

413 Harassment and Violence

Adopted: March 2005

Revised: April 2009, December 2009, October 2011, June 2013, January 2023

Last review: January 2023

1 Purpose

2 The purpose of this policy is to maintain a learning and working environment that is free from
3 harassment and violence against students and employees at Minnesota Online High School (MNOHS).

4 Definitions

5 A. "School personnel" includes Board of Directors members, school employees, agents, volunteers,
6 contractors or persons subject to the supervision and control of MNOHS.

7 B. Sexual Harassment

8 1. "Sexual harassment" consists of unwelcome sexual advances, requests for sexual favors,
9 sexually motivated physical conduct or other verbal or physical conduct or communication
10 of a sexual nature when:

11 a. submission to that conduct or communication is made a term or condition, either
12 explicitly or implicitly, of obtaining or retaining employment, or of obtaining an
13 education; or

14 b. submission to or rejection of that conduct or communication by an individual is
15 used as a factor in decisions affecting that individual's employment or education; or

16 c. that conduct or communication has the purpose or effect of substantially or
17 unreasonably interfering with an individual's employment or education, or creating an
18 intimidating, hostile or offensive employment or educational environment.

19 2. "Sexual harassment" may include but is not limited to:

20 a. unwelcome verbal harassment or abuse;

21 b. unwelcome pressure for sexual activity;

22 c. unwelcome, sexually motivated or inappropriate patting, pinching or physical
23 contact, other than necessary restraint of student(s) by teachers, administrators or other
24 school personnel to avoid physical harm to persons or property;

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- 25 d. unwelcome sexual behavior or words, including demands for sexual favors,
26 accompanied by implied or overt threats concerning an individual’s employment or
27 educational status;
- 28 e. unwelcome sexual behavior or words, including demands for sexual favors,
29 accompanied by implied or overt promises of preferential treatment with regard to an
30 individual’s employment or educational status; or
- 31 f. unwelcome behavior or words directed at an individual because of gender, gender
32 identity or expression, sexual orientation, pregnancy or pregnancy related conditions and
33 sex stereotypes

34 C. Racial or Religious Harassment

35 “Racial harassment” consists of physical or verbal conduct relating to an individual’s race and
36 “Religious harassment” consists of physical or verbal conduct which is related to an individual’s
37 religion when the conduct:

- 38 1. has the purpose or effect of creating an intimidating, hostile or offensive working or
39 educational environment;
- 40 2. has the purpose or effect of substantially or unreasonably interfering with an individual’s
41 work or educational performance; or
- 42 3. otherwise adversely affects an individual’s employment or educational opportunities.

43 D. Sexual Violence

- 44 1. “Sexual violence” is a physical act of aggression or force or the threat thereof which
45 involves the touching of another’s intimate parts, or forcing a person to touch any person’s
46 intimate parts. Intimate parts, as defined in Minn. Stat. § 609.341, includes the primary
47 genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these
48 areas.
- 49 2. Sexual violence may include, but is not limited to:
- 50 a. touching, patting, grabbing, or pinching another person’s intimate parts
- 51 b. coercing, forcing or attempting to coerce or force the touching of another person’s
52 intimate parts;

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53 c. coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act
54 on another; or

55 d. threatening to force or coerce sexual acts, including the touching of intimate parts
56 or intercourse, on another.

57 E. Racial or Religious Violence

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

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

62 F. Assault

63 “Assault” is:

64 1. an act done with intent to cause fear in another of immediate bodily harm or death;

65 2. the intentional infliction of or attempt to inflict bodily harm upon another; or

66 3. the threat to do bodily harm to another with present ability to carry out the threat.

67 Policy

68 A. MNOHS prohibits any form of harassment or violence that is based on race, religion or sex
69 (including sexual orientation; gender identity or expression; pregnancy or pregnancy related
70 conditions; and sex stereotypes).

71 B. It shall be a violation of this policy for any student, teacher, administrator or other school
72 personnel to harass a student, teacher, administrator or other school personnel through conduct or
73 communication of a sexual nature or regarding religion, sex, or race as defined by this policy.

74 C. It shall be a violation of this policy for any student, teacher, administrator or other school
75 personnel of the school district to inflict, threaten to inflict, or attempt to inflict religious, racial or
76 sexual violence upon any student, teacher, administrator or other school personnel.

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- 77 D. The school district will act to investigate all complaints, either formal or informal, verbal or
78 written, of religious, racial or sexual harassment or violence, and to discipline or take appropriate
79 action against any student, teacher, administrator or other school personnel who is found to have
80 violated this policy.

81 Reporting Procedures

- 82 A. Any person who believes they have been the victim of religious, racial or sexual harassment or
83 violence by a student, teacher, administrator or other school personnel of MNOHS, or any person
84 with knowledge or belief of conduct which may constitute religious, racial or sexual harassment
85 or violence toward a student, teacher, administrator or other school personnel should report the
86 alleged acts immediately to an appropriate MNOHS official designated by this policy. The
87 individual may submit a written or oral report. Nothing in this policy shall prevent any person
88 from reporting harassment or violence directly to the Executive Director.
- 89 B. The Executive Director is the person responsible for receiving oral or written reports of religious,
90 racial or sexual harassment or violence. Any school personnel who receives a report of religious,
91 racial or sexual harassment or violence shall inform the Executive Director immediately. If the
92 complaint involves the Executive Director, the investigation shall be conducted by President of
93 the Board of Directors and discussed with the full Board in a special session
- 94 C. Submission of a good faith complaint or report of religious, racial or sexual harassment or
95 violence will not affect the complainant or reporter's future employment, grades or work
96 assignments.
- 97 D. MNOHS will respect the privacy of the complainant, the individual(s) against whom the
98 complaint is filed, and the witnesses as much as possible, consistent with MNOHS's legal
99 obligations to investigate, to take appropriate action, and to conform with any discovery or
100 disclosure obligations.

101 Investigation

- 102 A. The Executive Director, upon receipt of a report or complaint alleging religious, racial or sexual
103 harassment or violence, shall immediately undertake or authorize an investigation. The

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- 104 investigation may be conducted by MNOHS officials or by a third party designated by the
105 MNOHS Board of Directors.
- 106 B. The investigation may consist of personal interviews with the complainant, the individual(s)
107 against whom the complaint is filed, and others who may have knowledge of the alleged
108 incident(s) or circumstances giving rise to the complaint. The investigation may also consist of
109 any other methods and documents deemed pertinent by the investigator.
- 110 C. In determining whether alleged conduct constitutes a violation of this policy, MNOHS should
111 consider the facts, the surrounding circumstances, the nature of the behavior, past incidents or
112 past or continuing patterns of behavior, the relationships between the parties involved and the
113 context in which the alleged incidents occurred. Whether a particular action or incident
114 constitutes a violation of this policy requires a determination based on all the facts and
115 surrounding circumstances.
- 116 D. In addition, MNOHS may take immediate steps, at its discretion, to protect the complainant,
117 students, teachers, administrators or other school personnel pending completion of an
118 investigation of alleged religious, racial or sexual harassment or violence.
- 119 E. Upon completion of the preliminary investigation, a draft report will be made to the Executive
120 Director. If the complaint involves the Executive Director, the draft report must be filed directly
121 with the President of the Board of Directors. The draft report will include the facts, a
122 determination of whether the allegations have been substantiated and whether a violation of this
123 policy has occurred, as well as a description of any proposed resolution which may include
124 alternate dispute resolution. The Executive Director, or Board President if the complaint is against
125 the Executive Director, will make a final determination regarding whether or not the complaint is
126 substantiated.
- 127 F. Upon determination of substantiation, the Executive Director, or Board President if the complaint
128 is against the Executive Director, shall make a final written report to be filed in accordance with
129 state and federal law regarding data or records privacy and retention.
- 130 G. The investigation will be completed as soon as practicable

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131 **Action Based on Findings**

132 A. Upon receipt of the final report, MNOHS will take appropriate action. Such action may include,
133 but is not limited to, alternate dispute resolution, warning, suspension, exclusion, expulsion,
134 transfer, remediation, termination or discharge. Action taken for violation of this policy will be
135 consistent with requirements of applicable employment contracts, Minnesota and federal law and
136 MNOHS policies.

137 **Reprisal**

138 The school district will discipline or take appropriate action against any student, teacher, administrator or
139 other school personnel who retaliates against any person who makes a good faith report of alleged
140 religious, racial or sexual harassment or violence or any person who testifies, assists or participates in an
141 investigation, or who testifies, assists or participates in a proceeding or hearing relating to such
142 harassment or violence. Reprisal also includes retaliation against a student or employee who associates
143 with a person or group of persons who are members of a protected class. Retaliation includes, but is not
144 limited to, any form of intimidation or harassment. Reprisal is also prohibited based on a request for a
145 religious or disability accommodation.

146 **Conflict of Interest**

147 If there is a conflict of interest with respect to any party affected by this policy, appropriate
148 accommodations will be made, such as, but not limited to, appointing or contracting with a neutral third-
149 party investigator to conduct the investigation, or recusal from the process by the person for whom a
150 conflict or potential conflict of interest exists.

151 **Right to Alternative Complaint Procedures**

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

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155 Harassment or Violence as Abuse

156 A. Under certain circumstances, alleged harassment or violence may also be possible abuse under
157 Minnesota law. If so, the duties of mandatory reporting under Minn. Stat. § 260E.06 may be
158 applicable.

159 B. Nothing in this policy will prohibit MNOHS from taking immediate action to protect victims of
160 alleged harassment, violence or abuse.

161 Dissemination of Policy and Evaluation

162 A. This policy shall be posted in the student handbooks, placed in the teaching resources course in
163 the school's Learning Management System and posted to the school's website.

164 B. The MNOHS Board of Directors shall periodically review this policy and MNOHS's operation
165 for compliance with state and federal laws prohibiting discrimination .

166 **Legal References:** Minn. Stat. § 121A.03, Subd. 2 (Sexual, Religious and Racial Harassment and
167 Violence Policy)

168 Minn. Stat. Ch. 363A (Minnesota Human Rights Act)

169 Minn. Stat. § 260E.06 (Reporting of Maltreatment of Minors)

170 42 U.S.C. § 2000e et seq. (Title VII of the Civil Rights Act)