

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

BOARD POLICY-FIRST READING		
Chapter	1B	System Organization and Administration Equal Education and Employment Opportunity
Section	3	Sexual Violence Policy

1B.3 Sexual Violence Policy

Part 1. Policy Statement.

Sexual violence is an intolerable intrusion into the most personal and private rights of an individual, and is prohibited at Minnesota State Colleges and Universities. Minnesota State Colleges and Universities is committed to eliminating sexual violence in all forms and will take appropriate remedial action against any individual found responsible for acts in violation of this policy. Acts of sexual violence 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 violence, Minnesota State Colleges and Universities provides reporting options, an investigative and disciplinary process, and prevention training, and other related services as appropriate.

Subpart A. Application of policy to students, employees, Board of Trustees and others.

This policy applies to all Minnesota State Colleges and Universities students and employees, Board of Trustees and to others, as appropriate, where incidents of sexual violence on system property have been reported. Reports of sexual violence committed by a student at a location other than on system property are covered by this policy pursuant to the factors listed in Board Policy 3.6, Part 2. Reports of sexual violence committed by a system employee at a location other than system property are covered by this policy.

Reports of sexual violence committed on system property by individuals who are not students or employees are subject to appropriate actions by Minnesota State, including, but not limited to, pursuing criminal or civil action against them.

Allegations of discrimination or harassment are governed by Board Policy 1B.1.

Subpart B. College and university policies.

Each Minnesota State Colleges and Universities college and university shall adopt a clear, understandable written policy on sexual violence that applies to its campus community, including, but not limited to, its students and employees. The policy content and implementation shall must be consistent with the standards in this Policy and System Procedure 1B.3.1.

Part 2. Definitions.

The following definitions apply to this Policy policy and System Procedure 1B.3.1.

36 **Subpart E. Affirmative Consent**

37 Consent is informed, freely given, and mutually understood willingness to participate in
38 sexual activity that is expressed by clear, unambiguous, and affirmative words or actions. It
39 is the responsibility of the person who wants to engage in sexual activity to ensure that the
40 other person has consented to engage in the sexual activity.- Consent must be present
41 throughout the entire sexual activity and can be revoked at any time.- If coercion,
42 intimidation, threats, and/or physical force are used, there is no consent. If the complainant is
43 mentally or physically incapacitated or impaired so that the complainant cannot understand
44 the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions
45 due to alcohol or drug consumption, or being asleep or unconscious. A lack of protest,
46 absence of resistance, or ~~S~~silence alone does not necessarily constitute consent, and past
47 consent of sexual activities does not imply ongoing future consent. The existence of a dating
48 relationship between the people involved or the existence of a past sexual relationship does
49 not prove the presence of, or otherwise provide the basis for, an assumption of consent.
50 Whether the respondent has taken advantage of a position of influence over the complainant
51 may be a factor in determining consent.
52

53 **Subpart C. Dating, Intimate Partner, and relationship violence.**

54 Dating and relationship vViolence includes physical harm or abuse, and threats of
55 physical harm or abuse, arising out of a personal intimate relationship. This violence also
56 may be called domestic abuse or spousal/partner abuse and may be subject to criminal
57 prosecution under Minnesota state law.
58

59 **Subpart H. Employee.**

60 "Employee" means a Any individual employed by Minnesota State ~~Colleges and Universities,~~
61 its colleges and universities and system office, including student workers.
62

63 **Subpart F. Non-forcible sex acts.**

64 Non-forcible acts include unlawful sexual acts where consent is not relevant, such as sexual
65 contact with an individual under the statutory age of consent, as defined by Minnesota law,
66 or between persons who are related to each other within degrees wherein marriage is
67 prohibited by law.
68

69 **Subpart B. Sexual assault.**

70 "Sexual assault" means an An actual, attempted, or threatened sexual act with another person
71 without that a person's affirmative consent. Sexual assault is often a criminal act that can be
72 prosecuted under Minnesota law, as well as form the basis for discipline under Minnesota
73 State ~~Colleges and Universities~~ student codes of conduct codes and employee disciplinary
74 standards. Sexual assault includes but is not limited to:
75

- 76 1. Involvement without consent in any sexual act in which there is force, expressed or
77 implied, or use of duress or deception upon the victim. Forced sexual intercourse is
78 included in this definition, as are the acts commonly referred to as "*date rape*" or
79 "*acquaintance rape*." This definition also includes the coercing, forcing, or
80 attempting to coerce or force sexual intercourse or a sexual act on another.
- 81 2. Involvement in any sexual act when the victim is unable to give consent.

- 82 3. ~~Intentional and unwelcome touching, or coercing, forcing, or attempting to coerce or~~
83 ~~force another to touch a person's intimate parts (defined as primary genital area,~~
84 ~~groin, inner thigh, buttocks, or breast). Intentional and unwelcome touching of a~~
85 ~~person's intimate parts (defined as primary genital area, groin, inner thigh, buttocks,~~
86 ~~or breast); or coercing, forcing, or attempting to coerce or force another to touch a~~
87 ~~person's intimate parts.~~
88 4. Offensive sexual behavior ~~that is~~ directed at another, such as indecent exposure or
89 voyeurism.
90

91 **Subpart A. Sexual violence.**

92 ~~Sexual violence includes a~~ A continuum of conduct that includes sexual assault, non-forcible
93 sex acts, dating and relationship violence, stalking, as well as aiding acts of sexual violence.
94

95 **Subpart D. Stalking.**

96 ~~Stalking is e~~ Conduct directed at a specific person that is unwanted, unwelcome, or
97 unreciprocated and that would cause a reasonable ~~person~~ people to fear for ~~her or his~~ their
98 [JK1] safety or the safety of others or to suffer substantial emotional distress.
99

100 **Subpart I. Student.**

101 ~~The term "student" includes a~~ All persons who:
102

- 103 1. Are enrolled in one or more courses, either credit or non-credit, through a college or
104 university; or
105 2. Withdraw, transfer, or graduate, after an alleged violation of the code of student
106 conduct code; or
107 3. Are not officially enrolled for a particular term but who have a continuing
108 relationship with the college or university; or
109 4. Have been notified of their acceptance for admission or have initiated the process of
110 application for admission or financial aid; or
111 5. Are not college or university employees and are not enrolled in the institution but live
112 in a college or university residence hall.
113 5.

114 **Subpart G. System property.**

115 ~~"System property" means t~~ The facilities and land owned, leased, or under the primary control
116 of Minnesota State ~~Colleges and Universities~~, its Board of Trustees, system office, colleges,
117 and universities.

Related Documents

- [System Procedure 1B.3.1](#) Sexual Violence Procedure
- [Board Policy 1B.1](#) Nondiscrimination in Employment and Education Opportunity
- [Board Policy 3.6](#) Student Conduct (*see Part 2 for Off campus Conduct)

Policy History

Date of Adoption: 4/21/04,
Date of Implementation: 4/21/04,
Date of Last review: x/xx/xx

Date & Subject of Revisions:

Xx/xx/xx – In the definition section, changed the word and definition of consent to affirmative consent. Applied the new formatting and writing styles to the entire policy.

11/21/13 – Added definitions of dating and relationship violence and stalking to Part 2. This change was required under reauthorization of the Violence Against Women Reauthorization Act.

11/16/11 - Amended Part 1 and Part 1A to clarify policy. Amended Part 2C to further define consent. Amended Part 2G to reflect the definition of "student" in other Board policies.

No additional HISTORY

CONTENT FORMAT:

Single underlining represents proposed new language.

~~Strikeouts~~ represent existing language proposed to be eliminated.