

*Technical Academies of Minnesota*

*Adopted: Orig. 6/22/2013*

*Revised: 8/25/2020*

## **400 HARASSMENT AND VIOLENCE**

### **I. PURPOSE**

The purpose of this policy is to maintain a learning and working environment that is free from any form of harassment including but not limited to: religious, racial or sexual harassment and violence. The District prohibits any form of religious, racial or sexual harassment and violence or any type of behavior, verbal or written, which causes chronic or continual annoyance.

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

- A. It is the policy of the District to maintain a learning and working environment that is free from harassment and violence. The District prohibits any form of religious, racial, sexual, or chronic harassment and violence.
- B. It shall be a violation of this policy for any pupil or District staff member to harass a pupil or District staff member through conduct or communication of a sexual nature or regarding religion and race or considered a chronic annoyance as defined by this policy. (For purposes of this policy, District staff includes School Board members, staff, agents, volunteers, contractors or persons subject to the supervision and control of the District.)
- C. It shall be a violation of this policy for any District pupils or staff members to inflict, threaten to inflict, or attempt to inflict religious, racial, sexual, or chronic violence upon any District pupil or staff member.
- D. The District will act to investigate all complaints, either formal or informal, verbal or written, of religious, racial, sexual, or continual/chronic harassment or violence, and to discipline or take appropriate action against any District pupil or staff member who is found to have violated this policy.

### **III. RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE DEFINED**

- A. Sexual Harassment Definition
  - 1. Sexual harassment consists of unwelcome sexual advances, requests for

sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
- b. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
- c. That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or educational environment.

2. Sexual unwelcome verbal harassment or abuse

- a. Unwelcome, sexually motivated or inappropriate patting, pinching or physical contact, other than necessary restraint of District pupil(s) by staff members to avoid physical harm to persons or property;
- b. Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
- c. Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or
- d. Unwelcome behavior or words directed at an individual because of gender.

B. Racial Harassment Definition

Racial harassment consists of physical or verbal conduct relating to an individual's race when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or affects an individual's employment or academic;
3. Otherwise adversely affects an individual's employment or academic opportunities.

C. Religious Harassment Definition

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

1. Has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
2. Has the purpose or effect of substantially or unreasonably interfering with an

- individual's work or academic performance; or
3. Otherwise adversely affects an individual's employment or academic opportunities.

#### D. Sexual Violence Definition

1. Sexual violence is a physical act of aggression or force or the threat thereof that involves the touching of another's intimate parts, or forcing a person to touch any intimate parts. Intimate parts, as defined in Minn. Stat. 8 609.341, includes the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.
2. Sexual violence may include, but is not limited to:
  - a. Touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
  - b. Coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;
  - c. Coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or
  - d. Threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

#### E. Racial Violence Definition

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

#### F. Religious Violence Definition

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

#### G. Assault Definition

Assault is:

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

#### H. Continual/ Chronic Harassment Definition

Continual or chronic harassment is a physical, verbal, or written conduct relating to an individual which;

1. Has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;
2. Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance;

3. Otherwise affects an individual's employment or academic opportunities.

#### **IV. REPORTING PROCEDURES**

- A. Any person who believes he or she has been the victim of religious, racial, sexual or continual/ chronic harassment or violence by a District pupil or staff member or any person with knowledge or belief of conduct which may constitute religious, racial, sexual, or continual/ chronic harassment or violence toward a District pupil or staff member should report the alleged acts immediately to an appropriate District official designated by this policy. The District encourages the reporting party or complainant to use the report form available from the District staff, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to a District Human Rights Officer or to the Board Chairperson.
- B. Upon receipt of a report, the School Board appointed District staff member must notify the District Human Rights Officer immediately, without screening or investigating the report. The District staff member may request, but may not insist upon a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable to the District Human Rights Officer. If the report was given verbally, the District staff member shall personally reduce it to written form within 24 hours and forward it to the District Human Rights Officer. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the District staff member. If the complaint involves the appointed District staff member, the complaint shall be made or filed directly with the Board Chairperson or the District Human Rights Officer by the reporting party or complainant.
- C. The School Board hereby designates a School Board member as the District Human Rights Officer to receive reports or complaints of religious, racial, sexual, or continual/ chronic harassment or violence. If the complaint involves the District Human Rights Officer, the complaint shall be filed directly with the Board Chairperson.
- D. The District shall conspicuously post the name of the District Human Rights Officer, including mailing addresses and telephone numbers.
- E. Submission of a good faith complaint or report of religious, racial, sexual, or continual/ chronic harassment or violence will not affect the complainant or reporter's future employment, grades or work assignments.
- F. Use of formal reporting forms is not mandatory.
- G. The District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform to any discovery or disclosure obligations.

## **V. INVESTIGATION**

- A. By authority of the District, the District Human Rights Officer, upon receipt of a report or complaint alleging religious, racial or sexual harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by District staff members or by a third party designated by the District.
- B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- C. In determining whether alleged conduct constitutes a violation of this policy, the District should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.
- D. In addition, the District may take immediate steps, at its discretion, to protect the complainant, pupils, or other District personnel pending completion of an investigation of alleged religious, racial or sexual harassment or violence.
- E. The investigation will be completed as soon as practicable. The District Human Rights Officer shall make a written report to the Board Chairperson upon completion of the investigation. If the complaint involves the Board Chairperson, the report may be filed directly with the School Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

## **VI. DISTRICT ACTION**

- A. Upon receipt of a report, the District will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. District action taken for violation of this policy will be consistent with requirements of Minnesota and federal law and school policies.
- B. The result of the District's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the District once with state and federal law regarding data or records privacy.

## **VII. REPRISAL**

The District will discipline or take appropriate action against any District pupil or

personnel who retaliates against any person who reports alleged religious, racial, sexual, or continual/ chronic harassment or violence or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

### **VIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES.**

These procedures do not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with the Minnesota Department of Human Rights, initiating civil action or seeking redress under state criminal statutes and/or federal law.

### **IX. HARASSMENT OR VIOLENCE AS ABUSE**

- A. Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of mandatory reporting under Minn. Stat. § 626.556 may be applicable.
- B. Nothing in this policy will prohibit the District from taking immediate action to protect victims of alleged harassment, violence or abuse.

### **X. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members.
- B. This policy shall appear in the student handbook.
- C. The District will develop a method of discussing this policy with students and staff members.
- D. This policy shall be reviewed at least annually for compliance with state and federal law.
- E. A copy of this policy will be submitted to the commissioner.
- F. This policy shall be given to each District employee and independent contractor at the time of entering into the person's employment contract.

*Legal References:* Minn. Stat. §127.46 (Sexual, Religious and Racial Harassment and Violence Policy)  
Minn. Stat. Ch. 363 (Minnesota Human Rights Act)  
Minn. Stat. §626.556 et seq. (Reporting of Maltreatment of Minors)  
Minn. Stat. §121A.03 (Model Policy, Submission to the commissioner)