meeting with the student's parent or guardian to discuss the problem that is causing the student to be removed from class.

C. Procedures for Removal of a Student from a Class.

1. Students in Grades Pre-K through Sixth will be escorted to the Principal's office in the event of behavior that is so disruptive that class cannot continue. Parents will be involved (See VIII, J) in the disposition of the student's behavior, which may, in serious cases include Out of School Suspension.

2. Minnewaska Area High School operates on a three step process to remove a student from a class. This includes a verbal or nonverbal warning, a one on one verbal warning and finally removal to the office. Student will immediately report to the office and await the Principal or their designee.

3. The teacher will determine when a student is creating too much of a distraction to properly conduct the lesson for the other students. The principal or designee will determine if the student is sufficiently under control to report to their next class or should remain in the office.

4. The teacher will fill out a detention form for a student removed from class for disciplinary reasons. Upon the second removal from class, the principal or their designee and the student's family will be informed that the Blue Slip Process has been initiated. This will be conveyed to the student and documented for families on the detention form indicating that the next removal will result in a Blue Slip being issued.

5. Student removed from class are required to complete the questionnaire on the Blue Slip, and report to In School Suspension during this period for the next two days and secure the necessary signatures to get back into class (See Appendix: Blue Slip Form).

6. Returning to class will occur only after all Blue Slip requirements are completed. Further Blue Slips may result in complete removal from the class. A family conference will be arranged with administration, counselors and family members to determine the impact on the student's transcript and/or progress towards graduation.

D. Responsibility for and Custody of a Student Removed from Class.

1. Students that are removed from class will first report to the office for placement in In School Suspension or a restricted study hall.

2. Students removed from class are to report to the office immediately. The teacher will alert the office. If assistance is required to remove a student, the School Resource Officer may be sent to escort them.

3. In the event of disobedient or aggressive behavior, the teacher should immediately call the office for assistance and the School Resource Officer will be sent immediately to escort the student(s) to the office.

4. Once in the office, the student will wait until administration can meet with them.

E. Procedures for Return of a Student to a Class from Which the Student Was Removed.

1. Returning from a Blue Slip: Students must have all signatures in place and return the completed form to the Principal or their designee by the completion of their second day out. The principal, or designee, will notify the attendance secretary and classroom teacher of the student's return to class.

2. Students returning from Out of School Suspensions must attend a conference between their parent/guardian and the principal or their designee before returning to the mainstream. This conference will serve to verify that the student is prepared to successfully re-enter the mainstream.

F. Procedures for Notification:

1 Students violating rules of conduct will be given verbal confirmation of the impending disciplinary action by the person assigning it and/or written confirmation by the office. A copy of the written notice will be mailed to parent/guardian and, when possible, a telephone call will serve as verbal notification.

2 In all disciplinary matters, the high school principal or designee will assign the date for any disciplinary action. Where possible, the parent/guardian's input will be taken into consideration but timeliness of the restitution and supervisory time are an important consideration.

G. Disabled Students; Special Provisions:

1 Students with chronic behavioral issues will require documented interventions before they can be referred for special education testing. These will be determined by the referring staff members and monitored for results. In the event the interventions have no impact on the behaviors, a special education referral will be made through the high school office, a pre-assessment meeting will be scheduled with the parent/guardian and testing will be done pending their approval.

2 Students with an IEP may be removed from class for behaviors that interfere with the learning and/or safety of other students and staff. Removal must not exceed five consecutive days or ten cumulative days for the year without a manifestation determination meeting of the members of the student's IEP team to decide if the special needs are causing the behaviors.

3 Referrals for services after documented interventions may be made through the high school office, or special education department by staff or parent/guardian.

H. Procedures for Detecting and Addressing Chemical Abuse Problems of Students While on School Premises:

1 The Minnewaska Area Schools will maintain a Chemical Abuse Pre-assessment Team comprised of school counselor(s), social worker(s), principal/designee and athletic director that meets monthly.

2 The school will establish an Advisory Team of school and community members that meet quarterly to address chemical abuse problems in the district.

I. Procedures for Immediate and Appropriate Interventions Tied to Violations of the Code of Student Conduct:

The High School Student Handbook will be used to determine appropriate interventions for the violations.

J. Procedures for involving parents:

In the event of student discipline procedures, Minnewaska Schools believes it is important for parent/guardians to be informed. This communication may include telephone call, email, written correspondence, or invitation to a conference.

K. Early detection of behavioral problems is the key to a successful classroom environment. Early detection procedures may include but are not limited to staff development activities that keep

teachers informed as to current behavioral instructive strategies and the use of appropriate school resources to best meet student needs.

#### IX. DISMISSAL

A. "Dismissal" means the denial of the current educational program to any student, including exclusion, expulsion and suspension. Dismissal does not include removal from class.

The school district shall not deny due process or equal protection of the law to any student involved in a dismissal proceeding which may result in suspension, exclusion or expulsion.

The school district shall not dismiss any student without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property.

B. Violations leading to suspension, based upon severity, may also be grounds for actions leading to expulsion, and/or exclusion. A student may be dismissed on any of the following grounds:

- 1 Willful violation of any reasonable school board regulation, including those found in this policy;
- 2 Willful conduct that significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or
- 3 Willful conduct that endangers the student or other students, or surrounding persons, including school district employees, or property of the school.

#### C. Suspension Procedures

1 "Suspension" means an action by the school administration, under rules promulgated by the School Board, prohibiting a student from attending school for a period of no more than ten (10) school days; provided, however, if a suspension is longer than five (5) school days, the suspending administrator shall provide the superintendent with a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) school day or less, except as may be provided in federal law for a student with a disability.

2 If a student's total days of removal from school exceed ten (10) cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the student and the student's parent or guardian before subsequently removing the student from school and, with the permission of the parent or guardian, arrange for a mental health screening for the student at the parent or guardian's expense. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the student assessed or diagnosed to determine whether the student needs treatment for a mental health disorder.

3. Each suspension action may include a readmission plan. The plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission which must not be used to extend the current suspension. A readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. School administration must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening, or

examination of the student as a ground, by itself, to prohibit the student from attending class or participating in a school-related activity, or as a basis of a charge of child abuse, child neglect, or medical or educational neglect. The school administration may not impose consecutive suspensions against the same student for the same course of conduct, or incident of misconduct, except where the student will create an immediate and substantial danger to self or to surrounding persons or property or where the school district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of fifteen (15) days.

4. In the case of a student with a disability, the student's individual education plan team shall meet immediately but not more than ten (10) school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team shall, at the meeting, conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action, and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when: (1) the parent requests a meeting; (2) the student is removed from the student's current placement for five (5) or more consecutive days; or (3) the student's total days of removal from the student's placement during the school year exceed ten (10) cumulative days in a school year. The school administration shall implement alternative educational services when the suspension exceeds five (5) days. A separate administrative conference shall be conducted for each period of suspension.

5. The school administration shall implement alternative educational services when the suspension exceeds five (5) days. Alternative educational services may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessments, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center under Minn. Stat. § 123A.05 selected to allow the pupil to progress toward meeting graduation standards under Minn. Stat. § 120B.02, although in a different setting.

6. The school administration shall not suspend a student from school without an informal administrative conference with the student. The informal administrative conference shall take place before the suspension, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension. At the informal administrative conference, a school administrator shall notify the student of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the student may present the student's version of the facts. A separate administrative conference is required for each period of suspension.

7. After school administration notifies a student of the grounds for suspension, school administration may, instead of imposing the suspension, do one or more of the following:

- a. strongly encourage a parent or guardian of the student to attend school with the student for one day;
- b. assign the student to attend school on Saturday as supervised by the principal or the principal's designee; and
- c. petition the juvenile court that the student is in need of services under Minn. Stat. Ch. 260C.

8. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of the

Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56, shall be personally served upon the student at or before the time the suspension is to take effect, and upon the student's parent or guardian by mail within forty-eight (48) hours of the conference. (See attached sample Notice of Suspension.)

9. The school administration shall make reasonable efforts to notify the student's parent or guardian of the suspension by telephone as soon as possible following suspension.

10. In the event a student is suspended without an informal administrative conference on the grounds that the student will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the student and the student's parent or guardian within forty-eight (48) hours of the suspension. Service by mail shall be complete upon mailing.

11. Notwithstanding the foregoing provisions, the student may be suspended pending the school board's decision in an expulsion or exclusion proceeding, provided that alternative educational services are implemented to the extent that suspension exceeds five (5) days.

D. Expulsion and Exclusion Procedures

1 "Expulsion" means a school board action to prohibit an enrolled student from further attendance for up to twelve (12) months from the date the student is expelled. The authority to expel rests with the school board.

2 "Exclusion" means an action taken by the school board to prevent enrollment or re-enrollment of a student for a period that shall not extend beyond the school year. The authority to exclude rests with the school board.

3 All expulsion and exclusion proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56.

4 No expulsion or exclusion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the student and parent or guardian.

5 The student and parent or guardian shall be provided written notice of the school district's intent to initiate expulsion or exclusion proceedings. This notice shall be served upon the student and his or her parent or guardian personally or by mail, and shall contain a complete statement of the facts; a list of the witnesses and a description of their testimony; state the date, time and place of hearing; be accompanied by a copy of the Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56; describe alternative educational services accorded the student in an attempt to avoid the expulsion proceedings; and inform the student and parent or guardian of their right to: (1) have a representative of the student's own choosing, including legal counsel at the hearing; (2) examine the student's records before the hearing; (3) present evidence; and (4) confront and cross-examine witnesses. The school district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Minnesota Department of Education (MDE).

6 The hearing shall be scheduled within ten (10) days of the service of the written notice unless an extension, not to exceed five (5) days, is requested for good cause by the school district, student, parent or guardian.

7 All hearings shall be held at a time and place reasonably convenient to the

student, parent or guardian and shall be closed, unless the student, parent or guardian requests an open hearing.

8. The school district shall record the hearing proceedings at district expense, and a party may obtain a transcript at its own expense.

9. The student shall have a right to a representative of the student's own choosing, including legal counsel, at the student's sole expense. The school district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from MDE. The school board may appoint an attorney to represent the school district in any proceeding.

10. If the student designates a representative other than the parent or guardian, the representative must have a written authorization from the student and the parent or guardian providing them with access to and/or copies of the student's records.

11. All expulsion or exclusion hearings shall take place before and be conducted by an independent hearing officer designated by the school district. The hearing shall be conducted in a fair and impartial manner. Testimony shall be given under oath and the hearing officer shall have the power to issue subpoenas and administer oaths.

12. At a reasonable time prior to the hearing, the student, parent or guardian, or authorized representative shall be given access to all school district records pertaining to the student, including any tests or reports upon which the proposed dismissal action may be based.

13. The student, parent or guardian, or authorized representative, shall have the right to compel the presence of any school district employee or agent or any other person who may have evidence upon which the proposed dismissal action may be based, and to confront and cross-examine any witnesses testifying for the school district.

14. The student, parent or guardian, or authorized representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.

15. The student cannot be compelled to testify in the dismissal proceedings.

16. The hearing officer shall prepare findings and a recommendation based solely upon substantial evidence presented at the hearing, which must be made to the school board and served upon the parties within two (2) days after the close of the hearing.

17. The school board shall base its decision upon the findings and recommendation of the hearing officer and shall render its decision at a meeting held within five (5) days after receiving the findings and recommendation. The school board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's findings and recommendation provided that neither party presents any evidence not admitted at the hearing. The decision by the school board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the Commissioner of Education (Commissioner) of the basis and reason for the decision.

18. A party to an expulsion or exclusion decision made by the school board may appeal the decision to the Commissioner within twenty-one (21) calendar days of school board action pursuant to Minn. Stat. § 121A.49. The decision of the school board shall be implemented during the appeal to the Commissioner.

19. The school district shall report any suspension, expulsion or exclusion action taken to the

appropriate public service agency, when the student is under the supervision of such agency.

20. The school district must report, through the MDE electronic reporting system, each expulsion or exclusion within thirty (30) days of the effective date of the action to the Commissioner. This report must include a statement of alternative educational services given the student and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status. The dismissal report must include state student identification numbers of affected students.

21. Whenever a student fails to return to school within ten (10) school days of the termination of dismissal, a school administrator shall inform the student and his/her parent or guardian by mail of the student's right to attend and to be reinstated in the school district.

#### **X. ADMISSION OR READMISSION PLAN**

A school administrator shall prepare and enforce an admission or readmission plan for any student who is excluded or expelled from school. The plan may include measures to improve the student's behavior, including completing a character education program consistent with Minn.Stat. § 120B.232, Subd. 1, and require parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving the student's behavior. The readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

#### **XI. NOTIFICATION OF POLICY VIOLATIONS**

Notification of any violation of this policy and resulting disciplinary action shall be as provided herein, or as otherwise provided by the Pupil Fair Dismissal Act or other applicable law. The teacher, principal or other school district official may provide additional notification as deemed appropriate.

#### **XII. STUDENT DISCIPLINE RECORDS**

It is the policy of the school district that complete and accurate student discipline records be maintained. The collection, dissemination, and maintenance of student discipline records shall be consistent with applicable school district policies and federal and state law, including the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13.

#### **XIII. DISABLED STUDENTS**

Students who are currently identified as eligible under the IDEA or Section 504 will be subject to the provisions of this policy, unless the student's IEP or 504 plan specifies a necessary modification.

Where a student is dismissed for five (5) or more consecutive days, or has accumulated more than ten (10) days of dismissal over the course of the school year, the school district will convene a meeting to determine whether the student's educational program is appropriate and to review all relevant information in order to determine whether the behavior subject to discipline is a manifestation of the student's disability. Such a meeting must be held within ten (10) schooldays of the school district's decision to remove the student from his or her current educational



placement and must be held before commencing an expulsion or exclusion of the student. If the student's educational program is appropriate and the behavior is not a manifestation of the student's disability, the school district will proceed with discipline – up to and including expulsion – as if the student did not have a disability, unless the student's educational program provides otherwise. If the team determines that the behavior subject to discipline is a manifestation of the student's disability, the team shall conduct a functional behavioral assessment and implement a behavioral intervention plan for such student provided that the school district had not conducted such assessment prior to the manifestation determination before the behavior that resulted in a change of placement. Where a behavioral intervention plan previously has been developed, the team will review the behavioral intervention plan and modify it as necessary to address the behavior. If the student was placed in a 45-day interim alternative educational setting pending the manifestation determination, the student will be returned to the placement from which the student was removed unless the student and school district agree to a change of placement as part of the modification of the behavioral intervention plan.

When a student who has an IEP is excluded or expelled for misbehavior that is not a manifestation of the student's disability, the school district shall continue to provide special education and related services during the period of expulsion or exclusion.

#### **XIV. OPEN ENROLLED STUDENTS**

The school district may terminate the enrollment of a nonresident student enrolled under an Enrollment Option Program (Minn. Stat. § 124D.03) or Enrollment in Nonresident District (Minn. Stat. § 124D.08) at the end of a school year if the student meets the definition of a habitual truant, the student has been provided appropriate services for truancy (Minn. Stat. Ch. 260A), and the student's case has been referred to juvenile court. The school district may also terminate the enrollment of a nonresident student over the age of sixteen (16) enrolled under an Enrollment Options Program if the student is absent without lawful excuse for one or more periods on fifteen (15) school days and has not lawfully withdrawn from school.

#### **XV. DISTRIBUTION OF POLICY**

The school district will notify students and parents of the existence and contents of this policy in such manner as it deems appropriate. Copies of this discipline policy shall be made available to all students and parents at the commencement of each school year and to all new students and parents upon enrollment. This policy shall also be available upon request in each principal's office.

#### **XVI. REVIEW OF POLICY**

The principal and representatives of parents, students and staff in each school building shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced. Any recommended changes shall be submitted to the superintendent for consideration by the school board, which shall conduct an annual review of this policy.

*Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act) Minn. Stat. § 120B.02 (Educational Expectations for Minnesota Students) Minn. Stat. § 120B.232 (Character Development Education) Minn. Stat. § 121A.26 (School Preassessment Teams) Minn. Stat. § 121A.27 (School and Community Advisory Team) Minn. Stat. § 121A.29 (Reporting: Chemical Abuse) Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act) Minn. Stat. § 121A.575 (Alternatives to Pupil Suspension) Minn. Stat. § 121A.582 (Reasonable Force) Minn. Stat. §§ 121A.60-121A.61 (Removal From Class)*

Minn. Stat. § 123A.05 (Area Learning Center Organization) Minn. Stat. § 124D.03 (Enrollment Options Program) Minn. Stat. § 124D.08 (Enrollment in Nonresident District) Minn. Stat. Ch. 125A (Students With Disabilities) Minn. Stat. Ch. 260A (Truancy) Minn. Stat. Ch. 260C (Juvenile Court Act) 20 U.S.C. §§ 1400-1487 (Individuals with Disabilities Education Improvement Act of 2004) 29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)

*Cross References: MSBA/MASA Model Policy 413 (Harassment and Violence) MSBA/MASA Model Policy 501 (School Weapons) MSBA/MASA Model Policy 503 (Student Attendance) MSBA/MASA Model Policy 504 (Student Dress and Appearance) MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees) MSBA/MASA Model Policy 526 (Student Hazing Prohibition) MSBA/MASA Model Policy 610 (Field Trips)*

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*Rev.*  
*2011*

**524 INTERNET ACCEPTABLE USE AND SAFETY POLICY**

*[Note: School districts are required by statute to have a policy addressing these issues.]*

**I. PURPOSE**

The purpose of this policy is to set forth policies and guidelines for access to the school district computer system and acceptable and safe use of the Internet and electronic communications utilizing school district resources including computers and/or Internet service.

**II. GENERAL STATEMENT OF POLICY**

In making decisions regarding student and employee access to the school district computer system and the Internet, including electronic communications, the school district considers its own stated educational mission, goals, and objectives. Electronic information research skills are now fundamental to preparation of citizens and future employees. Access to the school district computer system and to the Internet enables students and employees to explore thousands of libraries, databases, bulletin boards, and other resources while exchanging messages with people around the world. The school district expects that faculty will blend thoughtful use of the school district computer system and the Internet throughout the curriculum and will provide guidance and instruction to students in their use.

**III. LIMITED EDUCATIONAL PURPOSE**

The school district is providing students and employees with access to the school district computer system, which includes Internet access. The purpose of the system is more specific than providing students and employees with general access to the Internet. The school district system has a limited educational purpose, which includes use of the system for classroom activities, educational research, and professional or career development activities. Users are expected to use Internet access through the district system to further educational and personal goals consistent with the mission of the school district and school policies. Uses which might be acceptable on a user's private personal account on another system may not be acceptable on this limited-purpose network.

**IV. USE OF SYSTEM IS A PRIVILEGE**

The use of the school district system and access to use of the Internet via the school district system is a privilege, not a right. Depending on the nature and degree of the violation and the number of previous violations, unacceptable use of the school district system or the Internet may result in one or more of the following

consequences: suspension or cancellation of use or access privileges; payments for damages and repairs; discipline under other appropriate school district policies, including suspension, expulsion, exclusion, or termination of employment; or civil or criminal liability under other applicable laws.

**V. UNACCEPTABLE USES**

A. The following uses of the school district system and Internet resources or accounts are considered unacceptable:

1. Users will not use the school district system to access, review, upload, download, store, print, post, receive, transmit, or distribute:

a. pornographic, obscene, or sexually explicit material or other visual depictions that are harmful to minors;

b. obscene, abusive, profane, lewd, vulgar, rude, inflammatory, threatening, disrespectful, or sexually explicit language;

c. materials that use language or images that are inappropriate in the education setting or disruptive to the educational process;

d. information or materials that could cause damage or danger of disruption to the educational process;

e. materials that use language or images that advocate violence or discrimination toward other people (hate literature) or that may constitute harassment or discrimination.

2. Users will not use the school district system to knowingly or recklessly post, transmit, or distribute false or defamatory information about a person or organization, or to harass another person, or to engage in personal attacks, including prejudicial or discriminatory attacks.

3. Users will not use the school district system to engage in any illegal act or violate any local, state, or federal statute or law.

4. Users will not use the school district system to vandalize, damage, or disable the property of another person or organization, will not make deliberate attempts to degrade or disrupt equipment, software, or system performance by spreading computer viruses or by any other means, will not tamper with, modify, or change the school district system software, hardware, or wiring or take any action to violate the school district's security system, and will not use the school district system in such a way as to disrupt the use of the system by other users.

5. Users will not use the school district system to gain unauthorized access to information resources or to access another person's materials, information, or files without the implied or direct permission of that person.

6. Users will not use the school district system to post private information about another person, personal contact information about themselves or other persons, or other personally identifiable information, including, but not limited to, addresses, telephone numbers, school addresses, work addresses, identification numbers, account numbers, access codes or passwords, labeled photographs, or other information that would make the individual's

identity easily traceable, and will not repost a message that was sent to the user privately without permission of the person who sent the message

a. This paragraph does not prohibit the posting of employee contact information on school district WebPages or communications between employees and other individuals when such communications are made for education-related purposes (i.e., communications with parents or other staff members related to students).

b. Employees creating or posting school-related WebPages may include personal contact information about themselves on a webpage. However, employees may not post personal contact information or other personally

identifiable information about students unless:

(1) such information is classified by the school district as directory information and verification is made that the school district has not received notice from a parent/guardian or eligible student that such information is not to be designated as directory information in accordance with Policy 515; or

(2) such information is not classified by the school district as directory information but written consent for release of the information to be posted has been obtained from a parent/guardian or eligible student in accordance with Policy 515.

In addition, prior to posting any personal contact or personally identifiable information on a school-related webpage, employees shall obtain written approval of the content of the postings from the building administrator.

c. These prohibitions specifically prohibit a user from utilizing the school district system to post personal information about a user or another individual on social networks, including, but not limited to, social networks such as "MySpace" and "Facebook."

- Users must keep all school district system account information and passwords on file with the designated school district official. Users will not attempt to gain unauthorized access to the school district system or any other system through the school district system, attempt to log in through another person's account, or use computer accounts, access codes, or network identification other than those assigned to the user. Messages and records on the school district system may not be encrypted without the permission of appropriate school authorities.
- Users will not use the school district system to violate copyright laws or usage licensing agreements, or otherwise to use another person's property without the person's prior approval or proper citation, including the downloading or exchanging of pirated software or copying software to or from any school computer, and will not plagiarize works they find on the Internet.
- Users will not use the school district system for conducting business, for unauthorized commercial purposes, or for financial gain unrelated to the mission of the school district. Users will not use the school district system to offer or provide goods or services or for product advertisement. Users will not use the school district system to purchase goods or services for personal use without authorization from the appropriate school district official.

B. A student or employee engaging in the foregoing unacceptable uses of the Internet when off school district premises also may be in violation of this policy as well as other school district policies when the off premises Internet use poses a threat to the safety of other students, staff, or school property, or is reasonably foreseeable to cause a material and substantial disruption to student learning or the school environment. Examples of such violations include, but are not limited to, situations where the school district system is compromised or online bullying that is reasonably foreseeable to substantially and materially disrupt student learning or the school environment or if a school district employee or student is negatively impacted. If the school district receives a report of an unacceptable use originating from a non-school computer or resource, the school district may investigate such reports to the best of its ability. Students or employees may be subject to disciplinary action for such conduct, including, but not limited to, suspension or cancellation of the use or access to the school district computer system and the Internet and discipline under other appropriate school district policies, including suspension, expulsion, exclusion, or termination of employment.

C. If a school district system user inadvertently accesses unacceptable materials or an unacceptable Internet site, the user shall immediately disclose the inadvertent access to an appropriate school district official. In the case of a school district employee, the immediate disclosure shall be to the employee's immediate supervisor and/or the building administrator. This disclosure may serve as a defense against an allegation that the user has intentionally violated this policy. In certain rare instances, a user also may access otherwise unacceptable materials if necessary to complete an assignment and if done with the prior approval of and with appropriate guidance from the appropriate teacher or, in the case of a school district employee, the building administrator.

## VI. FILTER

A. With respect to any of its computers with Internet access, the school district will monitor the online activities of both minors and adults and employ technology protection measures during any use of such computers by minors and adults. The technology protection measures utilized will block or filter Internet access to any visual depictions that are:

- Obscene;
- Child pornography; or
- Harmful to minors.

B. The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

- Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; or
- Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
- Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

- C. An administrator, supervisor, or other person authorized by the Superintendent may disable the technology protection measure, during use by an adult, to enable access for bona fide research or other lawful purposes.
- D. The school district will educate students about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.

#### **VII. CONSISTENCY WITH OTHER SCHOOL POLICIES**

Use of the school district computer system and use of the Internet shall be consistent with school district policies and the mission of the school district.

#### **VIII. LIMITED EXPECTATION OF PRIVACY**

- A. By authorizing use of the school district system, the school district does not relinquish control over materials on the system or contained in files on the system. Users should expect only limited privacy in the contents of personal files on the school district system.
- B. Routine maintenance and monitoring of the school district system may lead to a discovery that a user has violated this policy, another school district policy, or the law.
- C. An individual investigation or search will be conducted if school authorities have a reasonable suspicion that the search will uncover a violation of law or school district policy.
- D. Parents have the right at any time to investigate or review the contents of their child's files and e-mail files. Parents have the right to request the termination of their child's individual account at any time.
- E. School district employees should be aware that the school district retains the right at any time to investigate or review the contents of their files and e-mail files. In addition, school district employees should be aware that data and other materials in files maintained on the school district system may be subject to review, disclosure or discovery under Minn. Stat. Ch. 13 (the Minnesota Government Data Practices Act).
- F. The school district will cooperate fully with local, state and federal authorities in any investigation concerning or related to any illegal activities or activities not in compliance with school district policies conducted through the school district system.

#### **IX. INTERNET USE AGREEMENT**

- A. The proper use of the Internet, and the educational value to be gained from proper Internet use, is the joint responsibility of students, parents, and employees of the school district.
- B. This policy requires the permission of and supervision by the school's designated professional staff before a student may use a school account or resource to access the

Internet.

C. The Internet Use Agreement form for students must be read and signed by the user, the parent or guardian, and the supervising teacher. The Internet Use Agreement form for employees must be signed by the employee. The form must then be filed at the school office. As supervising teachers change, the agreement signed by the new teacher shall be attached to the original agreement.

#### **X. LIMITATION ON SCHOOL DISTRICT LIABILITY**

Use of the school district system is at the user's own risk. The system is provided on an "as is, as available" basis. The school district will not be responsible for any damage users may suffer, including, but not limited to, loss, damage, or unavailability of data stored on school district diskettes, tapes, hard drives, or servers, or for delays or changes in or interruptions of service or misdeliveries or nondeliveries of information or materials, regardless of the cause. The school district is not responsible for the accuracy or quality of any advice or information obtained through or stored on the school district system. The school district will not be responsible for financial obligations arising through unauthorized use of the school district system or the Internet.

#### **XI. USER NOTIFICATION**

A. All users shall be notified of the school district policies relating to Internet use.

B. This notification shall include the following:

1. Notification that Internet use is subject to compliance with school district policies.
2. Disclaimers limiting the school district's liability relative to:
  - a. Information stored on school district diskettes, hard drives, or servers.
  - b. Information retrieved through school district computers, networks, or online resources.
  - c. Personal property used to access school district computers, networks, or online resources.
  - d. Unauthorized financial obligations resulting from use of school district resources/accounts to access the Internet.
3. A description of the privacy rights and limitations of school sponsored/managed Internet accounts.
4. Notification that, even though the school district may use technical means to limit student Internet access, these limits do not provide a foolproof means for enforcing the provisions of this acceptable use policy.
5. Notification that goods and services can be purchased over the Internet that could potentially result in unwanted financial obligations and that any financial obligation incurred by a student through the Internet is the sole responsibility of the student and/or the student's parents.
6. Notification that the collection, creation, reception, maintenance, and dissemination of data via the Internet, including electronic communications, is governed by Policy 406, Public and Private Personnel Data, and Policy 515, Protection and Privacy of Pupil Records.
7. Notification that, should the user violate the school district's acceptable use policy, the user's access privileges may be revoked, school disciplinary action may be taken and/or



appropriate legal action may be taken.

8. Notification that all provisions of the acceptable use policy are subordinate to local, state, and federal laws.

## **XII. PARENTS' RESPONSIBILITY; NOTIFICATION OF STUDENT INTERNET USE**

A. Outside of school, parents bear responsibility for the same guidance of Internet use as they exercise with information sources such as television, telephones, radio, movies, and other possibly offensive media. Parents are responsible for monitoring their student's use of the school district system and of the Internet if the student is accessing the school district system from home or a remote location.

B. Parents will be notified that their students will be using school district resources/accounts to access the Internet and that the school district will provide parents the option to request alternative activities not requiring Internet access. This notification should include:

- 1 A copy of the user notification form provided to the student user.
- 2 A description of parent/guardian responsibilities.
- 3 A notification that the parents have the option to request alternative educational activities not requiring Internet access and the material to exercise this option.
- 4 A statement that the Internet Use Agreement must be signed by the user, the parent or guardian, and the supervising teacher prior to use by the student.
- 5 A statement that the school district's acceptable use policy is available for parental review.

## **XIII. IMPLEMENTATION; POLICY REVIEW**

A. The school district administration may develop appropriate user notification forms, guidelines, and procedures necessary to implement this policy for submission to the school board for approval. Upon approval by the school board, such guidelines, forms, and procedures shall be an addendum to this policy.

B. The administration shall revise the user notifications, including student and parent notifications, if necessary, to reflect the adoption of these guidelines and procedures.

C. The school district Internet policies and procedures are available for review by all parents, guardians, staff, and members of the community.

D. Because of the rapid changes in the development of the Internet, the school board shall conduct an annual review of this policy.

**Legal References:** 15 U.S.C. § 6501 *et seq.* (Children's Online Privacy Protection Act)17 U.S.C. § 101 *et seq.* (Copyrights)20 U.S.C. § 6751 *et seq.* (Enhancing Education through Technology Act of 2001)47 U.S.C. § 254 (Children's Internet Protection Act of 2000 (CIPA))47 C.F.R. § 54.520 (FCC rules implementing CIPA)Minn. Stat. § 121A.0695 (School Board Policy; Prohibiting Intimidation and Bullying)Minn.

Stat. § 125B.15 (Internet Access for Students)Minn. Stat. § 125B.26 (Telecommunications/Internet Access Equity Act)*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731 (1969)*United States v. Amer. Library Assoc.*, 539 U.S. 194, 123 S.Ct. 2297, 56 L.Ed.2d 221 (2003)  
*Doninger v. Niehoff*, 527 F.3d 41 (2<sup>nd</sup> Cir. 2008)

*Tatro v. Univ. of Minnesota*, 800 N.W.2d 811 (Minn. App. 2011)*Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205 (3<sup>rd</sup> Cir. 2011)

*M.T. v. Cent. York Sch. Dist.*, 937 A.2d 538 (Pa. Commw. Ct. 2007)  
*J.S. v. Bethlehem Area Sch. Dist.*, 807 A.2d 847 (Pa. 2002)

**Cross References:** MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)MSBA/MASA Model Policy 406 (Public and Private Personnel Data)MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)MSBA/MASA Model Policy 506 (Student Discipline)MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)MSBA/MASA Model Policy 519 (Interviews of Students by Outside Agencies)MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)MSBA/MASA Model Policy 522 (Student Sex Nondiscrimination)MSBA/MASA Model Policy 603 (Curriculum Development)MSBA/MASA Model Policy 604 (Instructional Curriculum)MSBA/MASA Model Policy 606 (Textbooks and Instructional Materials)MSBA/MASA Model Policy 806 (Crisis Management Policy)

MSBA/MASA Model Policy 904 (Distribution of Materials on School District Property by Nonschool Persons)

## **Appendix B**

The Minnewaska Student Handbook will provide:

### **Voluntary searches:**

Students may be asked for permission to search their backpacks or other personal items. When a search is voluntary, the student is free to withhold consent and a student's refusal to consent to a voluntary search will not result in additional discipline or other adverse consequences.