

P-013 SEXUAL VIOLENCE POLICY

This policy and related procedure are intended to implement Minnesota State Board Policy 1B.3, "Sexual Violence Policy (<https://www.minnstate.edu/board/policy/1b03.html>)" and System Procedure 1B.3.1, "Response to Sexual Violence and Title IX Sexual Harassment (<https://www.minnstate.edu/board/procedure/1b03p1.html>)" and provide a process through which Southwest Minnesota State University (SMSU) students, employees, and others, as appropriate, alleging sexual violence may pursue a complaint.

Part 1. Policy Statement

Sexual violence is an intolerable intrusion into the most personal and private rights of an individual and is prohibited at SMSU. SMSU 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 other Board Policies that may require separate proceedings. In a continued effort to combat sexual violence, SMSU provides reporting options, an investigative and disciplinary process, prevention training, and other related services as appropriate.

This policy applies to all SMSU students, employees, and others, as appropriate, where incidents of sexual violence on University property have been reported. Reports of sexual violence committed by a student at a location other than on University property are covered by this policy according to the factors listed in Board Policy 3.6, "Student Conduct," Part 2, "Off-campus Conduct." Reports of sexual violence committed by a University employee at a location other than University property are covered by this policy.

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

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

Part 2. Definitions

The following definitions apply to this policy.

Affirmative Consent

Consent is an informed, freely given, and mutually understood willingness to participate in sexual activity that is expressed by clear, unambiguous, and affirmative words or actions. It is the responsibility of the person who wants to engage in sexual activity to ensure that the other person has consented to engage in the sexual activity. Consent must be present throughout the entire sexual activity and can be revoked at any time. If coercion, intimidation, threats, or physical force are used, there is no consent. If the complainant 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 the respondent has taken advantage of a position of influence over the complainant may be a factor in determining consent.

Dating, Intimate Partner, and Relationship Violence

Violence includes physical harm or abuse and threats of physical harm or abuse, arising out of a personal intimate relationship. This violence also may be called domestic abuse or spousal/partner abuse and may be subject to criminal prosecution under Minnesota law.

Employee

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

Non-forcible Sex Acts

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

Sexual Assault

Sexual assault refers to an actual, attempted, or threatened sexual act with another person without that person's affirmative consent. Sexual assault is often a criminal act that can be prosecuted under Minnesota law, as well as form the basis for discipline under Minnesota State student codes of conduct and employee disciplinary standards.

Sexual assault includes but is not limited to:

1. Involvement without consent in any sexual act in which there is force, expressed or implied, or use of duress or deception upon the victim. Forced sexual intercourse is included in this definition, as are the acts commonly referred to as "date rape" or "acquaintance rape." This definition also includes the coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another.
2. Involvement in any sexual act when the victim is unable to give consent.
3. Intentional and unwelcome touching of a person's intimate parts (defined as primarily genital area, groin, inner thigh, buttocks, or breast); coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts.
4. Offensive sexual behavior that is directed at another, such as indecent exposure or voyeurism.

Sexual Violence

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

Stalking

Stalking is conduct directed at a specific person that is unwanted, unwelcome, or unreciprocated and that would cause a reasonable person to fear for her or his safety or the safety of others or to suffer substantial emotional distress.

Student

The term "student" includes all persons who:

1. Are enrolled in one or more courses, either credit or non-credit, through a college or university.

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

System Property

“System property” means the facilities and land owned, leased, or under the primary control of Minnesota State, its Board of Trustees, system office, colleges and universities.

Related Documents

Board Policy 1B.3, “Sexual Violence Policy (<https://www.minnstate.edu/board/policy/1b03.html>)”

System Procedure 1B.3.1, “Response to Sexual Violence and Title IX Sexual Harassment (<https://www.minnstate.edu/board/procedure/1b03p1.html>)”

Board Policy 3.6, “Student Conduct (<https://www.minnstate.edu/board/policy/306.html>)”

System Procedure 3.6.1, “Student Conduct (<https://www.minnstate.edu/board/procedure/306p1.html>)”

P-013.1, “Response to Sexual Violence and Title IX Sexual Harassment (<https://catalog.smsu.edu/policies-procedures/p0131/>)”

Policy History

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Date and Subject of Amendments

8/19/2024 - Language was updated to reflect changes to Board Policy 1B.3 and System Procedure 1B.3.1.