

# Nondiscrimination and Anti-Harassment Policy

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Policy owner: Title IX Coordinator and Associate Vice President for Inclusive Excellence

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## SECTION I. PURPOSE

The University of St. Thomas is dedicated to creating and maintaining an inclusive community whose members uphold the highest standards of respect, civility and care for each other. These standards are embodied in the university's mission, convictions and identity as a Catholic university. Consistent with these standards, St. Thomas is committed to the principles of equal educational opportunity and equal employment opportunity.

This policy is intended to clarify the university's prohibition on harassment. It also sets forth expectations regarding the reporting, investigation and resolution of bias incidents, including but not limited to harassment and hate crimes.

## SECTION II. SCOPE AND APPLICABILITY

This policy applies to all St. Thomas students, employees (faculty, staff and student workers), applicants for admission and employment, and contractors, volunteers, visitors and licensees. These individuals are referred to as ***covered persons***.

This policy governs all conduct by covered persons. This policy applies regardless of whether the conduct is conducted on-campus, off-campus, or during employment or educational activities.

## SECTION III. DEFINITIONS

When used in this policy, the following terms have the following meanings:

- a. ***AAUP Principles and Comments*** means the "1940 Statement of Principles and Interpretive Comments" and the "1970 Interpretive Comments" on academic freedom by the American Association of University Professors.
- b. ***Bias incident*** means unwelcome conduct that has a negative impact on an individual or group and that one could reasonably conclude is based on an actual or perceived protected characteristic, regardless of whether the conduct is unlawful or violates policy. This definition is used for reporting purposes only.
- c. ***Discrimination*** means unfavorable or unfair treatment of an individual or group based on or because of a protected characteristic by a St. Thomas employee, student, program or club,

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<sup>1</sup> Replaced Hate Crimes and Bias Motivated Incidents Policy and the Statement on Offensive Behavior

involving any term or condition of employment or any term or condition of an educational program or activity.

d. **Harassment** means conduct that has all of the following elements:

- The conduct is unwelcome;
- The conduct is based on a protected characteristic; and
- The conduct unreasonably interferes with someone's ability to participate in or benefit from St. Thomas employment, educational programs or activities, or the conduct creates an intimidating, hostile or offensive work or educational environment.

Further information about harassment is detailed below.

e. **Hate crime** means conduct that meets all of the elements of a criminal offense set forth in applicable law and that is motivated in whole or in part by bias based on the protected characteristic of an individual or group.

f. **Protected characteristic** means race, color, creed, religion, national origin, sex, sexual orientation, gender identity or expression, familial status, disability, age, marital status, status with regard to public assistance, veteran status, membership or activity in a local commission, genetic information, or any other characteristic protected by applicable law.

g. **Supervisor** means a St. Thomas faculty or staff member who directly supervises other employees or whose job responsibilities include supervision of student activities.

## **SECTION IV. RESPONSIBILITY TO SUPPORT AN INCLUSIVE, NONDISCRIMINATORY ENVIRONMENT**

All members of the St. Thomas community are expected to respect and uphold the university's mission, convictions and identity as a Catholic university and to comply with applicable federal and state nondiscrimination laws. Unlawful discrimination is prohibited.

St. Thomas encourages and may require members of the St. Thomas community to participate in training and development opportunities that support an inclusive, nondiscriminatory environment.

## **SECTION V. HARASSMENT PROHIBITED**

St. Thomas prohibits harassment based on an individual's protected characteristic. The determination of whether conduct violates this policy will be based on the totality of the circumstances, as further detailed below.

### **A. Harassment**

#### **1. General Considerations**

Harassment is a specific form of discrimination. In order for conduct to be considered harassment by St. Thomas, it must be sufficiently serious that it unreasonably interferes with an employee's ability to perform their job or unreasonably limits or interferes with a student's ability to participate in or benefit from the University's programs and thus creates a hostile work or learning environment. Conduct may be harassment regardless of whether it is verbal, physical or conducted using technology. Examples of conduct that may be considered harassment under this policy include, but are not limited to:

- Using epithets, slurs or offensive jokes based on a protected characteristic.

- Displaying or circulating written materials, objects, videos, audio or pictures that degrade an individual or group based on a protected characteristic.
- Verbal abuse or insults about people in a protected group or directed at an individual because of a protected characteristic.
- Imitating the speech, walk or movement of a person with a disability with the intent to mock or embarrass them.
- Damaging property or engaging in physical violence motivated in any way by a protected characteristic.

In some situations, a single incident of severe conduct may constitute harassment. In other situations, a finding of harassment may require a pattern of conduct. A person's subjective belief that behavior is intimidating, hostile or offensive does not make that behavior harassment. The behavior must be objectively unreasonable, applying St. Thomas' generally applicable behavioral expectations.

Harassment is distinguished from petty slights, annoyances and personal disagreements. Conduct that does not rise to the level of harassment under this policy may nonetheless be inconsistent with the university's convictions and, if continued, may later rise to the level of harassment. Such conduct may be addressed through conversation, education or under other applicable policies.

## **2. Sexual Harassment**

One form of harassment is sexual harassment, which may include sexual assault. The Sexual Misconduct Policy prohibits all forms of sexual harassment and sexual misconduct and governs the process for reporting and responding to reports of sexual harassment. If a covered person has experienced or becomes aware of known or suspected sexual harassment, they should consult the Sexual Misconduct Policy.

## **3. Hate Crimes**

Some conduct that constitutes harassment may also be considered a hate crime under applicable law. It is not the role of St. Thomas to determine whether someone has violated criminal law. However, St. Thomas may address alleged criminal conduct, including hate crimes, under this and other applicable policies and may report such conduct to law enforcement.

## **B. Academic Environment**

The St. Thomas mission and convictions embody the university's strong commitment to the free and full pursuit of truth and knowledge by every member of the St. Thomas community. As an academic institution, St. Thomas actively seeks to foster and facilitate open inquiry and discussion in a manner that is consistent with the university's mission, convictions and the principles of academic freedom. The university's prohibition of harassment is critical to and consistent with this objective. St. Thomas cannot foster open inquiry and discussion in an environment in which harassment and discrimination are tolerated.

It is important to distinguish harassment from discomforts experienced in an arena of free intellectual exchange and disagreement. This is particularly the case in the classroom and other academic settings, where in the course of legitimate intellectual inquiry and debate a student might encounter (or introduce) course materials or comments that are disturbing, challenging or perhaps even offensive to the student's or others' beliefs. Such discomfort does not in and of itself constitute harassment. It is the responsibility of faculty to maintain an atmosphere of open inquiry in the classroom, where differing points of view can be discussed and debated in an atmosphere of mutual

respect and civility. It is the responsibility of students to participate in their own learning process with open-mindedness, receptivity to new ideas and perspectives, and respect and civility towards others. Students who have concerns regarding a comment or discussion in class are encouraged to speak directly to the faculty member. If the student is uncomfortable with the outcome of that discussion, the student may raise the concern with the department chair, program director, dean of the school or college, or the dean of students.

This policy does not circumscribe a faculty member's freedom as part of the faculty member's teaching to select, assign or discuss materials or topics that are legitimately related to the subject being taught. In situations where there are perceived or potential conflicts between (a) the limitations on conduct and communications implied by the definition of discrimination or harassment contained in this policy and (b) the principles of academic freedom, St. Thomas will use as a working definition of academic freedom the AAUP Principles and Comments. When addressing concerns of bias by faculty members, the existence of such a perceived or potential conflict and the appropriate application of the AAUP Principles and Comments will be considered in consultation with the dean of the respective school or college (or, if the dean has a conflict of interest, the provost or vice provost for academic affairs).

## **SECTION VI. REPORTING BIAS INCIDENTS**

St. Thomas is committed to addressing all bias incidents that negatively impact the St. Thomas community, even if the conduct does not rise to the level of a policy violation. Bias incidents vary in degree. Some bias incidents rise to the level of a hate crime or other harassment and violate this policy. Other reported bias incidents do not rise to the level of a policy violation but may still have adverse effects on the St. Thomas community. Conduct that does not rise to the level of a policy violation may be addressed through educational or restorative means.

As further detailed below, St. Thomas requires supervisors to report known and suspected hate crimes, harassment and or unlawful discrimination. St. Thomas strongly encourages reporting of all other suspected bias incidents by or affecting a covered person. **Appendix A** to this policy contains more detailed contact information for making reports.

### **A. Required Reporting by Supervisors**

All St. Thomas supervisors and all members of the St. Thomas Board of Trustees are required to promptly report incidents or allegations of unlawful discrimination, hate crimes or harassment by or against a covered person. Required reports of known or suspected hate crimes should be made directly to Public Safety. Required reports of known or suspected discrimination or harassment by a faculty or staff member should be made directly to Human Resources, the Title IX, ADA and EO Compliance Coordinator, or using the EthicsPoint Hotline. Required reports of known or suspected harassment by a student should be made directly to the Dean of Students Office, the Title IX, ADA and EO Compliance Coordinator, or using the Tell Someone report system. Additional reporting information and contact information is in **Appendix A**.

Required reports must not be made anonymously. This helps assure that St. Thomas has sufficient information to respond appropriately and fulfill its obligations relating to any incident.

St. Thomas faculty, staff and volunteers who have a professional licenses requiring confidentiality of communications with a patient or client (e.g., a law license, psychology license or social work license) are not required to report client or patient information that their professional license requires them to keep confidential.

## **B. Encouraged Reporting by Other Covered Persons**

St. Thomas strongly encourages any person who believes they have experienced or witnessed unlawful discrimination, a hate crime or harassment to make a report. In addition, if a community member or someone they know has been adversely affected by a suspected bias incident, they are encouraged to make a bias incident report, even if they are unsure whether the incident rises to the level of a policy violation.

Suspected hate crimes should be reported to Public Safety and law enforcement. For other bias incidents, there are multiple ways to report. Please see **Appendix A**.

## **SECTION VII. RESPONSE TO BIAS INCIDENTS**

### **A. Voluntary, Personal Response**

An individual who believes they have been or are being subjected to a bias incident, including harassment or other unlawful discrimination, may voluntarily choose to directly address the behavior. In such a situation, the individual is encouraged to clearly explain to the alleged offender as soon as possible after the incident that the behavior is objectionable.

If the behavior does not stop, or if the individual does not want to directly address the offender, the individual is strongly encouraged to report directly to St. Thomas through one of the methods described in this policy.

While direct communication is encouraged when it may effectively resolve an issue, under no circumstances will an individual be required to use personal resolution to address prohibited behaviors, rather than reporting the conduct to St. Thomas for investigation and responsive action.

### **B. St. Thomas Response**

St. Thomas will review all bias incident reports it receives, investigate the reports if needed to gather the relevant facts, and take whatever responsive action it determines appropriate. Details of bias incident reports, investigations and resolutions will be kept confidential to the extent practicable, consistent with the need to investigate and address any adverse impact on the affected individual and broader community. Appropriate administrators may be notified of reports that are likely to have a broader impact on the campus community, including but not limited to the Office for Diversity, Equity and Inclusion.

Due to privacy laws and concerns, St. Thomas may be limited in the information it can share with community members about the details and resolution of a particular bias incident, including reports of harassment and hate crimes. However, the office investigating the matter will strive to provide to the reporting party periodic status updates as appropriate and communication regarding the conclusion of the process. In addition, when other community members are aware of an incident or issue, St. Thomas may respond to community concerns or communicate with the broader community.

## **SECTION VIII. DETERMINATIONS OF POLICY VIOLATIONS AND SANCTIONS**

Violations of this policy may result in disciplinary action up to and including termination of employment or contract, expulsion, withdrawal of an offer of admission or employment, and exclusion from campus. Because conduct that violates this policy may vary in degree, different conduct may result in different kinds of sanctions.

Reported conduct that does not rise to the level of a hate crime or harassment may be addressed through appropriate measures, including but not limited to educational measures, restorative measures, and discipline under other applicable university policies.

## **SECTION IX. NO RETALIATION**

St. Thomas prohibits retaliation against any individual for making a good faith report under this policy, participating as a witness in an investigation of a report, being a party or witness in a legal proceeding resulting from a report, refusing to engage in conduct the individual believes in good faith to be unlawful or a violation of this policy or engaging in other legally protected conduct. Any person who retaliates in violation of this policy will be subject to discipline or sanctions, up to and including termination of employment, expulsion or otherwise ending the individual's relationship with St. Thomas.

# **Appendix A to Nondiscrimination and Anti-Harassment Policy**

## **Bias Incident Reporting and Response Procedures**

Date of initial publication: October 31, 2022

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St. Thomas is committed to the prompt and equitable resolution of reports of conduct that may violate its Nondiscrimination and Anti-Harassment Policy. This document provides additional detail regarding reporting bias incidents, including but not limited to harassment and hate crimes, and the university's response procedures.

### **SECTION I. CONTACTS FOR MAKING BIAS INCIDENT REPORTS**

#### **A. Reporting Hate Crimes to Law Enforcement**

St. Thomas strongly encourages individuals who have experienced or witnessed conduct they believe to be a hate crime or other criminal conduct to report the conduct to law enforcement. St. Thomas will assist community members who wish to make a report to law enforcement. Links to reporting information for the City of Minneapolis and the City of St. Paul are below:

- [City of Minneapolis Crime Reporting Information](#)
- [City of St. Paul Hate Crime Reporting Information](#)

For suspected hate crimes that occur on or near campus, contact Public Safety, which will assist with law enforcement reporting.

#### **B. Reporting Bias Incidents, Including Harassment and Hate Crimes, to St. Thomas**

Below are links and contact information for making reports of bias incidents, including harassment and hate crimes, to St. Thomas. In addition to the contacts below, if the incident took place in the classroom, it may also be reported to the department chair or dean of the school or college.

Online Tell Someone reports, EthicsPoint reports, and reports to the Public Safety PSTIPS hotline can be made anonymously. Please keep in mind, however, that anonymous reports often contain insufficient information to follow up with the parties involved, resulting in insufficient evidence to complete a thorough investigation. Accordingly, St. Thomas may not be able to fully investigate an anonymous report.

If the reported conduct involves a potential hate crime and is not made directly to Public Safety, Public Safety will be notified promptly.

- **St. Thomas Tell Someone Reporting System**  
Online at [Tell Someone reporting form](#)  
(*Any reports*)

- **EthicsPoint System**  
Telephone: 1-800-ETHICAL (1-800-384-4225) or online at [www.ethicspoint.com](http://www.ethicspoint.com)  
More information on EthicsPoint is available [here](#).  
(*Best for reports by or about faculty and staff*)
- **Dean of Students**  
Room 241, Anderson Student Center  
[www.stthomas.edu/deanofstudents](http://www.stthomas.edu/deanofstudents)  
(651) 962-6050  
(*For reports by or about students*)
- **Human Resources**  
Room 217, Aquinas Hall  
[www.stthomas.edu/hr](http://www.stthomas.edu/hr)  
(651) 962-6510  
(*For reports by or about faculty or staff*)
- **Title IX, ADA and EO Compliance Coordinator**  
Room 241, Anderson Student Center  
[title-ix@stthomas.edu](mailto:title-ix@stthomas.edu)  
(651) 962-6882  
(*Any reports*)
- **Department of Public Safety**  
St. Paul: Morrison Hall, 1<sup>st</sup> Floor  
Minneapolis: School of Law, 1<sup>st</sup> Floor  
<https://www.stthomas.edu/public-safety/department-public-safety/index.html>  
(651) 962-5100  
(*Best for reports involving safety or security concerns or potentially criminal conduct*)
- **Anonymous Public Safety reports:** [PSTIPS@stthomas.edu](mailto:PSTIPS@stthomas.edu) or 96(2-TIPS)

## **SECTION II. INVESTIGATION AND RESPONSE PROCEDURES**

The scope of the university's investigation and response will vary based on the nature of the complaint and other relevant factors. The investigation and response procedures are intended to be flexible to allow St. Thomas to determine how it can best address reports of bias incidents while continuing to advance its educational mission and maintain a nondiscriminatory learning and working environment.

Bias incident reports that relate to the conduct of faculty, staff or student employees generally will be reviewed by the Title IX, ADA and EO Compliance Coordinator, who will consult or collaborate with Human Resources and other administrators, as the Coordinator determines appropriate. Reports that relate to the conduct of students generally will be addressed by the Dean of Students Office following the Student Conduct Code. Public Safety will consult and assist on an as-needed basis and will be involved in all reports that involve a potential hate crime.