

2011 Minnesota Statutes

Education Statutes

Bullying

121A.0695 SCHOOL BOARD POLICY; PROHIBITING INTIMIDATION AND BULLYING.

Each school board shall adopt a written policy prohibiting intimidation and bullying of any student. The policy shall address intimidation and bullying in all forms, including, but not limited to, electronic forms and forms involving Internet use.

History: [1Sp2005 c 5 art 2 s 28](#); [2007 c 53 s 1](#)

Harassment

120B.22 VIOLENCE PREVENTION EDUCATION.

Subdivision 1. Violence prevention curriculum.

(a) The commissioner of education, in consultation with the commissioners of health and human services, state minority councils, battered women's and domestic abuse programs, battered women's shelters, sexual assault centers, representatives of religious communities, and the assistant commissioner of the Office of Drug Policy and Violence Prevention, shall assist districts on request in developing or implementing a violence prevention program for students in kindergarten to grade 12 that can be integrated into existing curriculum. The purpose of the program is to help students learn how to resolve conflicts within their families and communities in nonviolent, effective ways.

(b) Each district is encouraged to integrate into its existing curriculum a program for violence prevention that includes at least:

(1) a comprehensive, accurate, and age appropriate curriculum on violence prevention, nonviolent conflict resolution, sexual, racial, and cultural harassment, self-protection, and student hazing that promotes equality, respect, understanding, effective communication, individual responsibility, thoughtful decision making, positive conflict resolution, useful coping skills, critical thinking, listening and watching skills, and personal safety;

(2) planning materials, guidelines, and other accurate information on preventing physical and emotional violence, identifying and reducing the incidence of sexual, racial, and cultural harassment, and reducing child abuse and neglect;

(3) a special parent education component of early childhood family education programs to prevent child abuse and neglect and to promote positive parenting skills, giving priority to services and outreach programs for at-risk families;

(4) involvement of parents and other community members, including the clergy, business representatives, civic leaders, local elected officials, law enforcement officials, and the county attorney;

(5) collaboration with local community services, agencies, and organizations that assist in violence intervention or prevention, including family-based services, crisis services, life management skills services, case coordination services, mental health services, and early intervention services;

(6) collaboration among districts and service cooperatives;

(7) targeting early adolescents for prevention efforts, especially early adolescents whose personal circumstances may lead to violent or harassing behavior;

(8) opportunities for teachers to receive in-service training or attend other programs on strategies or curriculum designed to assist students in intervening in or preventing violence in school and at home; and

(9) administrative policies that reflect, and a staff that models, nonviolent behaviors that do not display or condone sexual, racial, or cultural **harassment** or student hazing.

(c) The department may provide assistance at a neutral site to a nonpublic school participating in a district's program.

Subd. 2. In-service training.

Each district is encouraged to provide training for district staff and school board members to help students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways. The in-service training must be ongoing and involve experts familiar with domestic violence and personal safety issues.

Subd. 3. Funding sources.

Districts may accept funds from public and private sources for violence prevention programs developed and implemented under this section.

History: [1992 c 571 art 10 s 6](#); [1994 c 647 art 4 s 34](#); [1Sp1995 c 3 art 16 s 13](#); [1996 c 305 art 1 s 138](#); [1Sp1997 c 4 art 7 s 9](#); [1998 c 397 art 3 s 92, 103](#); [2000 c 445 art 2 s 6](#); [2003 c 130 s 12](#); [1Sp2005 c 5 art 2 s 18](#)

DISCRIMINATION; HARASSMENT; VIOLENCE

121A.03 MODEL POLICY.

Subdivision 1. Model policy.

The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section [120B.232, subdivision 1](#), to prevent and reduce policy violations.

Subd. 2. Sexual, religious, and racial harassment and violence policy.

A school board must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms with chapter 363A. The policy shall apply to pupils, teachers, administrators, and other school personnel, include reporting procedures, and set forth disciplinary actions that will be taken for violation of the policy. Disciplinary actions must conform with collective bargaining agreements and sections [121A.41](#) to [121A.56](#). The policy must be conspicuously posted throughout each school building, given to each district employee and independent contractor at the time of entering into the person's employment contract, and included in each school's student handbook on school policies. Each school must develop a process for discussing the school's sexual, religious, and racial harassment and violence policy with students and school employees.

Subd. 3. Submission to commissioner.

Each school board must submit to the commissioner a copy of the sexual, religious, and racial harassment and sexual, religious, and racial violence policy the board has adopted.

History: [1989 c 329 art 8 s 7,8](#); [1990 c 426 art 1 s 17](#); [1992 c 499 art 8 s 17](#); [1992 c 571 art 10 s 7](#); [1993 c 224 art 9 s 37,38](#); [1994 c 647 art 8 s 25](#); [1Sp1995 c 3 art 16 s 13](#); [1998 c 397 art 9 s 21,22,26](#); [art 11 s 3](#); [1Sp2005 c 5 art 2 s 25](#)

122A.60 STAFF DEVELOPMENT PROGRAM.

Subdivision 1. Staff development committee.

A school board must use the revenue authorized in section [122A.61](#) for in-service education for programs under section [120B.22, subdivision 2](#), or for staff development plans under this section. The board must establish an advisory staff development committee to develop the plan, assist site professional development teams in developing a site plan consistent with the goals of the plan, and evaluate staff development efforts at the site level. A majority of the advisory committee and the site professional development team must be teachers representing various grade levels, subject areas, and special education. The advisory committee must also include nonteaching staff, parents, and administrators.

Subd. 1a. Effective staff development activities.

(a) Staff development activities must:

(1) focus on the school classroom and research-based strategies that improve student learning;

(2) provide opportunities for teachers to practice and improve their instructional skills over time;

(3) provide opportunities for teachers to use student data as part of their daily work to increase student achievement;

(4) enhance teacher content knowledge and instructional skills;

(5) align with state and local academic standards;

(6) provide opportunities to build professional relationships, foster collaboration among principals and staff who provide instruction, and provide opportunities for teacher-to-teacher mentoring; and

(7) align with the plan of the district or site for an alternative teacher professional pay system.

Staff development activities may include curriculum development and curriculum training programs, and activities that provide teachers and other members of site-based teams training to enhance team performance. The school district also may implement other staff development activities required by law and activities associated with professional teacher compensation models.

(b) Release time provided for teachers to supervise students on field trips and school activities, or independent tasks not associated with enhancing the teacher's knowledge and instructional skills, such as preparing report cards, calculating grades, or organizing classroom materials, may not be counted as staff development time that is financed with staff development reserved revenue under section [122A.61](#).

Subd. 2. Contents of plan.

The plan must include the staff development outcomes under subdivision 3, the means to achieve the outcomes, and procedures for evaluating progress at each school site toward meeting education outcomes, consistent with relicensure requirements under section [122A.18](#), subdivision 4. The plan also must:

(1) support stable and productive professional communities achieved through ongoing and schoolwide progress and growth in teaching practice;

(2) emphasize coaching, professional learning communities, classroom action research, and other job-embedded models;

(3) maintain a strong subject matter focus premised on students' learning goals;

(4) ensure specialized preparation and learning about issues related to teaching students with special needs and limited English proficiency; and

(5) reinforce national and state standards of effective teaching practice.

Subd. 3. Staff development outcomes.

The advisory staff development committee must adopt a staff development plan for improving student achievement. The plan must be consistent with education outcomes that the school board determines. The plan must include ongoing staff development activities that contribute toward continuous improvement in achievement of the following goals:

(1) improve student achievement of state and local education standards in all areas of the curriculum by using best practices methods;

(2) effectively meet the needs of a diverse student population, including at-risk children, children with disabilities, and gifted children, within the regular classroom and other settings;

(3) provide an inclusive curriculum for a racially, ethnically, and culturally diverse student population that is consistent with the state education diversity rule and the district's education diversity plan;

(4) improve staff collaboration and develop mentoring and peer coaching programs for teachers new to the school or district;

(5) effectively teach and model violence prevention policy and curriculum that address early intervention alternatives, issues of harassment, and teach nonviolent alternatives for conflict resolution; and

(6) provide teachers and other members of site-based management teams with appropriate management and financial management skills.

Subd. 4. Staff development report.

(a) By October 15 of each year, the district and site staff development committees shall write and submit a report of staff development activities and expenditures for the previous year, in the form and manner determined by the commissioner. The report, signed by the district superintendent and staff development chair, must include assessment and evaluation data indicating progress toward district and site staff development goals based on teaching and learning outcomes, including the percentage of teachers and other staff involved in instruction who participate in effective staff development activities under subdivision 3.

(b) The report must break down expenditures for:

(1) curriculum development and curriculum training programs; and

(2) staff development training models, workshops, and conferences, and the cost of releasing teachers or providing substitute teachers for staff development purposes.

The report also must indicate whether the expenditures were incurred at the district level or the school site level, and whether the school site expenditures were made possible by grants to school sites that demonstrate exemplary use of allocated staff development

revenue. These expenditures must be reported using the uniform financial and accounting and reporting standards.

(c) The commissioner shall report the staff development progress and expenditure data to the house of representatives and senate committees having jurisdiction over education by February 15 each year.

History: [1Sp1985 c 12 art 8 s 23,61](#); [1987 c 398 art 8 s 27,28](#); [1Sp1987 c 4 art 1 s 3](#); [1988 c 486 s 73,74](#); [1990 c 562 art 4 s 8](#); [1991 c 265 art 7 s 30-32](#); [1992 c 499 art 1 s 19](#); [1992 c 571 art 10 s 4,5](#); [1993 c 224 art 7 s 24](#); [1994 c 647 art 7 s 10,11](#); [1Sp1995 c 3 art 8 s 9](#); [1996 c 412 art 9 s 11](#); [1998 c 397 art 8 s 95,96,101](#); [art 11 s 3](#); [1998 c 398 art 5 s 13](#); [1999 c 241 art 5 s 3](#); [1999 c 241 art 9 s 17](#); [1Sp2005 c 5 art 2 s 44-46](#); [2009 c 96 art 2 s 28](#); [2010 c 382 s 23](#)

State High School League

128C.02 DUTIES, POLICIES, CRITERIA, RULES OF BOARD.

Subdivision 1. Decisions, policies, advisory committees.

The board shall establish and adopt policies, including a policy on corporate sponsorships and similar agreements, make decisions on behalf of the league, and establish advisory committees necessary to carry out board functions.

Subd. 2. Sexual harassment and violence; hazing.

The board of the league shall adopt a policy, rules, penalties, and recommendations addressing sexual harassment and sexual violence and hazing toward and by participants in league activities.

Subd. 3. Criteria for conference arrangements.

The board must develop criteria for the league to use when it is asked to arrange for membership in an interscholastic conference by a league member under section [128C.07](#). The league must give notice and an opportunity for league members to be heard before adopting the criteria. The criteria must include, at least, the distance to be traveled by competing schools, the relative enrollments of the schools, and the comparability of extracurricular activities in the schools.

Subd. 3a. [Repealed, [2000 c 498 s 1](#)]

Subd. 3b. Concussion awareness, safety, and protection.

The league may adopt a concussion awareness, safety, and protection policy that exceeds the requirements of section [121A.38](#).

Subd. 4. Rules are APA exempt.

The rules of the league are exempt from chapter 14, including section [14.386](#).

Subd. 5. Rules for open enrollees.

(a) The league shall adopt league rules and regulations governing the athletic participation of pupils attending school in a nonresident district under section [124D.03](#).

(b) Notwithstanding other law or league rule or regulation to the contrary, when a student enrolls in or is readmitted to a recovery-focused high school after successfully

completing a licensed program for treatment of alcohol or substance abuse, mental illness, or emotional disturbance, the student is immediately eligible to participate on the same basis as other district students in the league-sponsored activities of the student's resident school district. Nothing in this paragraph prohibits the league or school district from enforcing a league or district penalty resulting from the student violating a league or district rule.

Subd. 6. Annual report.

The board annually shall prepare a written report containing the information about the league that the commissioner is required to obtain and review under section [128C.20](#). The board shall present copies of the report in a timely manner to the education committees of the legislature.

Subd. 7. Women referees.

The league shall adopt league rules and policy requiring, to the extent possible, the equal employment of women as referees for high school activities and sports contests, from game level to tournament level.

Subd. 8. [Repealed, [1Sp2003 c 9 art 2 s 56](#)]

Subd. 9. Purchasing.

In purchasing goods and services, the league must follow all laws that apply to school districts under sections [123B.52](#) and [471.345](#).

History: [1989 c 220 s 4](#); [1989 c 329 art 8 s 9](#); [art 9 s 16](#); [1990 c 425 s 2](#); [1992 c 499 art 8 s 19](#); [1993 c 224 art 9 s 40](#); [1995 c 233 art 2 s 56](#); [1997 c 187 art 4 s 5](#); [1Sp1997 c 4 art 7 s 36,37](#); [1998 c 397 art 11 s 3](#); [1999 c 241 art 9 s 38](#); [1999 c 250 art 1 s 79](#); [1Sp2003 c 9 art 2 s 39](#); [2007 c 7 s 1](#); [2011 c 90 s 4](#)

128C.20 COMMISSIONER REVIEW OF LEAGUE.

Subdivision 1. Annually.

Each year the commissioner of education shall obtain and review the following information about the league:

(1) an accurate and concise summary of the annual financial and compliance audit prepared by the state auditor that includes information about the compensation of and the expenditures by the executive director of the league and league staff;

(2) a list of all complaints filed with the league and all lawsuits filed against the league and the disposition of those complaints and lawsuits;

(3) an explanation of the executive director's performance review;

(4) information about the extent to which the league has implemented its affirmative action policy, its comparable worth plan, and its sexual harassment and violence policy and rules; and

(5) an evaluation of any proposed changes in league policy.

The commissioner may examine any league activities or league-related issues when the commissioner believes this review is warranted.

Subd. 2. Recommend laws.

The commissioner may recommend to the legislature whether any legislation is made necessary by league activities.

History: 1989 c 220 s 4; 1990 c 562 art 7 s 9; 1991 c 265 art 11 s 14; 1Sp1995 c 3 art 16 s 13; 1999 c 241 art 9 s 39; 2003 c 130 s 12

Higher Education Statutes

135A.15 SEXUAL HARASSMENT AND VIOLENCE POLICY.

Subdivision 1. Policy required.

The Board of Trustees of the Minnesota State Colleges and Universities shall, and the University of Minnesota is requested to, adopt a clear, understandable written policy on sexual harassment and sexual violence that informs victims of their rights under the crime victims bill of rights, including the right to assistance from the Crime Victims Reparations Board and the commissioner of public safety. The policy must apply to students and employees and must provide information about their rights and duties. The policy must apply to criminal incidents occurring on property owned by the postsecondary system or institution in which the victim is a student or employee of that system or institution. It must include procedures for reporting incidents of sexual harassment or sexual violence and for disciplinary actions against violators. During student registration, each technical college, community college, or state university shall, and the University of Minnesota is requested to, provide each student with information regarding its policy. A copy of the policy also shall be posted at appropriate locations on campus at all times. Each private postsecondary institution that is an eligible institution as defined in section 136A.155, must adopt a policy that meets the requirements of this section.

Subd. 2. Victims' rights.

The policy required under subdivision 1 shall, at a minimum, require that students and employees be informed of the policy, and shall include provisions for:

- (1) filing criminal charges with local law enforcement officials in sexual assault cases;
- (2) the prompt assistance of campus authorities, at the request of the victim, in notifying the appropriate law enforcement officials and disciplinary authorities of a sexual assault incident;
- (3) an investigation and resolution of a sexual assault complaint by campus disciplinary authorities;

(4) a sexual assault victim's participation in and the presence of the victim's attorney or other support person at any campus disciplinary proceeding concerning a sexual assault complaint;

(5) notice to a sexual assault victim of the outcome of any campus disciplinary proceeding concerning a sexual assault complaint, consistent with laws relating to data practices;

(6) the complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a sexual assault incident;

(7) the assistance of campus authorities in preserving for a sexual assault complainant or victim materials relevant to a campus disciplinary proceeding; and

(8) the assistance of campus personnel, in cooperation with the appropriate law enforcement authorities, at a sexual assault victim's request, in shielding the victim from unwanted contact with the alleged assailant, including transfer of the victim to alternative classes or to alternative college-owned housing, if alternative classes or housing are available and feasible.

History: [1989 c 293 s 15](#); [1992 c 571 art 5 s 1](#); [1995 c 212 art 3 s 7](#); [2002 c 220 art 7 s 8](#); [2010 c 364 s 1](#)

135A.153 HIGHER EDUCATION CENTER ON VIOLENCE AND ABUSE.

Subdivision 1. Creation and designation.

The Higher Education Center on Violence and Abuse is created. The Higher Education Center on Violence and Abuse shall be located at and managed by a public or private postsecondary institution in Minnesota.

Subd. 2. [Repealed, [1995 c 212 art 3 s 60](#)]

Subd. 3. Duties.

The Higher Education Center on Violence and Abuse shall:

(1) serve as a clearinghouse of information on curriculum models and other resources for professional education and for education of faculty, students, and staff about violence and harassment required under Laws 1992, chapter 571, article 16, section 1;

(2) sponsor conferences and research to assist higher education institutions in developing curricula about violence and abuse;

(3) fund pilot projects to stimulate multidisciplinary curricula about violence and abuse; and

(4) coordinate policies to ensure that professions and occupations with responsibilities toward victims and offenders have the knowledge and skills needed to prevent and respond appropriately to the problems of violence and abuse.

Subd. 4. Professional education and licensure.

The center shall convene task forces for professions that work with victims and perpetrators of violence. Task forces must be formed for the following professions: teachers, school administrators, guidance counselors, law enforcement officers, lawyers, physicians, nurses, psychologists, and social workers. Each task force must include representatives of the licensing agency, higher education systems offering programs in the profession, appropriate professional associations, students or recent graduates, representatives of communities served by the profession, and employers or experienced professionals. The center must establish guidelines for the work of the task forces. Each task force must review current programs, licensing regulations and examinations, and accreditation standards to identify specific needs and plans for ensuring that professionals are adequately prepared and updated on violence and abuse issues.

Subd. 5. [Repealed, [2007 c 13 art 2 s 9](#)]

History: [1993 c 326 art 12 s 15](#); [1995 c 212 art 3 s 8](#), 53, 54, 59

Human Rights Statutes

363A.02 PUBLIC POLICY.

Subdivision 1. Freedom from discrimination.

(a) It is the public policy of this state to secure for persons in this state, freedom from discrimination:

(1) in employment because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and age;

(2) in housing and real property because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and familial status;

(3) in public accommodations because of race, color, creed, religion, national origin, sex, sexual orientation, and disability;

(4) in public services because of race, color, creed, religion, national origin, sex, marital status, disability, sexual orientation, and status with regard to public assistance; and

(5) in education because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and age.

(b) Such **discrimination** threatens the rights and privileges of the inhabitants of this state and menaces the institutions and foundations of democracy. It is also the public policy of this state to protect all persons from wholly unfounded charges of

discrimination. Nothing in this chapter shall be interpreted as restricting the implementation of positive action programs to combat discrimination.

Subd. 2. Civil right.

The opportunity to obtain employment, housing, and other real estate, and full and equal utilization of public accommodations, public services, and educational institutions without such discrimination as is prohibited by this chapter is hereby recognized as and declared to be a civil right.

Subd. 3. Severability.

If any provision of Laws 1967, chapter 897 or the application thereof to any person or circumstances is held invalid, the invalidity does not affect the other provisions or applications of Laws 1967, chapter 897 which can be given effect without the invalid provision or application, and to this end the provisions of Laws 1967, chapter 897 are severable.

History: *1955 c 516 s 1; 1961 c 428 s 16; 1967 c 897 s 26; 1969 c 975 s 15,16; 1973 c 729 s 14,15; 1977 c 351 s 11; 1980 c 531 s 8; 1993 c 22 s 19*

363A.03 DEFINITIONS.

Subdivision 1. Terms.

For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

Subd. 2. Age.

The prohibition against unfair employment or education practices based on age prohibits using a person's age as a basis for a decision if the person is over the age of majority except for section [363A.13](#) which shall be deemed to protect any individual over the age of 25 years.

Subd. 3. Board.

"Board" means the state Board of Human Rights.

Subd. 4. Business.

The term "business" includes any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver, but excludes the state and its departments, agencies, and political subdivisions.

Subd. 5. Charging party.

"Charging party" means a person filing a charge with the commissioner or the commissioner's designated agent pursuant to section [363A.28, subdivision 1](#).

Subd. 6. Closed case file.

"Closed case file" means a file containing human rights investigative data in which an order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, and the time for any reconsideration of or appeal from the order or decision has expired.

Subd. 7. Commissioner.

"Commissioner" means the commissioner of human rights.

Subd. 8. Complainant.

"Complainant" means the commissioner of human rights after issuing a complaint pursuant to sections [363A.06, subdivision 3, paragraph \(8\)](#), and [363A.28, subdivisions 1 to 9](#).

Subd. 9. Confidential, private, and public data on individuals and protected nonpublic data not on individuals.

"Confidential," "private," "public data on individuals," "protected nonpublic data not on individuals," and any other terms concerning the availability of human rights investigative data have the meanings given them by section [13.02](#) of the Minnesota Government Data Practices Act.

Subd. 10. Demand responsive system.

"Demand responsive system" means a system of providing public transportation that is not a fixed route system.

Subd. 11. Department.

"Department" means the Department of Human Rights.

Subd. 12. 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.

Subd. 13. Discriminate.

The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment.

Subd. 14. Educational institution.

"Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school, and includes an agent of an educational institution.

Subd. 15. Employee.

"Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section [181.145](#), who resides or works in this state.

Subd. 16. Employer.

"Employer" means a person who has one or more employees.

Subd. 17. Employment agency.

"Employment agency" means a person or persons who, or an agency which regularly undertakes, with or without compensation, to procure employees or opportunities for employment.

Subd. 18. Familial status.

"Familial status" means the condition of one or more minors being domiciled with (1) their parent or parents or the minor's legal guardian or (2) the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

Subd. 19. Fixed route system.

"Fixed route system" means a system of providing public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

Subd. 20. Historic or antiquated rail passenger car.

"Historic or antiquated rail passenger car" means a rail passenger car:

- (1) that is at least 30 years old at the time of its use for transporting individuals;
- (2) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; or
- (3) that has consequential association with events or persons significant to the past or embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past or to represent a time period that has passed.

Subd. 21. Human rights investigative data.

"Human rights investigative data" means written documents issued or gathered by the department for the purpose of investigating and prosecuting alleged or suspected discrimination.

Subd. 22. Labor organization.

"Labor organization" means any organization that exists wholly or partly for one or more of the following purposes:

- (1) collective bargaining;
- (2) dealing with employers concerning grievances, terms or conditions of employment; or
- (3) mutual aid or protection of employees.

Subd. 23. Local commission.

"Local commission" means an agency of a city, county, or group of counties created pursuant to law, resolution of a county board, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status.

Subd. 24. Marital status.

"Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Subd. 25. National origin.

"National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.

Subd. 26. Open case file.

"Open case file" means a file containing human rights investigative data in which no order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, or a file in which an order or other decision has been issued but the time for any reconsideration or appeal of the order or decision has either not yet expired or the reconsideration or appeal is then pending.

Subd. 27. Operates.

"Operates," when used with respect to a demand responsive or fixed route system, includes the operation of the system by a person under a contractual or other arrangement or relationship with a public or private entity.

Subd. 28. Over-the-road bus.

"Over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

Subd. 29. Party in interest.

"Party in interest" means the complainant, respondent, commissioner or board member.

Subd. 30. Person.

"Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

Subd. 31. Physical access.

"Physical access" means (1) the absence of physical obstacles that limit a disabled person's opportunity for full and equal use of or benefit from goods, services, and privileges; or, when necessary, (2) the use of methods to overcome the discriminatory

effect of physical obstacles. The methods may include redesign of equipment, assignment of aides, or use of alternate accessible locations.

Subd. 32.Private entity.

"Private entity" means an entity other than a public service.

Subd. 33.Program access.

"Program access" means (1) the use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services, and privileges; and (2) the absence of criteria or methods of administration that directly, indirectly, or through contractual or other arrangements, have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, or have the effect of defeating or impairing the accomplishment of the objectives of the program.

Subd. 34.Place of public accommodation.

"Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Subd. 35.Public service.

"Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

Subd. 36.Qualified disabled person.

"Qualified disabled person" means:

(1) with respect to employment, a disabled person who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question; and

(2) with respect to public services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

Subd. 37. Rail passenger car.

"Rail passenger car" means, with respect to intercity or commuter rail transportation, single- and bi-level coach cars, dining cars, sleeping cars, lounge cars, restroom cars, and food service cars.

Subd. 38. Real estate broker or salesperson.

"Real estate broker or salesperson" means, respectively, a real estate broker as defined by section [82.55](#), subdivision 19, and a real estate salesperson as defined by section [82.55](#), subdivision 20.

Subd. 39. Real property.

"Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

Subd. 40. Religious or denominational educational institution.

"Religious or denominational educational institution" means an educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or one which is stated by the parent church body to be and is, in fact, officially related to that church by being represented on the board of the institution, and by providing substantial financial assistance and which has certified, in writing, to the board that it is a religious or denominational educational institution.

Subd. 41. Respondent.

"Respondent" means a person against whom a complaint has been filed or issued.

Subd. 42. Sex.

"Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

Subd. 43. 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, public accommodations or public services, education, or housing;

(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, public accommodations or public services, education, or housing; or

(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

Subd. 44. 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. "Sexual orientation" does not include a physical or sexual attachment to children by an adult.

Subd. 45. Specified public transportation.

"Specified public transportation" means transportation by bus, rail, or any other conveyance other than aircraft that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Subd. 46. Station.

"Station" means property located next to a right-of-way on which intercity and commuter transportation is operated, which is used by the general public and is related to the provision of the transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, drinking fountains, public telephones, and, if a public service providing rail transportation owns the property, concessions areas to the extent that the public service exercises control over the selection, design, construction, or alteration of the property. Station does not include flag stops.

Subd. 47. Status with regard to public assistance.

"Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

Subd. 48. Unfair discriminatory practice.

"Unfair discriminatory practice" means any act described in sections [363A.08](#) to [363A.19](#) and [363A.28, subdivision 10](#).

Subd. 49. Vehicle.

"Vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or railroad car.

History: [1955 c 516 s 3](#); [1961 c 428 s 1-3](#); [1967 c 897 s 1-9](#); [1969 c 975 s 1,2](#); [1973 c 123 art 5 s 7](#); [1973 c 729 s 1](#); [1976 c 2 s 130](#); [1977 c 351 s 1](#); [1977 c 408 s 1](#); [1980 c 531 s 1,2](#); [1982 c 492 s 1](#); [1982 c 619 s 2,3](#); [1983 c 276 s 1-4](#); [1Sp1985 c 13 s 320-324](#); [1986 c 444](#); [1987 c 23 s 1](#); [1987 c 282 s 2](#); [1988 c 660 s 1](#); [1989 c 144 art 2 s 8](#); [1989 c 280 s 1-3](#); [1989 c 329 art 9 s 26](#); [1989 c 335 art 1 s 243](#); [1989 c 356 s 18](#); [1990 c 567 s 1,10](#); [1992 c 527 s 1-10](#); [1993 c 22 s 1,2](#); [1993 c 277 s 1-4](#); [1994 c 465 art 3 s 20](#); [2001 c 194 s 1](#); [2004 c 203 art 2 s 61](#)

363A.15 REPRISALS.

It is an unfair discriminatory practice for any individual who participated in the alleged discrimination as a perpetrator, employer, labor organization, employment agency, public accommodation, public service, educational institution, or owner, lessor, lessee,

sublessee, assignee or managing agent of any real property, or any real estate broker, real estate salesperson, or employee or agent thereof to intentionally engage in any reprisal against any person because that person:

(1) opposed a practice forbidden under this chapter or has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter; or

(2) associated with a person or group of persons who are disabled or who are of different race, color, creed, religion, sexual orientation, or national origin.

A reprisal includes, but is not limited to, any form of **intimidation**, retaliation, or **harassment**. It is a reprisal for an employer to do any of the following with respect to an individual because that individual has engaged in the activities listed in clause (1) or (2): refuse to hire the individual; depart from any customary employment practice; transfer or assign the individual to a lesser position in terms of wages, hours, job classification, job security, or other employment status; or inform another employer that the individual has engaged in the activities listed in clause (1) or (2).

History: [1955 c 516 s 5](#); [1961 c 428 s 5](#); [1965 c 585 s 2](#); [1965 c 586 s 1](#); [1967 c 897 s 12-16](#); [1969 c 9 s 80](#); [1969 c 975 s 3-5](#); [1973 c 296 s 1](#); [1973 c 729 s 3,16](#); [1974 c 354 s 1](#); [1975 c 206 s 2-5](#); [1977 c 351 s 5-7](#); [1977 c 408 s 3](#); [1980 c 531 s 4](#); [1980 c 540 s 1,2](#); [1981 c 330 s 1](#); [1982 c 517 s 8](#); [1983 c 216 art 1 s 59](#); [1983 c 276 s 7-10](#); [1984 c 533 s 2,3](#); [1985 c 248 s 70](#); [1986 c 444](#); [1987 c 23 s 3](#); [1987 c 129 s 3](#); [1987 c 141 s 2](#); [1987 c 245 s 1](#); [1988 c 660 s 4](#); [1989 c 280 s 9-14,21](#); [1990 c 567 s 3-6](#); [1992 c 527 s 12-16](#); [1993 c 22 s 8-15](#); [1993 c 277 s 5-7](#); [1994 c 630 art 12 s 1](#); [1995 c 212 art 2 s 10](#); [1997 c 171 s 1](#); [2001 c 186 s 1](#); [2001 c 194 s 2](#)

363A.28 GRIEVANCES.

Subdivision 1.Actions.

Any person aggrieved by a violation of this chapter may bring a civil action as provided in section [363A.33, subdivision 1](#), or may file a verified charge with the commissioner or the commissioner's designated agent. A charge filed with the commissioner must be in writing on a form provided by the commissioner and signed by the charging party. The charge must state the name of the person alleged to have committed an unfair discriminatory practice and set out a summary of the details of the practice complained of. The commissioner may require a charging party to provide the address of the person alleged to have committed the unfair discriminatory practice, names of witnesses, documents, and any other information necessary to process the charge. The commissioner may dismiss a charge when the charging party fails to provide required information. The commissioner within ten days of the filing shall serve a copy of the charge and a form for use in responding to the charge upon the respondent personally or by mail. The respondent shall file with the department a written response setting out a summary of the details of the respondent's position relative to the charge within 20 days of receipt of the charge. If the respondent fails to respond with a written summary of the

details of the respondent's position within 30 days after service of the charge, and service was consistent with rule 4 of the Rules of Civil Procedure, the commissioner, on behalf of the complaining party, may bring an action for default in district court pursuant to rule [55.01](#) of the Rules of Civil Procedure.

Subd. 2. Commissioner's charge.

Whenever the commissioner has reason to believe that a person is engaging in an unfair discriminatory practice, the commissioner may issue a charge stating in statutory language an alleged violation of subdivision 10 and sections [363A.08](#) to [363A.19](#).

Subd. 3. For filing claim; filing options.

A claim of an unfair discriminatory practice must be brought as a civil action pursuant to section [363A.33, subdivision 1](#), filed in a charge with a local commission pursuant to section [363A.07, subdivision 3](#), or filed in a charge with the commissioner within one year after the occurrence of the practice. The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless one year plus a period of time equal to the suspension period has passed.

Subd. 4. Basis for filing a claim.

For purposes of subdivision 3, the first application of an unfair discriminatory practice, employment policy, or seniority system to a new person establishes a basis for the filing of a claim by that person.

Subd. 5. Alternative dispute resolution.

The running of the 12-month period during which the commissioner must make a determination of probable cause to credit allegations is suspended during a period of time specified by the commissioner during which the parties are involved in mediation or other alternative dispute resolution that has been sanctioned by the commissioner.

Subd. 6. Charge processing.

(a) Consistent with paragraph (h), the commissioner shall promptly inquire into the truth of the allegations of the charge. The commissioner shall make an immediate inquiry when a charge alleges actual or threatened physical violence. The commissioner shall also make an immediate inquiry when it appears that a charge is frivolous or without merit and shall dismiss those charges.

(b) The commissioner shall give priority to investigating and processing those charges, in the order below, which the commissioner determines have the following characteristics:

- (1) there is evidence of irreparable harm if immediate action is not taken;
- (2) there is evidence that the respondent has intentionally engaged in a reprisal;
- (3) a significant number of recent charges have been filed against the respondent;
- (4) the respondent is a government entity;
- (5) there is potential for broadly promoting the policies of this chapter; or
- (6) the charge is supported by substantial and credible documentation, witnesses, or other evidence.

The commissioner shall inform charging parties of these priorities and shall tell each party if their charge is a priority case or not.

On other charges the commissioner shall make a determination within 12 months after the charge was filed as to whether or not there is probable cause to credit the allegation of unfair discriminatory practices.

(c) If the commissioner determines after investigation that no probable cause exists to credit the allegations of the unfair discriminatory practice, the commissioner shall, within ten days of the determination, serve upon the charging party and respondent written notice of the determination. Within ten days after receipt of notice, the charging party may request in writing, on forms prepared by the department, that the commissioner reconsider the determination. The request shall contain a brief statement of the reasons for and new evidence in support of the request for reconsideration. At the time of submission of the request to the commissioner, the charging party shall deliver or mail to the respondent a copy of the request for reconsideration. The commissioner shall reaffirm, reverse, or vacate and remand for further consideration the determination of no probable cause within 20 days after receipt of the request for reconsideration, and shall within ten days notify in writing the charging party and respondent of the decision to reaffirm, reverse, or vacate and remand for further consideration.

A decision by the commissioner that no probable cause exists to credit the allegations of an unfair discriminatory practice shall not be appealed to the Court of Appeals pursuant to section [363A.36](#) or sections [14.63](#) to [14.68](#).

(d) If the commissioner determines after investigation that probable cause exists to credit the allegations of unfair discriminatory practices, the commissioner shall serve on the respondent and the respondent's attorney if the respondent is represented by counsel, by first class mail, a notice setting forth a short plain written statement of the alleged facts which support the finding of probable cause and an enumeration of the provisions of law allegedly violated. If the commissioner determines that attempts to eliminate the alleged unfair practices through conciliation pursuant to subdivision 8 have been or would be

unsuccessful or unproductive, the commissioner shall issue a complaint and serve on the respondent, by registered or certified mail, a written notice of hearing together with a copy of the complaint, requiring the respondent to answer the allegations of the complaint at a hearing before an administrative law judge at a time and place specified in the notice, not less than ten days after service of said complaint. A copy of the notice shall be furnished to the charging party and the attorney general.

(e) If, at any time after the filing of a charge, the commissioner has reason to believe that a respondent has engaged in any unfair discriminatory practice, the commissioner may file a petition in the district court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining the respondent from doing or procuring an act tending to render ineffectual an order the commissioner may enter with respect to the complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper, but no relief or order extending beyond ten days shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice. Except as modified by subdivisions 1 to 9 and section [363A.06, subdivision 4](#), the Minnesota Rules of Civil Procedure shall apply to an application, and the district court shall have authority to grant or deny the relief sought on conditions as it deems just and equitable. All hearings under subdivisions 1 to 9 and section [363A.06, subdivision 4](#), shall be given precedence as nearly as practicable over all other pending civil actions.

(f) If a lessor, after engaging in a discriminatory practice defined in section [363A.09, subdivision 1, clause \(1\)](#), leases or rents a dwelling unit to a person who has no knowledge of the practice or of the existence of a charge with respect to the practice, the lessor shall be liable for actual damages sustained by a person by reason of a final order as provided in subdivisions 1 to 9 and section [363A.06, subdivision 4](#), requiring the person to be evicted from the dwelling unit.

(g) In any complaint issued under subdivisions 1 to 9 and section [363A.06, subdivision 4](#), the commissioner may seek relief for a class of individuals affected by an unfair discriminatory practice occurring on or after a date one year prior to the filing of the charge from which the complaint originates.

(h) The commissioner may adopt policies to determine which charges are processed and the order in which charges are processed based on their particular social or legal significance, administrative convenience, difficulty of resolution, or other standard consistent with the provisions of this chapter.

(i) The chief administrative law judge shall adopt policies to provide sanctions for intentional and frivolous delay caused by any charging party or respondent in an

investigation, hearing, or any other aspect of proceedings before the department under this chapter.

Subd. 7. Application of rules.

Rules adopted pursuant to this subdivision apply to cases pending before the commissioner on the date of adoption.

Subd. 8. Attempts to eliminate unfair practices.

The commissioner, in complying with subdivision 6, shall endeavor to eliminate the unfair discriminatory practice through education, conference, conciliation and persuasion at the place where the practice occurred, or the respondent resides or has a principal place of business.

Subd. 9. Access to documents.

The commissioner shall provide the respondent with a copy of the charge. The charging party or the party's representative may review the answer of the respondent to the charge submitted pursuant to subdivision 1. The department shall make these documents available to the charging party.

Subd. 10. Disparate impact cases.

If the complaining party has met its burden of showing that an employment practice is responsible for a statistically significant adverse impact on a particular class of persons protected by section [363A.08, subdivision 2](#), an employer must justify that practice by demonstrating that the practice is manifestly related to the job or significantly furthers an important business purpose. Upon establishment of this justification, the charging party may prevail upon demonstration of the existence of a comparably effective practice that the court finds would cause a significantly lesser adverse impact on the identified protected class.

History: [1955 c 516 s 5,8](#); [1961 c 428 s 5,8](#); [1965 c 585 s 2](#); [1965 c 586 s 1,3](#); [1967 c 897 s 12-16,19](#); [1969 c 9 s 80](#); [1969 c 975 s 3-5,9,10](#); [1973 c 296 s 1](#); [1973 c 729 s 3,6-8,16](#); [1974 c 354 s 1](#); [1975 c 206 s 2-5](#); [1976 c 301 s 1,2](#); [1977 c 351 s 5-7](#); [1977 c 408 s 3](#); [1979 c 156 s 1](#); [1980 c 531 s 4](#); [1980 c 540 s 1-3](#); [1981 c 330 s 1-5](#); [1981 c 364 s 1](#); [1982 c 424 s 130](#); [1982 c 517 s 8](#); [1983 c 216 art 1 s 59](#); [1983 c 247 s 143](#); [1983 c 276 s 7-10](#); [1983 c 301 s 199,200](#); [1984 c 533 s 2,3](#); [1984 c 567 s 2,3](#); [1984 c 640 s 32](#); [1985 c 248 s 70](#); [1Sp1985 c 13 s 326](#); [1986 c 444](#); [1987 c 23 s 3](#); [1987 c 129 s 3](#); [1987 c 141 s 2](#); [1987 c 245 s 1](#); [1987 c 375 s 3,4](#); [1988 c 660 s 4-6](#); [1989 c 209 art 1 s 37](#); [1989 c 280 s 9-14,21](#); [1989 c 329 art 8 s 11](#); [1990 c 567 s 3-8](#); [1992 c 527 s 12-16](#); [1993 c 22 s 8-15](#); [1993 c 277 s 5-7](#); [1994 c 630 art 12 s 1](#); [1995 c 212 art 2 s 10](#); [1996 c 305 art 2 s 60](#); [1997 c 171 s 1](#); [1997 c 182 s 1](#); [2001 c 186 s 1](#); [2001 c 194 s 2,3](#)