



Policy 1B.1
Nondiscrimination in Employment and
Education Opportunity
Reviewed November 2013

Mesabi Range College is committed to a policy of nondiscrimination in employment and education opportunity. No person shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in, programs, services, and activities with regard to race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, or membership or activity in a local commission as defined by law.

Harassment of an individual or group on the basis of race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, or membership or activity in a local commission has no place in a learning or work environment and is prohibited. Sexual violence has no place in a learning or work environment. Further, the Mesabi Range College shall work to eliminate violence in all its forms. Physical contact by College staff members may be appropriate if necessary to avoid physical harm to persons or property.

This policy is directed at verbal and physical conduct that constitutes discrimination/harassment under state and federal law and is not directed at the content of speech. In cases in which verbal statements and other forms of expression are involved, Mesabi Range College will give due consideration to an individual's constitutionally protected right to free speech and academic freedom.

RACIAL DISCRIMINATION/HARASSMENT

Racial discrimination is prohibited by state and federal law. Racial discrimination is defined as conduct that is directed at an individual because of his/her race, color, or national origin or that of his/her spouse and that subjects the individual to different treatment by agents or employees so as to interfere with or limit the ability of the individual to participate in, or benefit from, the services, activities, or privileges provided by the College or otherwise adversely affects the individual's employment or education.

Racial harassment is a form of race discrimination which is prohibited by state and federal law. Racial harassment is defined as verbal or physical conduct that is directed at an individual because of his/her race, color, or national origin or that of his/her spouse and that is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile work or educational environment. Racial harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student and student, staff and student, employee and employee, and other relationships with other persons having business at or visiting the educational environment.

SEX DISCRIMINATION/HARASSMENT AND VIOLENCE

Sex discrimination is prohibited by state and federal law. Sex discrimination is defined as conduct that is directed at an individual because of his/her gender or that of his/her spouse and that subjects the individual to different treatment so as to interfere with or limit the ability of the individual to participate in, or benefit from, the services, activities, or privileges provided by the College or otherwise adversely affects the individual's employment or education.

Sexual harassment is a form of sex discrimination which is prohibited by state and federal law. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, evaluation of a student's academic performance, or term or condition of participation in student activities or in other events or activities sanctioned by the College; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions or other decisions about participation in student activities or other events or activities sanctioned by the College; or
3. Such conduct has the purpose or effect of threatening an individual's employment; interfering with an individual's work or academic performance; or creating an intimidating, hostile, or offensive work or educational environment.

Sexual harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student to student, employee to employee, and other persons having business with or visiting the educational environment. Sexual harassment may occur when it is directed at members of the opposite gender or when it is directed at members of the same gender. It includes, but is not limited to:

- Unwelcome pressure for sexual activity;
- Unwelcome, sexually motivated or inappropriate patting, pinching, or physical contact; physical contact may be appropriate, if necessary to restrain individuals to avoid physical harm to persons or property;
- Demands for sexual favors or promises of preferential treatment with regard to an individual's employment or educational status accompanied by implied or overt threats concerning an individual's employment or educational status; or
- Unwelcome behavior or words of a sexual nature directed at an individual because of gender.

Sexual violence: Acts of sexual violence are criminal behaviors and create an environment contrary to the goals and missions of the system and colleges and universities. Acts of sexual violence include:

1. Forcible acts, which include non-consensual sexual contact, and/or sexual contact in which the victim is incapable of giving consent (such as when the complainant is under the influence of alcohol or drugs);
2. Nonforcible sex acts such as incest and statutory rape; and

3. The threat of an act of sexual violence. Sexual violence may include, but is not limited to:
- touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex; or
 - coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts; or
 - coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another; or
 - threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

Sexual harassment and violence as sexual abuse. Under certain circumstances, sexual harassment or violence may constitute sexual abuse according to Minnesota law. In such situations, the system office and colleges and universities shall comply with the reporting requirements in M.S. Section 626.556 (reporting of maltreatment of minors) and M.S. Section 626.557 (Vulnerable Adult Protection Act). Nothing in this policy will prohibit the College from taking immediate action to protect victims of alleged sexual abuse.

Non-consensual Relationships. Substantial risks are involved even in seemingly consensual romantic/sexual relationships where a power differential exists between the involved parties. The respect and trust accorded a faculty member or other employee by a student, as well as the power exercised by faculty in giving grades, advice, praise, recommendations, opportunities for further study or other forms of advancement may greatly diminish the student's actual freedom of choice concerning the relationship. Similarly, the authority of the supervisor to hire, fire, evaluate performance, reward, make recommendations, assign and oversee the work activities of employees may interfere with the employee's ability to choose freely in the relationship. Further, it is inherently risky where age, background, stature, credentials or other characteristics contribute to the perception that a power differential exists between the involved parties which limits the student or employee's ability to make informed choices about the relationship.

Claims of a consensual romantic/sexual relationship will not protect individuals from sexual harassment charges nor guarantee a successful defense if charges are made. It is the faculty member, supervisor or staff who will bear the burden of accountability because of his/her special power and responsibility, and it may be exceedingly difficult to use mutual consent as a defense. Therefore, all employees should be aware of the risks involved in entering into a romantic/sexual relationship where there is a superior/subordinate relationship.

SEXUAL ORIENTATION DISCRIMINATION/HARASSMENT

Sexual orientation discrimination is prohibited by state law. Sexual orientation discrimination is defined as conduct that is directed at an individual because of his/her sexual orientation and that subjects the individual to different treatment by agents or employees so as to interfere with or limit the ability of the individual to participate in, or benefit from, the services, activities, or privileges provided by the College or otherwise adversely affects the individual's employment or education.

Sexual orientation harassment is a form of sexual orientation discrimination which is prohibited by state law. Sexual orientation harassment is defined as verbal or physical conduct that is directed at an individual because of his/her sexual orientation and that is sufficiently severe, pervasive or persistent so as to have the purpose or effect of creating a hostile work or educational environment. Sexual orientation harassment may occur in a variety of relationships, including faculty and student, supervisor and

employee, student and student, staff and student, employee and employee, and other relationships with other persons having business at or visiting the educational environment.

DISABILITY DISCRIMINATION/HARASSMENT

Disability discrimination is prohibited by state and federal law. Disability discrimination as defined by law is conduct that is directed at an individual because of his/her mental/physical disability or that of his/her spouse and that subjects the individual to different treatment by agents or employees without legitimate nondiscriminatory reason so as to interfere with or limit the ability of the individual to participate in, or benefit from, the services, activities, or privileges provided by the College or otherwise adversely affects the individual's employment or education.

Disability harassment is a form of discrimination which is prohibited by state and federal law. Disability harassment is defined as verbal or physical conduct that is directed at an individual because of his/her mental/physical disability or that of his/her spouse and that is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile work or educational environment. Disability harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student and student, staff and student, employee and employee, and other relationships with other persons having business at or visiting the educational environment.

COMPLAINTS OF DISCRIMINATION/HARASSMENT

Any member of the College community has the right to file a complaint or grievance if an incident(s) of discrimination or harassment occurs. Complaints should be issued in accordance with the Mesabi Range College Complaint/Grievance Policy. For complaints/grievances involving sexual harassment or sexual violence, please refer to the Mesabi Range College's Sexual Harassment/Sexual Violence Policy. Any complaints of discrimination or harassment will be investigated and appropriate sanctions, if deemed necessary, will be strictly enforced.

Review/Revision History:

Revised 6/29/00

Reviewed through Shared Governance November 20, 2013