

Policy #: 413.1
Title: SEXUAL HARASSMENT PROHIBITION
Date of Initial Approval: 08-23-2018
Revision/Re-authorization Dates:
Reviewers: MSAB Director; MSAD Director; MSA Director of Support Services; MSA Superintendent; MSA Human Resources

I. PURPOSE

The purpose of this policy is to create a work environment free from sexual harassment of any kind at the Minnesota State Academies (MSA).

II. GENERAL STATEMENT OF POLICY

Aligned with Minnesota Department of Management and Budget Policy #1329, it is the policy of the Minnesota State Academies that sexual harassment in any form is strictly prohibited. Individuals who believe they have been subject to sexual harassment are encouraged to file a complaint with an appropriate authority. Any form of retaliation directed against an individual who complains about sexual harassment or who participates in any investigation concerning sexual harassment is strictly prohibited and will not be tolerated. Violations of this policy by MSA employees will be subject to discipline, up to and including discharge. Violations of this policy by third parties will be subject to appropriate action.

III. SCOPE

This policy applies to all employees of, and third parties who have business interactions with the Minnesota State Academies.

IV. DEFINITIONS

- A. **Complainant** - an individual who complains about sexual harassment or retaliation.
- B. **Public Service Environment** - a location that is not the workplace where public service is being provided.
- C. **Sexual Harassment** - unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, written, or physical conduct or communication of a sexual nature.
- D. **Third Party** – individuals who are not state/MSA employees but who have business interactions with state/MSA employees, including, but not limited to:
 - Applicants for employment
 - Vendors
 - Contractors
 - Volunteers
 - Customers/consumers
 - Business partners

IV. GENERAL STANDARDS AND EXPECTATIONS

A. **Prohibition of Sexual Harassment**

Sexual harassment of any employee or third party in the workplace or public service environment, or which affects the workplace or public service environment, is strictly prohibited.

Sexual harassment under this policy is any conduct or communication of a sexual nature which is unwelcome. The victim, as well as the harasser, can be of any gender. The victim does not have to be of the opposite sex as the harasser. Sexual harassment includes, but is not limited to:

1. Unwelcome sexual innuendos, suggestive comments, jokes of a sexual nature, sexual propositions, degrading sexual remarks, threats;
2. Unwelcome sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures;
3. Unwelcome physical contact, such as rape, sexual assault, molestation, or attempts to commit these assaults; unwelcome touching, pinching, or brushing of or by the body;
4. Preferential treatment or promises of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit an individual to submit to sexual activity for compensation or reward;
5. Negative treatment or threats of negative treatment for refusing to submit to sexual conduct;
6. Subjecting, or threatening to subject, an individual to unwelcome sexual attention or conduct.

B. **Employee and Third Party Responsibilities and Complaint Procedure**

Sexual harassment will not be tolerated. All employees and third parties are expected to comply with this policy.

Employees and third parties are encouraged to report all incidents of sexual harassment. Individuals are encouraged to report incidents of sexual harassment as soon as possible after the incident occurs.

Individuals may make a complaint of sexual harassment with:

- Any MSA supervisor
- MSA's Affirmative Action Officer/Human Resources Office
- MSA administrators, up to and including the superintendent.

If the complaint concerns the MSA superintendent, the complainant may contact the MSA board chair or the Minnesota Management and Budget, Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion.

To ensure the prompt and thorough investigation of a complaint of sexual harassment, the complainant may be asked to provide information in writing, which may include, but is not limited to:

1. The name, department, and position of the person(s) allegedly causing the harassment;
2. A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
3. The name(s) of other individuals who may have been subject to similar harassment;
4. What, if any, steps have been taken to stop the harassment;
5. Any other information the complainant believes to be relevant.

Individuals are encouraged to use MSA's internal complaint procedure, but may also choose to file a complaint externally with the Equal Employment Opportunity Commission (EEOC) and/or the Minnesota Department of Human Rights (MDHR) or other legal channels.

C. **Supervisor Responsibility**

Supervisors are responsible for the following:

1. Modeling appropriate behavior;
2. Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;
3. When a complaint of sexual harassment has been made to the supervisor, or when the supervisor is otherwise aware that a problem exists, the supervisor must appropriately respond to the complaint or problem.
4. Immediately report all allegations or incidents of sexual harassment to MSA's affirmative action officer/human resources office so that prompt and appropriate action can be taken;
5. Complying with MSA's complaint and investigation procedures and/or MSA's Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.

Supervisors who knowingly participate in, allow, or tolerate sexual harassment or retaliation are in violation of this policy and are subject to discipline, up to and including discharge.

D. **Human Resources Office/Affirmative Action Officer Responsibilities**

MSA's Human Resource Office/Affirmative Action Officer are responsible for the following:

1. Modeling appropriate behavior;
2. Distributing the sexual harassment policy to all employees, through a method whereby receipt can be verified;
3. Treating all complaints of sexual harassment seriously, regardless of the individuals or behaviors involved;

4. Complying with MSA's complaint and investigation procedures and/or MSA's Affirmative Action Plan to ensure prompt and appropriate action in response to complaints of sexual harassment.
5. Keeping the MSA administration and board apprised of changes and developments in the law.

E. **Investigation and Discipline**

All complaints of sexual harassment will be taken seriously, and prompt and appropriate action will be taken. When conducting an investigation, supervisors/directors and human resources/affirmative action officers must follow MSA's investigation procedures.

Timely and appropriate corrective action will be taken when there is a violation of this policy. Employees who are found to have engaged in sexual harassment in violation of this policy will be subject to disciplinary action, up to and including discharge.

Third parties who are found to have engaged in sexual harassment in violation of this policy will be subject to appropriate action. Appropriate action for policy violations by third parties will depend on the facts and circumstances, including the relationship between the third party and MSA. MSA may opt to contact the MMB Enterprise Human Resources, Office of Equal Opportunity, Diversity, and Inclusion for assistance in determining appropriate action for third parties. MMB may refer agencies to the appropriate resources, which may include, for example, the Department of Administration with respect to policy violations by vendors or contractors.

Employees who knowingly file a false complaint of sexual harassment will be subject to disciplinary action, up to and including discharge.

F. **Non-Retaliation**

Retaliation against any person who reports sexual harassment or participates in an investigation of such reports is strictly prohibited. Retaliation will not be tolerated. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including discharge. Third parties who are found to have engaged in retaliation in violation of this policy will be subject to appropriate action.

V. RESPONSIBILITIES OF THE MINNESOTA STATE ACADEMIES

- MSA will ensure that all employees have read and understand this policy.
- MSA will post this policy with MSA Policy #413 – Harassment and Violence in a manner that can be accessed by third parties.
- MSA will include this policy in their Affirmative Action Plan
- MSA will develop ways to implement this policy, including:
 - An educational program;
 - A process for reporting complaints; and
 - A procedure under which complaints will be addressed promptly.
- MSA will enforce this policy.

Legal References:

42 U.S.C. § 2000e, et al.
Minn. Stat. Ch. 363A
Minn. Stat. Ch. 43A
Minn. Rule 3905.0500

Cross References:

MMB HR/LR Policy #1329 – Sexual Harassment Prohibited
MSA Policy 413 – Harassment and Violence