

Adopted: 11.16.16

Revised: _____

North Metro Flex Academy POLICY No. 2.4.2
PROHIBITION OF SEXUAL, RELIGIOUS, AND RACIAL
HARASSMENT AND VIOLENCE

I. PURPOSE

The purpose of this policy is to state North Metro Flex Academy’s 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

North Metro Flex Academy prohibits any form of harassment or violence by a student or employee against another student or employee through unwelcome conduct or communication that is 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 North Metro Flex Academy. 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 a physical or sexual attachment to children by an adult.

IV. EXAMPLES OF PROHIBITED HARASSMENT OR VIOLENCE

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

1. Verbal acts and name-calling, as well as nonverbal behavior, such as 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 considered the conduct to be 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 the charter school's programs.

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

1. Intimidation or abusive behavior toward a student or employee, based on 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 charter school's programs.
2. Racial violence is a physical act of aggression or force, or the threat thereof, which is directed toward a student or employee based upon 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 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 charter school's programs.
2. Religious violence is the threat of or an actual physical act of aggression or force which is directed toward a student or employee based upon their perceived or actual religion.

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

1. The conduct is unwelcome, meaning that the student or employee did not request or invite the conduct and considered the conduct undesirable or offensive.

Whether the conduct is unwelcome should be determined by consideration of all circumstances and not be determined 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 the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minnesota Statute §609.341, includes the primary genital area, groin, inner thigh, buttocks or breast, as well as 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 due to 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 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 North Metro Flex Academy's Human Rights Officer, whether in oral or written form.
- B. The name, address, phone number and email of North Metro Flex Academy'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 investigation of 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, to take appropriate disciplinary action, and to 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, North Metro Flex Academy's Human Rights Officer will conduct or authorize an investigation to the extent it is appropriate.
- B. In determining whether the alleged conduct constitutes a violation of this policy the school will take into consideration all the facts and surrounding circumstances of the allegation. The investigation may be conducted by the Human Rights Officer, another

school official or by 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 any 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 Principal upon completion of the investigation. If the Principal 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 proposed resolution.
- F. Upon completion of the report, the Human Rights Officer will inform the reporter of his or her rights to review the written report, in accordance with state and federal law regarding data or records privacy.
- G. Upon receipt of the results of the investigation, the Principal will authorize appropriate action consistent with State and Federal law and school policies.

VII. RETALIATION

The School will discipline any individual who retaliates against any person who reports, testifies, assists or participates in any manner in any investigation, proceeding or hearing related to sexual, religious, or racial harassment or violence. Retaliation includes, but is not limited to, any form of 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 at the time of entering into the contract. Students will receive an annual communication presenting this policy. North Metro Flex Academy 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 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)