

Bemidji State University Policies

Policy Name: Equal Opportunity and Non-Discrimination in Employment and Education Policy	Effective Date: 9/20/1994
Policy Owner: Assistant to the President – Affirmative Action	Last Review: 4/1/2018
	Next Review: 9/1/2021

Policy Statement

Subpart A. Equal opportunity for students and employees. Bemidji State University has an enduring commitment to enhancing Minnesota’s quality of life by developing and fostering understanding and appreciation of a free and diverse society and providing equal opportunity for all its students and employees. To help effectuate these goals, Bemidji State University is committed to a policy of equal opportunity and nondiscrimination in employment and education.

Subpart B. Nondiscrimination. No person shall be discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in, programs, services, and activities with regard to race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, or gender expression. In addition, discrimination in employment based on familial status or membership or activity in a local commission as defined by law is prohibited.

Harassment on the basis of race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, gender expression, or familial status is prohibited. Harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student and student, staff and student, employee and employee, and other relationships with persons having business at, or visiting the educational or working environment.

Scope and Purpose of Policy

This policy is directed at verbal or physical conduct that constitutes discrimination/ harassment under state and federal law and is not directed at the content of speech. In cases in which verbal statements and other forms of expression are involved, Bemidji State University will give due consideration to an individuals constitutionally protected right to free speech and academic freedom. However, discrimination and harassment are not within the protections of academic freedom or free speech. Bemidji State University shall maintain and encourage full freedom, within the law, of expression, inquiry, teaching and research. Academic freedom

comes with a responsibility that all members of our education community benefit from it without intimidation, exploitation or coercion.

This policy shall apply to all individuals affiliated with Bemidji State University, including but not limited to, its students, employees, applicants, volunteers, and agents, and Board of Trustees, and is intended to protect the rights and privacy of both the complainant and respondent and other involved individuals, as well as to prevent retaliation or reprisal. Individuals who violate this policy shall be subject to disciplinary or other corrective action.

This policy supersedes all university equal opportunity and nondiscrimination policies.

Definitions

Subpart A. Consensual Relationship. Consensual Relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship. Employees who are members of the same household should also refer to Board Policy 4.10, Nepotism.

Subpart B. Discrimination. Discrimination means conduct that is directed at an individual because of his or her protected class and that subjects the individual to different treatment by agents or employees so as to interfere with or limit the ability of the individual to participate in, or benefit from, the services, activities, or privileges provided by the system or colleges and universities or otherwise adversely affects the individual's employment or education.

Subpart C. Discriminatory Harassment. Discriminatory harassment means verbal or physical conduct that is directed at an individual because of his or her protected class, and that is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile work or educational environment.

As required by law, Minnesota State Colleges and Universities further defines sexual harassment as a form of sexual discrimination which is prohibited by state and federal law. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, and other verbal or physical conduct of a sexual nature when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, evaluation of a student's academic performance, or term or condition of participation in student activities or in other events or activities sanctioned by the college or university; or
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions or other decisions about participation in student activities or other events or activities sanctioned by the college or university; or
- 3) Such conduct has the purpose or effect of threatening an individual's employment; interfering with an individual's work or academic performance; or creating an intimidating, hostile, or offensive work or educational environment.

Subpart D. Employee. Employee means any individual employed by Bemidji State University, including all faculty, staff, and administrators, teaching assistants, graduate assistants, residence directors and student employees.

Subpart E. Protected Class. For purposes of this policy:

- 1) Protected class includes race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, or gender expression. In addition, familial status and membership or activity in a local human rights commission are protected classes in employment.
- 2) This policy prohibits use of protected class status as a factor in decisions affecting education and employment where prohibited by federal or state law.

Subpart F. Retaliation. Retaliation includes, but is not limited to, intentionally engaging in any form of intimidation, reprisal or harassment against an individual because he or she:

- a) made a complaint under this policy;
- b) assisted or participated in any manner in an investigation, or process under this policy, regardless of whether a claim of discrimination or harassment is substantiated;
- c) associated with a person or group of persons who are disabled or are of a different race, color, creed, religion, sexual orientation, gender identity, gender expression, or national origin; or
- d) Made a complaint or assisted or participated in any manner in an investigation or process with the Equal Employment Opportunity Commission, the U.S. Department of Education Office for Civil Rights, the Minnesota Department of Human Rights or other enforcement agencies, under any federal or stated nondiscrimination law, including the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Minnesota Human Rights Act, Minn. Stat. Ch. 363A, and their amendments.

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.

Subpart G. Sexual harassment and violence as sexual abuse. Under certain circumstances, sexual harassment or violence may constitute sexual abuse according to Minnesota law. In such situations, the system office and colleges and universities shall comply with the reporting requirements in Minnesota Statutes Section 626.556 (reporting of maltreatment of minors) and Minnesota Statutes Section 626.557 (Vulnerable Adult Protection Act). Nothing in this policy will prohibit any college or university or the system office from taking immediate action to protect victims of alleged sexual abuse. Board Policy 1B.3 Sexual Violence addresses sexual violence.

Subpart H. Student. For purposes of this policy, the term “student” includes all persons who:

1. Are enrolled in one or more courses, either credit or non-credit, through a college or university;
2. Withdraw, transfer or graduate, after an alleged violation of the student conduct code;
3. Are not officially enrolled for a particular term but who have a continuing relationship with the college or university;
4. Have been notified of their acceptance for admission or have initiated the process of application for admission or financial aid; or
5. Are living in a college or university residence hall although not enrolled in, or employed by, the institution.

Consensual Relationships

An employee of Bemidji State University shall not enter into a consensual relationship with a student or an employee over whom he or she exercises direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority or influence. In the event a relationship already exists, each college and university and system office shall develop a procedure to reassign evaluative authority as may be possible to avoid violations of this policy. This prohibition does not limit the right of an employee to make a recommendation on personnel matters concerning a family or household member where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or compensation plan.

Retaliation

Retaliation as defined in this policy is prohibited in Bemidji State University. Any individual subject to this policy who intentionally engages in retaliation shall be subject to disciplinary or other corrective action as appropriate.

Procedures

Bemidji State University shall establish procedures to implement this policy. The equal opportunity and nondiscrimination in employment and education policy and procedures developed by Bemidji State University shall comply with Minnesota State Board Policy 1B.1 and Minnesota State Board Procedure 1B.1.1

Rationale

Bemidji State University has an enduring commitment to enhancing Minnesota's quality of life by developing and fostering understanding and appreciation of a free and diverse society and providing equal opportunity for all its students and employees. To help effectuate these goals, Bemidji State University is committed to a policy of equal opportunity and nondiscrimination in employment and education.

Supporting References

- Minnesota State Board Policy 1B.1 Equal Opportunity and Nondiscrimination in Employment and Education <http://www.minnstate.edu/board/Policy/1b01.html>
- Minnesota State Board Procedure 1B.1.1 Report/Complaint of Discrimination/Harassment Investigation and Resolution <http://www.minnstate.edu/board/procedure/1b01p1.html>

- Bemidji State University Report/Complaint of Discrimination/Harassment Investigation and Resolution Procedure
- Minnesota State Board Policy 3.6 Student Conduct
<http://www.minnstate.edu/board/Policy/3-06.pdf>
- Bemidji State University Student Code of Conduct
<https://www.bemidjistate.edu/offices/development-enrollment/handbook/conduct/>

Policy: Equal Opportunity and Nondiscrimination in Employment and Education		
Formal Review Process	Date Submitted	Date Reviewed
MSUAASF		
BSUFA		
Classified Meet and Confer		
BSUSA		
Provost/Vice President Recommendation		Date

Presidents Approval		Date
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