

Marine Village School Policy 4.5.1

Adopted:

Revised:

PROHIBITION OF SEXUAL, RELIGIOUS, AND RACIAL HARASSMENT AND VIOLENCE

I. PURPOSE

The purpose of this policy is to state Marine Village School's (MVS) intent to create an environment that is free from harassment and violence against students and employees or agents based on actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, and religion.

II. POLICY STATEMENT

MVS prohibits any form of harassment or violence by a student or employee against another student or employee through unwelcome conduct or communication based on actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, or religion. For purposes of this policy, an employee includes a school board member, employee, agent, volunteer, or person subject to the supervision and control of MVS. Violation of this policy will be cause for disciplinary action.

III. DEFINITIONS

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 that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or of obtaining an education;
 2. 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
3. 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.

B. "Sexual orientation" means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include an adult's physical or sexual attachment to children.

IV. EXAMPLES OF PROHIBITED HARASSMENT OR VIOLENCE

A. Harassment includes but is not limited to the following conduct:

1. Verbal acts, name-calling, nonverbal behavior, graphic and written statements, or conduct that is physically threatening, harmful, or humiliating.
2. Unwelcome conduct if the student or employee did not request or invite it and/or consider the conduct undesirable or offensive.
3. Conduct that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in MVS's programs.

B. Racial, color, creed, or national origin harassment/violence

1. Intimidation or abusive behavior toward a student or employee, based on the perceived or actual race, color, creed, or national origin, that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the MVS's programs.
2. Racial violence is a physical act of aggression or force, or the threat thereof, directed toward a student or employee based on their perceived or actual race, color, creed, or national origin.

C. Religious harassment/violence

1. Intimidation or abusive behavior toward a student or employee based on the perceived or actual religious beliefs that create a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the MVS's programs.
2. Religious violence is the threat of or an actual physical act of aggression or force directed toward a student or employee based upon their perceived or actual religion.

D. Sexual harassment is based upon sex/gender and sexual orientation, considering the following:

1. The conduct is unwelcome, meaning that the student or employee did not request or invite the behavior and considered the conduct undesirable or offensive. Whether the conduct is unwelcome should be determined by consideration of all circumstances and not by submission or failure to complain.
2. The conduct may include, but is not limited to the following:
 - a. Unwelcome verbal harassment or abuse;
 - b. Unwelcome pressure for sexual activity;
 - c. Unwelcome, sexually motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of student(s) by teachers, administrators, or other school personnel to avoid physical harm to persons or property;
 - d. Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;
 - e. 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
 - f. Unwelcome behavior or words directed at an individual because of gender.

E. Sexual violence: Sexual violence is a physical act of aggression or force or the threat thereof which involves touching another's intimate parts or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minnesota Statute §609.341, include the primary genital area, groin, inner thigh, buttocks, or breast, and the clothing covering these areas.

1. Sexual violence includes but is not limited to the following:
 - a. Rape, sexual assault, and coerced sexual intercourse or other sexual acts. The physical act is considered nonconsensual if a person is incapable of giving consent due to alcohol or drug use or an intellectual or other disability.
 - b. Touching, patting, grabbing, or pinching another student's or employee's intimate parts or the clothing covering the intimate parts.
 - c. Coercing or forcing or attempting to coerce or force a student or employee to touch anyone's intimate parts.
2. A police report does not relieve the school of its responsibilities under Title IX.

F. "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 the present ability to carry out the threat.

V. REPORTING PROCEDURE

A. Victims of alleged sexual, religious, or racial harassment or violence and third persons with knowledge of such conduct must report the alleged act immediately to school officials. A report of harassment or violence should be made to MVS's Human Rights Officer, whether in oral or written form.

B. The name, address, phone number, and email of MVS's Human Rights Officer will be posted online. If the report involves the Human Rights Officer, the report should be made directly to the charter school board.

C. Reports made to other school officials, including but not limited to teachers, administration, staff, volunteers, or agents, must be acted on immediately:

1. The school official must immediately notify the Human Rights Officer without investigating the report.

D. Submission of a good faith complaint or report of sexual, religious, or racial harassment or violence will not affect the individual's future employment, grades, or work assignments.

E. The school 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 obligation to investigate, take appropriate disciplinary action, and conform with any discovery or disclosure obligations.

VI. INVESTIGATION AND SCHOOL ACTION

A. Upon receiving any report alleging sexual, religious, or racial harassment or violence, MVS's Human Rights Officer will conduct or authorize an investigation to the appropriate extent.

B. In determining whether the alleged conduct violates this policy, the school will consider all the facts and surrounding circumstances of the allegation. The investigation may be conducted by the Human Rights Officer, another school official, or a neutral third party.

C. The investigation may consist of personal interviews with the parties involved or those with knowledge of the report. The investigation may also consist of other methods and documents deemed pertinent and appropriate by the investigator.

D. During the investigation, the school, may take appropriate action, at its discretion, to protect any person involved in the investigation, pending completion of the investigation. The investigation will be completed as soon as practicable.

E. The Human Rights Officer will submit a written report to the school leader upon completion of the investigation. If the school leader is the subject of investigation, the report will be submitted to the charter School Board. The report shall include a determination of whether the allegations have been substantiated and whether a violation of this policy has occurred, along with a proposed resolution.

F. Upon completion of the report, the Human Rights Officer will inform the reporter of their rights to review the written report in accordance with state and federal law regarding data or records privacy.

G. Upon receipt of the investigation results, the school leader will authorize appropriate action consistent with State and Federal law and school policies.

VII. RETALIATION

The School will discipline any individual who retaliates against anyone who reports, testifies, assists, or participates in any investigation, proceeding, or hearing related to sexual, religious, or racial harassment or violence. Retaliation includes but is not limited to intimidation, reprisal, or harassment.

VIII. HARASSMENT OR VIOLENCE AS ABUSE

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

IX. STUDENTS

Sexual, religious, or racial harassment or violence will be considered a matter of school discipline subject to student discipline policy.

X. DISSEMINATION

This policy will be displayed online and on school property. It will be given to each school employee and independent contractor when entering into the contract. Students will receive an annual communication presenting this policy. MVS will annually review this policy for compliance with state and federal law.

XI. 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 the civil action, or seeking redress under state criminal statutes and/or federal law.

Legal References:

Minn. Stat. §121A.03, Subd. 2 (Sexual, Religious and Racial Harassment and Violence Policy)

Minn. Stat. §363A (Minnesota Human Rights Act)

Minn. Stat. §609.02 (Criminal Definitions)

Minn. Stat. §626.556 et seq. (Reporting of Maltreatment of Minors)

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

Cross References: 20 U.S.C. §1701-1758 (Equal Educational Opportunity)

Minn. Stat. §13.43 (Public and Private Personnel Data)

Minn. Stat. §121A.61 (Discipline and Removal of Students from Class)

Minn. Stat. §121A.582 (Student Discipline; Reasonable Force)

Minn. Stat. §128C.02 (Minnesota State High School League)