

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

Agenda Item Summary Sheet

Committee: Diversity and Multiculturalism

Date of Meeting: July 20, 2011

Agenda Item: Proposed Amendment to Board Policy 1B.3 Sexual Violence Policy
(First Reading)

- 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 and Multiculturalism

Outline of Key Points/Policy Issues:

The amendment is slightly modified to reflect guidance received in a “Dear Colleague” letter, dated April 4, 2011, from U. S. Department of Education Office for Civil Rights.

Background Information:

The proposed policy is a first reading to amend Policy 1B.3 Sexual Violence Policy.

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

BOARD ACTION

**PROPOSED AMENDMENT TO BOARD POLICY
1B.3 SEXUAL VIOLENCE POLICY(FIRST READING)**

INTRODUCTION

The Office of the Chancellor is submitting an amendment to Policy 1B.3 Sexual Violence Policy.

BACKGROUND

The Board of Trustees approved this policy in 2004. During the cyclical review of this policy, the language was amended to reflect the definition of student in the student conduct code.

There have been no significant changes to the 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 May 20, 2011, for review and comment.
 - 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 Multiculturalism Committee recommends that the Board of Trustees adopt the following motion:

RECOMMENDED MOTION

The Board of Trustees approves the proposed amendment to Policy 1B.3 Sexual Violence Policy.

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

BOARD POLICY		1B.3
Chapter	1B.	SYSTEM ORGANIZATION AND ADMINISTRATION EQUAL EDUCATION AND EMPLOYMENT OPPORTUNITY
Section	3.	Sexual Violence Policy

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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 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, ~~internal mechanisms for dispute resolution~~, and prevention training or other related services as appropriate.

Subpart A. Application of policy to students, employees, and others. This policy applies to all Minnesota State Colleges and Universities students and employees and to others, as appropriate, where alleged incidents of sexual violence have occurred on System property. Incidents of sexual violence alleged to have been committed by a student at a location other than on System property are covered by this policy pursuant to the factors listed in Minnesota State Colleges and Universities Board Policy 3.6, Part 2~~5~~. Incidents of sexual violence alleged to have been committed by a Minnesota State Colleges and Universities employee at a location other than System property are covered by this policy.

Individuals alleged to have committed acts of sexual violence on System property who are not students or employees are subject to appropriate actions by Minnesota State Colleges and Universities, including, but not limited to, pursuing criminal or civil action against them.

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

35 **Subpart B. College and university policies.** Each Minnesota State Colleges
36 and Universities college and university shall adopt a clear, understandable written
37 policy on sexual violence that applies to its campus community, including, but not
38 limited to, its students and employees. The policy content and implementation
39 shall be consistent with the standards in this Policy and Procedure 1B.3.1.
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41 **Part 2. Definitions.**

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43 The following definitions apply to this Policy and Procedure 1B.3.1.
44

45 **Subpart A. Sexual violence.** Sexual violence includes a continuum of conduct
46 that includes sexual assault, and non-forcible sex acts, as well as aiding acts of
47 sexual violence.
48

49 **Subpart B. Sexual assault.** “Sexual assault” means an actual, attempted, or
50 threatened sexual act with another person without that person’s consent. Sexual
51 assault is often a criminal act that can be prosecuted under Minnesota law, as well
52 as form the basis for discipline under Minnesota State Colleges and Universities
53 student conduct codes and employee disciplinary standards. Sexual assault
54 includes but is not limited to:
55

- 56 1. Involvement without consent in any sexual act in which there is force,
57 expressed or implied, or use of duress or deception upon the victim. Forced
58 sexual intercourse is included in this definition, as are the acts commonly
59 referred to as “date rape” or “acquaintance rape.” This definition also includes
60 the coercing, forcing, or attempting to coerce or force sexual intercourse or a
61 sexual act on another.
- 62 2. Involvement in any sexual act when the victim is unable to give consent.
- 63 3. The intentional touching or coercing, forcing, or attempting to coerce or force
64 another to touch an unwilling person’s intimate parts (defined as primary
65 genital area, groin, inner thigh, buttocks, or breast).
- 66 4. Offensive sexual behavior that is directed at another such as indecent
67 exposure or voyeurism.
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69 **Subpart C. Consent.** Consent is informed, freely given and mutually
70 understood. If coercion, intimidation, threats, and/or physical force are used,
71 there is no consent. If the complainant is mentally or physically incapacitated or
72 impaired so that the complainant cannot understand the fact, nature, or extent of
73 the sexual situation, ~~and the condition was known or would be known to a~~
74 ~~reasonable person~~, there is no consent; this includes conditions due to alcohol or
75 drug consumption, or being asleep or unconscious. Whether the respondent has
76 taken advantage of a position of influence over the complainant may be a factor in
77 determining consent.
78

79 **Subpart D. Non-forcible sex acts.** Non-forcible acts include unlawful sexual
80 acts where consent is not relevant, such as sexual contact with an individual under

81 the statutory age of consent, as defined by Minnesota law, or between persons
82 who are related to each other within degrees wherein marriage is prohibited by
83 law.

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85 **Subpart E. System property.** “System property” means the facilities and land
86 owned, leased, or under the primary control of Minnesota State Colleges and
87 Universities, its Board of Trustees, Office of the Chancellor, colleges and
88 universities.

89
90 **Subpart F. Employee.** “Employee” means any individual employed by
91 Minnesota State Colleges and Universities, its colleges and universities and
92 Office of the Chancellor, including student workers.

93
94 **Subpart G. Student.** The term “student” includes all persons who:

- 95 1. Are enrolled in one or more courses, either credit or non-credit, through a
96 college or university.
- 97 2. Withdraw, transfer or graduate, after an alleged violation of the student
98 conduct code.
- 99 3. Are not officially enrolled for a particular term but who have a continuing
100 relationship with the college or university.
- 101 4. Have been notified of their acceptance for admission or have initiated the
102 process of application for admission or financial aid
- 103 5. Are living in a college or university residence hall although not enrolled in the
104 institution.

105 ~~“Student” means an individual who is:~~

- 106 1. ~~admitted, enrolled, registered to take or is taking one or more courses, classes,~~
107 ~~or seminars, credit or noncredit, at any System college or university; or~~
- 108 2. ~~between terms of a continuing course of study at the college or university,~~
109 ~~such as summer break between spring and fall academic terms; or~~
- 110 3. ~~expelled or suspended from enrollment as a student at the college or university,~~
111 ~~during the pendency of any adjudication of the student disciplinary action.~~

112
113 *Date of Adoption:* 04/21/04

114 *Date of Implementation:* 04/21/04

115 *Subject and Date of Revision XX/XX/XXXX The changes made are to clarify policy and*
116 *to reflect the definition of “student” in other Board policies*