



Board Policy 1B.3 Sexual Misconduct Policy

Part 1. Policy Statement

Sexual misconduct is an intolerable intrusion into the most personal and private rights of an individual, and is prohibited by Minnesota State Colleges and Universities. Minnesota State is committed to eliminating sexual misconduct in all forms and will take appropriate remedial action against any individual found responsible for acts in violation of this policy. Sexual misconduct is a continuum of conduct that includes sexual assault; non-forcible sex acts; dating, intimate partner, and relationship violence; stalking; Title IX sexual harassment; as well as aiding acts of sexual misconduct.

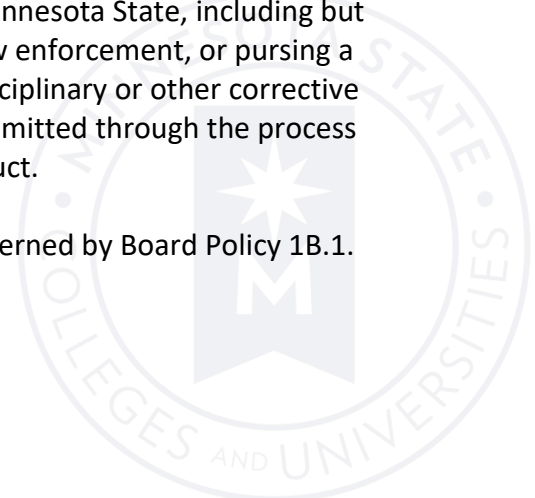
Acts of sexual misconduct may also constitute violations of criminal or civil law or of other board policies that may require separate proceedings. To further its commitment against sexual misconduct, Minnesota State provides reporting options, an investigative and disciplinary process, prevention training, and other related services as appropriate.

Part 2. Application of policy to students, employees, Board of Trustees and others

This policy applies to all individuals affiliated with Minnesota State, including but not limited to, its students, employees, applicants, volunteers, agents, the Board of Trustees, and others as appropriate and protects the rights and privacy of all involved individuals, as well as prevents retaliation. Complaints of conduct by a student occurring at a location other than on Minnesota State property, including online, are covered by this policy pursuant to the factors listed in Board Policy 3.6 Student Conduct, Part 2. Off-Campus Conduct. Complaints of conduct by a Minnesota State employee at locations other than Minnesota State property, including online, are covered by this policy.

Complaints of conduct on Minnesota State property, including online, by individuals who are not students or employees are subject to appropriate actions by Minnesota State, including but not limited to, pursuing criminal action against them, referral to law enforcement, or pursuing a no trespass. Individuals who violate this policy will be subject to disciplinary or other corrective action. Allegations of conduct in violation of Policy 1B.3 may be submitted through the process identified in System Procedure 1B.3.1 Response to Sexual Misconduct.

Allegations of protected class discrimination or harassment are governed by Board Policy 1B.1. For the purpose of this policy, the following definitions apply:



Employee

Any individual employed by Minnesota State, its colleges and universities and system office, including student workers.

Student

All persons who:

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

Minnesota State property

The facilities and land owned, leased, or under the primary control of Minnesota State Board of Trustees, colleges, universities, and system office.

Part 3. Definitions of Prohibited Conduct

The following definitions of prohibited sexual misconduct and retaliation apply to this policy.

Dating, intimate partner, and relationship violence

Any physical or sexual harm or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a person, including verbal, psychological, economic, or technological abuse that may be classified as a sexual assault, dating violence, or domestic violence caused by:

1. a current or former spouse of the individual; or
2. a person in a sexual, romantic, or intimate relationship with the individual.

Non-forcible sex acts

Non-forcible acts as defined by Minnesota law, including unlawful sexual acts where consent is not relevant, such as sexual contact with an individual under the statutory age of consent, or between persons who are related to each other within degrees wherein marriage is prohibited by law.

Sexual assault

An actual, attempted, or threatened sexual act with another person without that person's affirmative consent.

1. *Sexual act* includes but is not limited to the following:
 - a. Intentional and unwelcome touching of a person's intimate parts (defined as primary genital area, groin, inner thigh, buttocks, or breast) both over and under

- clothing; or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts.
- b. Sexual intercourse or penetration, no matter how slight, of the vagina or anus of a person, with any body part or object, or oral penetration of a sex organ of another person.
2. Affirmative consent is informed, freely given, and mutually understood willingness to participate in sexual activity that is expressed by clear, unambiguous, and affirmative words or actions. Affirmative consent is subject to the following:
- The person who wants to engage in sexual activity is responsible for ensuring that the other person has consented to the sexual activity.
 - Consent must be present throughout the entire sexual activity and can be revoked at any time.
 - If coercion, intimidation, threats, and/or physical force are used, there is no consent.
 - If the person is mentally or physically incapacitated or impaired so that the complainant cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious.
 - A lack of protest, absence of resistance, or silence alone does not constitute consent, and past consent to sexual activities does not imply ongoing future consent.
 - The existence of a dating relationship between the people involved or the existence of a past sexual relationship does not prove the presence of, or otherwise provide the basis for, an assumption of consent.
 - Whether an individual has taken advantage of a position of influence over another person may be a factor in determining consent.

Sexual exploitation

Abuse or attempting to abuse another person's vulnerability, power, or trust and that is for another person's benefit or the benefit of anyone other than the person being exploited. This includes, but is not limited to, sexual voyeurism, sexual extortion, nonconsensual distribution of sexual images, creating or disseminating deepfake or synthetic media depicting intimate parts or sexual acts, prostituting another person, and sex trafficking.

Stalking

A course of conduct (or two or more acts) based on sex directed at a specific person that is unwanted, unwelcome, or unreciprocated and that would cause reasonable people to fear for their safety or the safety of others or to suffer substantial emotional distress.

Title IX Sexual Harassment

For the purpose of Title IX, sexual harassment is conduct on the basis of sex that occurs in the United States and: (1) on Minnesota State property; (2) as part of the college's or university's programs or activities; (3) in locations, at events, or in circumstances over which the college or university has exercised substantial control over both the individual who

engaged in the prohibited conduct and the context in which the prohibited conduct occurred; and/or (4) in buildings owned or controlled by a student organization that is officially recognized by a college or university. Title IX sexual harassment includes conduct that satisfies at least one of the following:

1. An employee of the college or university conditioning the provision of an aid, benefit, or service of Minnesota State on an individual's participation in unwelcome sexual conduct; or
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's or university's education program or activity.

Retaliation

Taking an adverse action against a person, which includes, but is not limited to, engaging in any form of intimidation, reprisal, or harassment because the person:

1. reported or made a complaint under this policy;
2. expressed opposition to suspected or alleged conduct prohibited by this policy;
3. assisted or participated in any manner in an investigation or process under this policy;
4. opposed or refused to participate in an informal resolution or investigation under this policy; or
5. accessed the college or university investigation or informal resolution process to address a conflict related to this policy; or
6. made a complaint or assisted or participated in any manner in an investigation or process with the Equal Employment Opportunity Commission, the U.S. Department of Education Office for Civil Rights, the Minnesota Department of Human Rights or other enforcement agencies, under any federal or state nondiscrimination law, including the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Minnesota Human Rights Act, Minn. Stat. Ch. 363A, and their amendments.

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

Date of Adoption: 4/21/04
Date of Implementation: 4/21/04
Date of Last Review: 6/18/25

Date and Subject of Amendments:

6/18/25 – Amended Part 1 to clarify sexual misconduct as broader than violence. Amended Part 2 to clarify the application of policy, including relocating definitions from the following Part. Amended Part 3 to enhance definitions of sexual misconduct acts, including the addition of sexual exploitation, Title IX sexual harassment, and retaliation. Applied additional formatting changes to enhance readability.

2/21/18 – Amended Part 1, Subp. A to apply to the Board of Trustees as well. Amended Part 2, changed the word and definition of consent to affirmative consent. Applied the new formatting and writing styles to the entire policy.

Additional HISTORY.