

ACADEMIA CESAR CHAVEZ
DISCRIMINATION, HARASSMENT AND VIOLENCE PREVENTION POLICY;
GRIEVANCE PROCEDURES

POLICY PURPOSE

The purpose of this policy is to establish definitions, reporting processes, grievance and investigation procedures regarding discrimination, harassment and violence in education and in employment.

POLICY STATEMENT

I. PROHIBITIONS.

- A. It shall be a violation of this policy for any Academia Cesar Chavez (“ACC”) student or employee to discriminate against, or engage in unlawful discriminatory conduct, or harass a student or ACC employee through conduct (e.g., physical, oral, graphic or written) that is based upon that student’s or employee’s actual or perceived race, color, creed, national origin, religion, sex/gender, sexual orientation, disability, public assistance, or marital status or age [protected class] as defined by this policy. For purposes of this policy, an ACC employee includes ACC board members, ACC school employees, ACC agents, ACC volunteers, ACC contractors, or persons subject to the supervision and control of ACC.
- B. It will be a violation of this policy for any student or ACC employee to inflict, threaten to inflict, or attempt to inflict violence based upon a student’s or ACC employee’s actual or perceived protected class as defined by this policy.
- C. ACC will investigate all complaints, formal or informal, oral or written, of discrimination, unlawful discriminatory conduct, harassment and/or violence based upon a student’s or employee’s perceived or actual protected class and to discipline or take appropriate action against any student or school district employee who is found to have violated this policy.

II. DEFINITIONS

- A. Disability. “Disability” means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.”

- B. Discriminate. “The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment.” It also includes an “unfair discriminatory practice”, as described in Minn. Stat. §§ 363A.08, 363A.13, 363A.14, 363A.15 and 363A.19. It also includes any violation of federal laws prohibiting discrimination in education and employment (including but not limited to “Title II”; “Title VI”; Title “VII”; “Title IX”; “Section 504 of the Rehabilitation Act of 1973” and the “Americans with Disabilities Act”).
- C. National origin. “National origin” means the place of birth of an individual or of any of the individual's lineal ancestors.
- D. Sexual harassment. “Sexual harassment” includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact 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 employment or 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;
 - (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or education or creating an intimidating, hostile, or offensive employment or educational environment.
- E. Sexual orientation. “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.

III. HARASSMENT DISCRIMINATION AND VIOLENCE: GENERAL APPLICABILITY

- A. The antidiscrimination laws apply to all of the academic and nonacademic (e.g. athletic, and extracurricular) programs of ACC, whether conducted in school facilities or elsewhere.
- B. For purposes of this policy, any student who is harassed or discriminated against, including subject to violence, by peers or ACC employees based upon that student’s actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, religion, disability, receipt of public assistance, or marital status and age [protected class] may file a complaint as described more fully in section V below.

- C. For purposes of this policy, any ACC employee who is harassed or discriminated against, including violence, by students or other ACC employees based upon that employee's actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, religion, disability, receipt of public assistance, or marital status and age may file a complaint as described more fully in section IV below.
- D. The alleged harassment/violence consists of harassing conduct (e.g. physical, oral, graphic, or written) based upon that student's actual or perceived protected class that interferes or limits the ability of that student to participate in, enjoy, or benefit from the education program, including athletics and extracurricular activities.
- E. The alleged harassment/violence may not be directed at a particular person, but may instead consist of harassing conduct (e.g. physical, oral, graphic, or written) that creates a hostile environment for students based upon actual or perceived protected class that interferes with or limits the student's ability to participate in, enjoy, or benefit from the academic and nonacademic programs, including athletics and extracurricular activities.

IV. DESCRIPTION OF HARASSMENT BASED UPON A PERSON'S PERCEIVED OR ACTUAL PROTECTED CLASS

- A. Harassment is unwelcome conduct that is based upon actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, religion, disability, receipt of public assistance, or marital status and age.
 - (1) Harassing conduct may take many forms, including 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) It is unwelcome if the student or employee did not request or invite it and considered the conduct to be undesirable or offensive.
 - (3) The conduct is considered harassment if it creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in ACC's programs.
- B. Sexual harassment based upon sex/gender and/or sexual orientation is:
 - (1) Sexual conduct that is unwelcome.
 - a. It is unwelcome if the student or employee did not request or invite it and considered the conduct undesirable or offensive.
 - b. A student's submission or failure to complain does not mean that the conduct was welcome.
- C. 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 Statutes, section 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 rape, sexual assault, and dating violence. This includes 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.
- (2) Sexual violence includes touching, patting, grabbing, or pinching another student's or employee's intimate parts or the clothing covering the intimate parts.
- (3) Sexual violence includes coercing or forcing or attempting to coerce or force a student or employee to touch anyone's intimate parts.
- (4) A police report does not relieve ACC of its responsibilities under Title IX.

D. Assault. Assault is:

- (a) an act done with intent to cause fear in another of immediate bodily harm or death; or
- (b) the intentional infliction of or attempt to inflict bodily harm upon another.

E. Racial, color, creed or national origin harassment/violence is:

- (1) Intimidation or abusive behavior toward a student, 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 ACC's programs.
- (2) Racial violence: 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.

F. Religious harassment/violence is:

- (1) Intimidation or abusive behavior toward a student 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 ACC'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.

G. Disability harassment is:

- (1) Intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities ACC's programs.
- (2) Disability harassment also may deny a student with a disability a free and appropriate public education (FAPE). Harassment of a student based on disability may decrease the student's ability to benefit from his or her education and amount to a denial of FAPE.

V. COMPLIANCE OFFICER DESIGNATIONS, REPORTING PROCEDURES.

A. Pursuant to Title IX, ACC designates Dr. Kerry Felt to coordinate its efforts to comply with and carry out its responsibilities under the regulations, including Title IX complaint investigation (Title IX Coordinator) and Section 504 compliance.

B. Human Rights Officer Designation.

- (1) The Board of ACC hereby designates Martha Dominguez as the school's human rights officer to receive reports or complaints of harassment or violence based upon actual or perceived sex/gender, sexual orientation, race, color, creed, national origin, religion, disability, receipt of public assistance, or marital status and age.
- (2) If the complaint involves the designated human rights officer, the complaint will be filed directly with the Executive Director.

C. Reporting Procedures.

For purposes of meeting state and federal reporting requirements, the following reporting procedure will be made available for students and staff who wish to report an incident(s) that may involve discrimination, unlawful discriminatory conduct, harassment or violence based upon actual or perceived sex/gender status, sexual orientation, race, color, creed, national origin, religion, disability, receipt of public assistance or marital status and age.

- (1) A student may make an oral or written complaint to any teacher or administrator.
- (2) An employee may make an oral or written report to his or her supervisor. If this supervisor is unavailable, or the employee believes that it would be inappropriate or uncomfortable to contact that person, an employee may immediately contact a member of the Executive Team (Executive Dir., Principal, Family/Comm. Dir.).

These reporting procedures are not intended to prevent a person from reporting harassment or violence incident(s) to another school official.

D. The school official to whom a report is made must immediately notify the principal, who is then responsible to submit the oral or written complaint/report to the human rights officer without screening or investigating the credibility of the report. If the school principal is not available on the date of the report, then the school official receiving the report must forward the oral or written report/complaint directly to the human rights officer.

(1) If the report was given orally, the principal will personally reduce it to written form within 24 hours and forward it to the human rights officer.

a. If the school principal fails to forward any harassment or violence report or complaint (written or oral) to the human rights officer within 24 hours, the principal will be subject to disciplinary action.

E. If the complaint involves the building principal, the complaint will be made or filed directly with the Executive Director or the human rights officer, by the school official receiving the report, or by the reporting party or complainant.

F. The human rights officer may request, but not insist, upon a written complaint. The ACC Board encourages the reporting party to complete the complaint form for written complaints. It is available from the principal or the school office. Alternative means of filing a complaint, such as through a personal interview or by tape recording, will be made available upon request for qualified persons with a disability.

G. ACC will conspicuously post the name of the human rights officer(s), Executive Director and Board members, including mailing addresses and telephone numbers as follows:

(1) The Human Rights Officer is Martha Dominguez

Mailing address: 1800 Ames Avenue, St. Paul, MN 55119

Telephone number: 651-778-2940

Email address: mdominguez@cesarchavezschool.com

(2) The Executive Director is Ramona A. de Rosales

Mailing address: 1800 Ames Avenue, St. Paul, MN 55119

Telephone number; 651-294-4640

Email address: raderosales@cesarchavezshschool.com

(3) The ACC Board contact information is: Dr. Charles Keffer

Mailing address: 1800 Ames Avenue, St. Paul, MN 55119

Telephone number: 651-778-2940

Email address: charlie@keffermail.com

VI. INVESTIGATION

- A. The human rights officer, Title IX coordinator or designated neutral party, upon receipt of a complaint alleging discrimination or harassment toward an employee or student, will promptly undertake an investigation if deemed appropriate. The investigation will be completed within 30 calendar days from receipt of the complaint, unless impractical.
- B. 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.
- C. In determining whether alleged conduct constitutes a violation of this policy, ACC will consider the facts and the surrounding circumstances, such as the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incident occurred.
- D. ACC may take immediate steps to protect the parties involved in the complaint process, pending completion of an investigation of alleged unlawful discrimination or harassment of an employee or student.
- E. Upon completion of the preliminary investigation, a draft report will be made to the Executive Director. If the complaint involves the human rights officer, the principal or the Executive Director, the draft report must be filed directly with the ACC Board Chair. The draft report will include the facts, a determination of whether the allegations have been substantiated and whether a violation of this policy has occurred, as well as a description of any proposed resolution which may include alternate dispute resolution. The Executive Director or if applicable the ACC Board Chair will make a final determination regarding whether or not the complaint is substantiated.
- F. Upon completion of the investigation and upon determination of substantiation by the Executive Director or Board if applicable, ACC will inform the complainant/reporter of his or her right to review the written report at the school building where the complainant/reporter is employed or enrolled, in accordance with state and federal law regarding data or records privacy.
- G. Upon completion of the investigation and upon determination of substantiation, if the complainant/reporter is a student, the human rights officer will inform the parent/guardian of his or her right to review the written report at the school building where the student reporter is enrolled, in accordance with state and federal law regarding data or records privacy.

H. ACC will comply with federal and state law pertaining to retention of records.

VII. APPEAL

A. If the grievance has not been resolved to the satisfaction of the complainant/reporter, s/he may appeal to the Board Chair within ten (10) school days of receipt of the findings of the investigation. The Board Chair will conduct a review of the appeal and, within ten (10) school days of receipt of the appeal, will affirm, reverse, or modify the findings of the report. The decision of the Board Chair is final, and action will occur as addressed in VIII below.

VIII. ACTION BASED ON FINDINGS.

A. Upon conclusion of the investigation and receipt of the findings, the school will take appropriate and effective action. If it is determined that a violation of this policy has occurred, such action may include, but is not limited to, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. Actions may also include alternative dispute resolution, including restorative justice programs, school or district wide training, counseling, and class transfer. ACC action taken for violation of this policy will be consistent with the requirements of applicable contracts, state and federal law, and school policies.

B. The result of the school's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the school in accordance with state and federal law regarding data or records privacy.

IX. REPRISAL

A. The school will take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports alleged unlawful harassment toward an employee or student or any person who testifies, assists, participates in an investigation or hearing related to alleged unlawful harassment covered by this policy. Reprisal also includes retaliation against a student or district employee who associates with a person or group or persons who are disabled or who are of different race, color, creed, religion, sexual orientation, or national origin. Retaliation includes, but is not limited to, any form of intimidation or harassment. Reprisal is also prohibited based upon a request for a religious or disability accommodation.

X. CONFLICT OF INTEREST

A. If there is a conflict of interest with respect to any party affected by this policy, appropriate accommodations will be made, such as, but not limited to, appointing or

contracting with a neutral third party investigator to conduct the investigation, or recusal from the process by the person for whom a conflict or potential conflict of interest exists.

XI. HARASSMENT OR VIOLENCE AS ABUSE

- A. Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of mandatory reporting under Minnesota Statutes, section 626.556 may be applicable.
- B. Nothing in this policy will prohibit ACC from taking immediate action to protect victims of alleged harassment, violence, or abuse.

XII. DISSEMINATION OF POLICY AND TRAINING

- A. This policy will be conspicuously posted throughout each school building in areas accessible to students and staff members.
- B. This policy will be given to each ACC employee and independent contractor at the time of entering into the person's employment contract.
- C. This policy will be included in the school's student handbook on school policies.
- D. The school has developed the following process for discussing the school's harassment and violence policy with students and school employees:
 - (1) This policy will be reviewed with employees at the time of their hiring and as part of any staff training regarding discrimination.
 - (2) This policy will be reviewed with students at the beginning of the school year or as needed with students who enroll after the start of the school year.
- E. The ACC board will review this policy periodically for compliance with state and federal law.
- F. ACC will post this policy on its website and ensure that it is easily accessible to view and download.

XIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

- A. These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the agencies below, filing a report with a law enforcement agency, or initiating action in state or federal court. For claims of unlawful discrimination/harassment:

Minnesota Department of Human Rights
Freeman Building
625 Robert Street North
St. Paul, MN 55155
toll free: 800.657.3704
tty: 651.296.1283
fax: 651.296.9042
www.humanrights.state.mn.us

U.S. Department of Education
Office for Civil rights, Region V
500 W. Madison Street- Suite 1475
Chicago IL 60661
Tel: 312.730.1560
TDD: 312.730.1609

Employment Discrimination/Harassment

Equal Employment Opportunity Commission (EEOC)

330 South 2nd Ave., Room 430
Minneapolis, MN 55401
(612) 335-4040
1-800-669-4000
Fax: (612) 335-4044
TTY: (612) 335-4045
www.eeoc.gov/minneapolis/index.html