



# Minnesota Board of Peace Officer Standards and Training

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## Classroom Discrimination Information and Sample Policy

### Information

Continuing education sponsors who seek approval of a course for continuing education credit must have written procedures for the investigation and resolution of classroom discrimination complaints. According to POST's administrative rules, MN Rules 6700.0100, Subpart 25, classroom discrimination is defined as:

[A]n act or comment of prejudice by a faculty member, staff person, or student which relates to race, gender, creed, age, color, religion, national origin, marital status, physical disability, mental disability, or characteristics identified as sexual orientation, and that offends another.

This rule's purpose is rooted in the philosophy that all education approved by the POST Board is taught in a non-offensive pluralistic environment. The classroom discrimination administrative rule, MN Rules 6700.0900, Subpart 13, and 6700.0902, Subpart 12 states the policy must include the following elements:

- To whom the formal complaint must be made;
- The process by which complaints will be investigated;
- The sanctions which may be imposed if a complaint is sustained;
- The appeal process for the offending party;
- The process which will be used to notify the complainant of the investigation and disposition; and,
- The effective date of the procedures or subsequent modification of the procedures.

The rule also requires that continuing education sponsors give copies of these procedures to all faculty and staff. Additionally, it is suggested that peace officers who attend your classes be made aware that these policies exist and who to contact if there is a complaint.

Attached is a sample procedure for your consideration. However, because there are so many different types of sponsors, this sample should be amended to fit the structure and operation of each continuing education sponsor.

## **I. POLICY**

- A. Peace officer continuing education expands the peace officer's own knowledge and experiences. It is imperative that the environment for this education has an atmosphere which is multi-ethnic, multi-cultural, and gender fair.
- B. Complaints will be handled in a prompt, just, open, and unbiased manner in accordance with these procedures. Copies of these procedures will be given by the director or the director's designee to all people who teach in the program. Additionally, all students will be given a written policy about the existence of these procedures.
- C. Nothing in this procedure is intended to expand, diminish or alter in any manner whatsoever any right or remedy available under an applicable collective bargaining agreement.

## **II. DEFINITION OF TERMS**

For the purpose of this procedure, the following terms have these meanings:

- A. Classroom Discrimination means an act or comment of prejudice by a member which relates to race, gender, creed, age, color, religion, national origin, marital status, physical disability, mental disability, or characteristics identified as sexual orientation, and that offends another.
- B. Complainant means the person or group who files a complaint with the continuing education sponsor alleging classroom discrimination by a faculty member, staff member, student, or the continuing education coordinator when he or she receives believable facts relating to alleged classroom discrimination from a person who wants to remain anonymous.
- C. Complaint means a statement which is made to a course supervisor, in writing, in person, or by phone which alleges classroom discrimination.
- D. Coordinator means the person who is responsible for supervising a continuing education course while it is being conducted.
- E. Director means the person in charge of the training or education program.
- F. Exonerated means a fair preponderance of the evidence established either that:
  - 1. The act, or acts, complained about did not occur;
  - 2. The member(s) named in the complaint were not involved in the alleged misconduct; or
  - 3. That the act(s) which provided the basis for the complaint occurred, however, the investigation reveals that such act(s) were justified, lawful, and proper.
- G. Member means a faculty or staff member, or a student.
- H. Not Sustained means the investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.

- I. Policies and Procedures means the administrative acts promulgated by the course sponsor regulating conduct of faculty members.
- J. Sustained means a fair preponderance of the evidence obtained in the investigation established that the accused member's actions constituted a violation of this procedure.

### **III. PROCEDURE FOR INITIATING COMPLAINT**

- A. Anyone who is not a member and has personal knowledge of the facts giving rise to the complaint may file a classroom discrimination complaint. Any member who has personal knowledge of classroom discrimination must file a complaint according to these procedures.
- B. All complaints must be directed to the coordinator of the continuing education program. Upon receiving any complaint, the coordinator must immediately initiate a memo to the director.
- C. If the person filing the complaint sets forth specific believable facts relating to the classroom discrimination and the person wishes to remain anonymous, the coordinator of the course receiving the information will then become the complainant. If the coordinator has reason to believe that the complaint is unfounded, the coordinator must have the authority to require the person to identify himself or herself. If the person refuses to do so, the coordinator may refuse to initiate a complaint and must advise the anonymous person of that fact.
- D. After a complaint is filed, the coordinator must sign it, give or mail a copy to the complainant, and furnish a copy to the director. The director must forward a copy of the document to the accused member, only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
- E. A complainant may be accompanied by an attorney or other appropriate representative at the time a complaint is filed or at any other stage of the process.

### **IV. PROCEDURE FOR INVESTIGATION OF THE COMPLAINT**

- A. Upon receipt of the complaint, the director must make an initial determination whether the facts alleged warrant a formal investigation. In making this determination, the director may meet informally with the complainant, faculty or staff member, student member or any potential witness. If the director decides that an investigation is not warranted, the disposition of the complaint must be either not sustained or exonerated. The complainant must be notified of this decision and the basis for determination. Also, the accused member must be notified. If the complainant supplies additional information within 30 days of the determination, the director may reverse this decision.
- B. If the director determines that a formal investigation should be conducted, he or she must assign the appropriate person to investigate the complaint. The investigation may be assigned to an external agency where there is the potential conflict of interest.

- C. The investigator must, as soon as possible, after being assigned to the investigation, inform the complainant of the investigator's name, business phone number and the status of the complaint.
- D. The investigator must thoroughly investigate all classroom discrimination contained in the complaint. If the investigation uncovers other alleged classroom discrimination by another faculty member, staff member, or student, the investigator must initiate a complaint against that person.
- E. All faculty, staff members, and students, including the accused member, must cooperate with the investigation. Failure to cooperate may be basis for disciplinary action.
- F. The investigator must do a report which contains all relevant information, organized into the three following sections:
  - 1. Allegations – This section must consist of an itemized summary of the acts of classroom discrimination alleged in the complaint. Reference must be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations were taken as true.
  - 2. Investigation – This section must consist of a chronological summary of the investigation, including all pertinent facts obtained through interviews with witnesses. Written statements, description and analysis of any physical evidence, and all other relevant information must be included.
  - 3. Conclusion(s) – This section must include the investigators findings, conclusions as to whether any classroom discrimination occurred, and the underlying reasons for the findings and conclusions. These conclusions will not be binding on the director.
- G. The investigation will be concluded within thirty days of the filing of the complaint, unless an extension is granted by the director for good cause. The complainant must be informed of any extension of time and the accused member will also be informed if he or she was informed pursuant to section III.D.

## **V. INVESTIGATION REVIEW AND DISPOSITION**

- A. Upon completion of the investigation, the investigator must submit his or her report and all investigative notes to the director. If the director determines the investigation was not adequate, the director must make one of the following dispositions: Exonerated, Not Sustained, or Sustained.
- B. The director must be informed of this decision and the accused must also be informed if he or she was informed pursuant to section III.B.
- C. If the complaint is either exonerated or not sustained, the director must immediately notify the complainant and the accused member of the disposition.
- D. If the complaint is sustained, the director must take appropriate disciplinary action. Such action must be based on the investigative report and the accused member's record of service. This action will be in conformance with any applicable collective bargaining agreement, contract or other rules or regulation relating to discipline of members. The disciplinary action may include counseling, remedial

education, an oral reprimand, a written reprimand, suspension with or without pay, demotion or discharge.

- E. After selecting the appropriate disciplinary action, the director must issue a Findings of Fact which must minimally contain the following information:
  - 1. A summary of the act or acts constituting misconduct and the specific statutes, policies, regulations and procedures violated;
  - 2. A description of the disciplinary or remedial action taken to prevent recurrence of the misconduct; and
  - 3. Any additional information as the director may find applicable to accurately document the disposition.
- F. Prior to the implementation of remedial and/or disciplinary actions, the accused member will be provided with a copy of the Findings of Fact. The director and/or appropriate supervisor shall review it with the accused member and explain the reasons for the action.
- G. The complainant shall also be given a copy of the Findings of Fact.
- H. When a sustained disposition is final, the accused member may appeal the disposition according to the member's collective bargaining agreement or if applicable, through the Veteran's Preference Act.
- I. The director may suspend an accused member with pay at any time during the investigation of a complaint.

## **VI. APPEAL BY COMPLAINANT**

Note: There is no requirement for an appeal process for the complaining party, however, the course sponsor may want to consider adopting such a section in its policy.

## **VII. DOCUMENTATION**

- A. If the provider of the continuing education course is a state agency or political subdivision of Minnesota, the data generated by this process will be maintained and disseminated in accordance with the Minnesota Governmental Data Practices Act.
- B. If the provider of the continuing education course is a private entity or an organization which is not covered by the Data Practices Act, the provider will adopt policies for the collection and dissemination of the data in accordance with the Minnesota Data Practices Act.

## **VIII. EFFECTIVE DATE**

Issued By: \_\_\_\_\_

This policy shall become effective on: \_\_\_\_\_

and replaces policy # \_\_\_\_\_.