

## APPENDIX P: MIAC Harassment and Violence Policy

Updated June 2013

### MINNESOTA INTERCOLLEGIATE ATHLETIC CONFERENCE SEXUAL, RACIAL AND RELIGIOUS HARASSMENT AND VIOLENCE POLICY

#### I. GENERAL STATEMENT OF POLICY

The Minnesota Intercollegiate Athletic Conference (MIAC) believes that all individuals should be treated with respect and dignity. Therefore, the MIAC expects that all individuals in the course of performing their job responsibilities, conducting MIAC business or administering MIAC activities will be free from sexual, racial, and religious harassment or violence as it is defined by this policy.

#### II. SEXUAL HARASSMENT DEFINED

Sexual harassment is a form of sex discrimination which violates Title VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, and the Minnesota Human Rights Act. Sexual harassment is prohibited by both federal and state law.

- A. 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:
  - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of obtaining or retaining employment or education;
  - 2. Submission to or rejection of that conduct by an individual is used as a factor in decisions affecting that individual's employment or education;
  - 3. The conduct 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; or
- B. Sexual harassment also includes conduct that is based on an individual's gender and would not have occurred but for the gender of the victim even though it is not clearly sexual in nature or an explicit sexual advance.
- C. Sexual harassment includes, but is not limited to:
  - 1. Verbal harassment or abuse;
  - 2. Subtle pressure for sexual activity;
  - 3. Inappropriate touching;
  - 4. Intentional physical contact with another employee's body;
  - 5. Requesting sexual favors accompanied by implied or overt threats concerning an individual's employment or education status;
  - 6. Requesting sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment status;
  - 7. Any sexually motivated unwelcome touching; or
  - 8. Conduct other than explicit sexual advances that would not have occurred but for the individual's gender.

#### III. SEXUAL VIOLENCE DEFINED

- A. Sexual violence is a physical act of aggression that includes a sexual act or sexual purpose which involves the touching of another's intimate parts, either above or underneath the other person's clothes, or forcing another to touch one's intimate parts, either above or underneath one's clothes. Intimate parts, as defined in Minnesota Statutes 1991, Section 609.341, includes the primary genital area, groin, inner thigh, buttocks, or breast of a human being. Sexual violence is a criminal activity.
- B. Sexual violence may include, but is not limited to:
  - 1. Touching, patting, grabbing, or pinching another person's intimate parts, either same sex or opposite sex.
  - 2. Coercing or forcing sexual touching on another;
  - 3. Coercing or forcing sexual intercourse on another;
  - 4. Threatening to force sexual touching or intercourse on another.

#### IV. RACIAL HARASSMENT DEFINED

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

#### V. RACIAL VIOLENCE DEFINED

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

#### VI. RELIGIOUS HARASSMENT DEFINED

- A. 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.

#### VII. RELIGIOUS VIOLENCE DEFINED

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

#### VIII. ASSAULT DEFINED

- A. 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.

#### IX. OFFICERS AND EMPLOYEES DEFINED

Officers and employees are defined as those individuals who are elected, appointed or contracted to provide services to the MIAC. They include, but are not limited to MIAC staff, institutional staff serving on MIAC committees, coordinators of officials and officials.

#### X. REPORTING PROCEDURES

An employee or officer who believes that she/he has been the victim of sexual, racial or religious harassment or violence by an officer or an employee of the MIAC should report the alleged act immediately to an appropriate MIAC official as designated by the policy. In addition, anyone who has knowledge of an alleged violation of this policy should also report under the procedures set forth herein. A report should also be made by anyone who believes that they are being retaliated against for reporting an act covered by this policy.

The MIAC hereby designates the Commissioner to receive reports or complaints of sexual, racial, or religious harassment or violence. If the complaint involves the Commissioner, the complaint shall be filed directly with the Chair of the Presidents' Council.

The name, address and telephone number of the Commissioner is: Dan McKane (Phone: 651-644-3964)  
2626 E 82<sup>nd</sup> St, Suite 148  
Bloomington, MN 55425

- A. Submission of a complaint or report of sexual, racial, or religious harassment or violence that is not frivolous and made in good faith will not affect the individual's future employment or work assignments.
- B. The MIAC will respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible, consistent with the MIAC's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action when harassment has occurred.
- C. The Commissioner shall immediately authorize an investigation upon receipt of a report or complaint alleging sexual, racial, or religious harassment or violence. The MIAC office would initiate the follow-up or investigation, or delegate to a qualified agency where appropriate. The investigating party shall provide a written report on the status of the investigation within 14 working days to the Commissioner.

In determining whether the alleged conduct violates this policy, the MIAC should consider the surrounding circumstances, the nature of the alleged conduct, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident violated this policy requires a determination based on all the facts and surrounding circumstances. Said determination will be based on a preponderance of the evidence gathered as part of the investigation.

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.

In addition, the MIAC may take immediate steps, at its discretion, to protect the complainant, witnesses, and other appropriate parties pending completion of an investigation of alleged misconduct.

The Commissioner shall use the investigative report to make findings and conclusions and take appropriate action.

**XI. REPORTING CONFERENCE ACTION**

- A. Upon taking appropriate action, the Commissioner shall provide a written report to the Presidents' Council.
- B. The result of the investigation of each complaint filed under these procedures will be reported by the MIAC in writing to the complainant. The report will document any disciplinary action taken as a result of the complainant.

**XII. 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 and/or federal criminal statutes.

**XIII. DISCIPLINE**

Any MIAC action taken pursuant to this policy will be consistent with requirements of applicable Minnesota statutes and MIAC policies. The MIAC will take such disciplinary action as it deems necessary and appropriate in its sole discretion. This may include, but is not limited to warning, suspension, or immediate discharge. Immediate discharge may be taken as a first or last disciplinary step.

**Approved by MIAC Presidents' Council on December 10, 2012**