



DIVERSITY AND EQUITY COMMITTEE
NOVEMBER 14, 2012
1:00 P.M.

MCCORMICK ROOM
30 7TH STREET EAST
SAINT PAUL, MN

Please note: Committee/Board meeting times are tentative. Committee/Board meetings may begin up to 45 minutes earlier than the times listed below if the previous committee meeting concludes its business before the end of its allotted time slot.

- (1) Minutes of October 17, 2012 (pp. 1-3)**
- (2) Proposed Amendments to Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity (Second Reading) [Proposed rename: Equal Opportunity and Nondiscrimination in Employment and Education] (pp. 4-9)**

Members

Cheryl Dickson, Chair
Brett Anderson, Vice Chair
Ann Anaya
Duane Benson
Louise Sundin

Bolded items indicate action required.

**MINNESOTA STATE COLLEGES AND UNIVERSITIES
BOARD OF TRUSTEES
DIVERSITY AND EQUITY
MEETING MINUTES
October 17, 2012**

Diversity and Equity Committee Members Present: Cheryl Dickson, Chair; Trustees Brett Anderson, Vice Chair; Ann Anaya, Duane Benson, Louise Sundin.

Diversity and Equity Committee Members Absent: None

Other Board Members Present: Trustees Dawn Erlandson, Clarence Hightower, Margaret Anderson Kelliher, Philip Krinkie, Alfredo Oliveira, David Paskach, Maria Peluso, Thomas Renier, and Michael Vekich.

Leadership Council Members Present: Steven Rosenstone, Chancellor; Whitney Stewart Harris, Chief Diversity Officer; Gail M. Olson, General Counsel; Rassoul Dastmozd, President; Sue Hammersmith, President.

A meeting of the Diversity and Equity Committee was held on October 17, 2012, at Minnesota State Colleges and Universities, 4th Floor, McCormick Room, 30 7th Street East, St. Paul. Chair Dickson called the meeting to order at 8:50 a.m.

1. Review of Minutes

The minutes of the June 19, 2012 meeting were approved as published.

2. Proposed Amendments to Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity (First Reading)

Associate Director for Diversity and Equity, Renée Hogoboom, introduced the proposed Board amendment by reminding the committee of the Equal Education and Employment Opportunity policies that fall under the auspices of the Diversity and Equity committee:

- 1B.1 - Nondiscrimination in Employment and Education Opportunity
- 1B.2 - Affirmative Action in Employment
- 1B.3 - Sexual Violence Policy
- 1B.4 - Access and Accommodation for Individuals with Disabilities

Board Policy 1B.1 was first approved in 1994 and amended in 2006.

Associate Director Hogoboom reviewed the proposed changes in Board Policy 1B.1 - Nondiscrimination in Employment and Education Opportunity. The proposed changes were:

- The addition of gender identity and gender expression to the protected classes (also included in the definition of sexual orientation in the Minnesota Human Rights Act);
- The clarification that retaliation is prohibited if individuals have made a complaint or assisted or participated in an external complaint process, such as 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; and;

- The definition of student now mirrors the definition in the student conduct code. The new definition covers individuals who are not currently enrolled as a student, but have a continuing relationship with a college or university.

Trustee Anaya expressed concerns that the title of the policy might be negative. She suggested renaming it as an equal opportunity statement. Associate Director Hogoboom told her it had been named a nondiscrimination policy because the U.S. Department of Education requires both an equal opportunity and a nondiscrimination policy. The term nondiscrimination also assists users in recognizing the purpose of the policy.

Trustee Anaya felt that an equal opportunity statement should be incorporated into the policy as a way of fostering a more welcoming environment for students. At a minimum, the policy should include a definition of equal opportunity.

Chief Diversity Officer Whitney Harris commented Trustee Anaya's concerns will be discussed with General Counsel.

3. Proposed Work Plan for Diversity and Equity Committee 2012-2013

Committee Chair Dickson reviewed the Proposed Work. Trustee Anaya commented that she felt the goals were lofty and broad. She suggested that the committee should concentrate on the retention of current staff and students and the recruitment of students and staff of color.

Chancellor Steven Rosenstone said that he felt that the study sessions could be framed in such a way that responded to Trustee Anaya's request. Committee Chair Dickson said that it was important to look at access and affordability, and to explore what strategies might be effective in reducing barriers, recruitment, access and success for underrepresented students. Committee Chair Dickson commented that affordability is a big piece, but so is the under-preparedness of students and the cost associated with remediation.

Trustee Sundin said that Dr. Larry Litecky previously provided the board with a list of recognized strategies for retention. She suggested the committee revisit those strategies.

Trustee Benson agreed on the need to identify barriers. He gave an example that Post-Secondary Education Opportunity (PSEO) programs seem to attract many upper-middle-class students and not the underserved/underrepresented populations.

Committee Chair Dickson passed out the definitions of underserved and underrepresented students. Trustee Sundin inquired as to whether the definitions could be changed and gave some recommendations. Chief Diversity Officer Harris suggested taking a systematic approach in looking at the definitions by doing research and making recommendations.

Committee Chair Dickson and Trustee Sundin commented on the under-preparedness of students and the lack of alignment between K-12 curriculum and incoming expectations for students at our colleges.

Chancellor Rosenstone assured the board that a group has been meeting with Commissioner Brenda Cassellius and that work is underway on strategies to better align the standards.

Legislation will be introduced in the upcoming session to improve secondary and post-secondary alignment.

Committee Chair Dickson commented that there are five things to consider (when looking at students): preparation, admission, retention, graduation and placement. It is important that an attempt be made to track placement for the underserved and underrepresented. She added that we need serious outcomes measured with a clear, firm critical eye.

Trustee Benson agreed that outcomes and measurements are needed, and he asked for suggestions on measurement strategies that support access.

Chair Hightower stated he was not convinced the board knew how to frame the question about whether the Diversity and Equity committee should be sunsetted at the end of this year. He suggested the committee frame the question so that an answer could be discerned.

The meeting adjourned at 9:43 a.m.
Respectfully submitted by Christine McGing

**MINNESOTA STATE COLLEGES AND UNIVERSITIES
BOARD OF TRUSTEES**

Agenda Item Summary Sheet

Committee: Diversity and Equity

Date of Meeting: November 14, 2012

Agenda Item: Proposed Amendments to Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity (Second Reading) [Proposed rename: Equal Opportunity and Nondiscrimination in Employment and Education]

- Proposed Policy Change Approvals Required by Policy Other Approvals Monitoring
- Information

Cite policy requirement, or explain why item is on the Board agenda:

Amendment to Board policy requires approval of the Board.

Scheduled Presenter(s):

Renée Hogoboom, Associate Director for Diversity Equity

Outline of Key Points/Policy Issues:

The proposed amendments to Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity renames the policy to include equal opportunity, and adds an equal opportunity statement to the beginning of the policy. In addition, the proposed policy has been amended to specifically include gender identity and gender expression in the nondiscrimination statement and the definition of student has also been amended to concur with the definition of student in the student conduct code.

Background Information:

This is a second reading to amend Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity [Proposed rename: Equal Opportunity and Nondiscrimination in Employment and Education].

**BOARD OF TRUSTEES
MINNESOTA STATE COLLEGES AND UNIVERSITIES**

BOARD ACTION

Proposed Amendments to Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity (Second Reading) [Proposed rename: Equal Opportunity and Nondiscrimination in Employment and Education]

BACKGROUND: The Board of Trustees approved this policy initially in 1994 and amended the policy in 2006. Now as part of the cyclical review of policy, it is proposed the language be amended to include gender identity and gender expression in the nondiscrimination statement and to reflect the definition of student that is in the student conduct policy.

CONSULTATION

Consultation has occurred as follows:

The policy has been broadly distributed to allow for review and comment by as many stakeholders as possible. A draft of the proposed policy was electronically distributed to the following group listservs on August 29, 2012:

- Presidents
- Cabinet
- Chief Academic Officers
- Chief Diversity Officers
- Chief Human Resources Officers
- Affirmative Action Officers
- Chief Student Affairs Officers
- Academic Deans
- Inter Faculty Organization State Leadership
- Minnesota State College Faculty State Leadership
- Minnesota State University Association of Administrative and Service Faculty State Leadership
- Minnesota State College Student Association State Leadership
- Minnesota State University Student Association State Leadership
- Minnesota Association of Professional Employees State Leadership
- Middle Management Association State Leadership
- American Federation of State, County and Municipal Employees State Leadership

RECOMMENDED COMMITTEE ACTION

The Diversity and Equity Committee recommends that the Board of Trustees adopt the following motion:

RECOMMENDED MOTION

The Board of Trustees approves the proposed amendments to Board Policy 1B.1 Nondiscrimination in Employment and Education Opportunity.

BOARD OF TRUSTEES
MINNESOTA STATE COLLEGES & UNIVERSITIES

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BOARD POLICY		1B.1
Chapter	1B.	SYSTEM ORGANIZATION AND ADMINISTRATION EQUAL EDUCATION AND EMPLOYMENT OPPORTUNITY
Section	1.	<u>Equal Opportunity and Nondiscrimination in Employment and Education Opportunity</u>

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1B.1 EQUAL OPPORTUNITY AND NONDISCRIMINATION IN EMPLOYMENT AND EDUCATION OPPORTUNITY.

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Part 1. Policy Statement

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Subpart A. Equal opportunity for students and employees. Minnesota State Colleges and Universities 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, Minnesota State Colleges and Universities is committed to a policy of equal opportunity and nondiscrimination in employment and education opportunity.

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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, ~~or~~ sexual orientation, gender identity, or gender expression. In addition, discrimination in employment based on membership or activity in a local commission as defined by law is prohibited.

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Harassment on the basis of race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, ~~or~~ sexual orientation, gender identity, or gender expression 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.

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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, Minnesota State Colleges and Universities will give due consideration to an individual’s constitutionally protected right to free speech and academic freedom. However, discrimination and harassment are not within the protections of academic freedom or free speech. The system office, colleges, and universities 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

39 education community benefit from it without intimidation, exploitation or coercion.

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

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48 This policy supersedes all existing system, college, and university equal opportunity and
49 nondiscrimination policies.

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51 **Part 2. Definitions.**

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

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

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

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70 As required by law, Minnesota State Colleges and Universities ~~has further defined~~ ~~d~~ sexual
71 harassment as a form of sexual discrimination which is prohibited by state and federal law.

72 Sexual harassment includes ~~is defined as~~ unwelcome sexual advances, requests for sexual
73 favors, sexually motivated physical conduct, and other verbal or physical conduct of a sexual
74 nature when:

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

85 **Subpart D. Employee.** Employee means any individual employed by Minnesota State
86 Colleges and Universities, ~~personnel~~ including all faculty, staff, administrators, teaching
87 assistants, graduate assistants, residence directors and student employees.
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89 **Subpart E. Protected Class.** For purposes of this policy:

- 90 1. Protected class includes for the purpose of this policy means that discrimination and
91 harassment in employment and education are prohibited on the basis of: race, sex,
92 color, creed, religion, age, national origin, disability, marital status, status with regard
93 to public assistance, ~~or~~ sexual orientation, gender identity, or gender expression. In
94 addition, membership or activity in a local human rights commission is a protected
95 class in employment.
- 96 2. This policy prohibits use of protected class status as a factor in decisions affecting
97 education and employment where prohibited by federal or state law.
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99 **Subpart F. Retaliation.** Retaliation includes, but is not limited to, intentionally engaging in
100 any form of intimidation, reprisal or harassment against an individual because he or she:

- 101 a) made a complaint under this policy;
- 102 b) ~~or~~ assisted or participated in any manner in an investigation, or process under this
103 policy, regardless of whether a claim of discrimination or harassment is substantiated;
- 104 c) ~~or~~ associated with a person or group of persons who are disabled or are of a different
105 race, color, creed, religion, sexual orientation, gender identity, gender expression, or
106 national origin; or-
- 107 d) Made a complaint or assisted or participated in any manner in an investigation or
108 process with the Equal Employment Opportunity Commission, the U.S. Department
109 of Education Office for Civil Rights, the Minnesota Department of Human Rights or
110 other enforcement agencies, under any federal or stated nondiscrimination law,
111 including the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973;
112 the Minnesota Human Rights Act, Minn. Stat. Ch. 363A, and their amendments.
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114 ~~Retaliation may occur whether or not there is a power or authority differential between the~~
115 ~~individuals involved.~~
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117 **Subpart G. Sexual harassment and violence as sexual abuse.** Under certain
118 circumstances, sexual harassment or violence may constitute sexual abuse according to
119 Minnesota law. In such situations, the system office and colleges and universities shall
120 comply with the reporting requirements in Minnesota Statutes Section 626.556 (reporting of
121 maltreatment of minors) and Minnesota Statutes Section 626.557 (Vulnerable Adult
122 Protection Act). Nothing in this policy will prohibit any college or university or the system
123 office ~~or any college or university~~ from taking immediate action to protect victims of alleged
124 sexual abuse. Minnesota State Colleges and Universities Board Policy 1B.3 Sexual Violence
125 Policy addresses sexual violence.
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127 **Subpart H. Student.** For purposes of this policy, tThe term “student” includes all persons who:

- 128 1. Are enrolled in one or more courses, either credit or non-credit, through a college or
129 university-;
- 130 2. Withdraw, transfer or graduate, after an alleged violation of the student conduct code-;

