



DIVERSITY AND EQUITY COMMITTEE
NOVEMBER 20, 2013
8:45 A.M.

MCCORMICK ROOM
30 7TH STREET EAST
SAINT PAUL, MN

Please note: Committee/Board meeting times are tentative. Committee/Board meetings may begin up to 45 minutes earlier than the times listed below if the previous committee meeting concludes its business before the end of its allotted time slot.

- (1) Minutes of October 23, 2013 (pp. 1-2)**
- (2) Proposed Amendment to Board Policy 1B.3 Sexual Violence Policy (Second Reading) (pp. 3-8)**

Diversity and Equity Committee

Alexander Cirillo, Chair

Cheryl Dickson, Vice Chair

Ann Anaya

Duane Benson

Alfredo Oliveira

Maria Peluso

Louise Sundin

Bolded items indicate action required.

**MINNESOTA STATE COLLEGES AND UNIVERSITIES
BOARD OF TRUSTEES
DIVERSITY AND EQUITY
MEETING MINUTES
October 23, 2012**

Diversity and Equity Committee Members Present: Alexander Cirillo, Chair; Trustees Cheryl Dickson, Vice Chair; Duane Benson, Louise Sundin

Diversity and Equity Committee Members Absent: Ann Anaya, Alfredo Olivera, Maria Peluso

Other Board Members Present: Clarence Hightower, Elise Ristau

Leadership Council Members Present: Steven Rosenstone, Chancellor; Gail M. Olson, General Counsel

A meeting of the Diversity and Equity Committee was held on October 23, 2013 at Minnesota State Colleges and Universities, 4th Floor, McCormick Room, 30 7th Street East, St. Paul. Committee Chair Alexander Cirillo called the meeting to order at 10:01 a.m.

1. Review of Minutes

The minutes of the November 14, 2012 meeting were approved as written.

2. Proposed Amendment to Board Policy 1B.3 Sexual Violence Policy (First Reading)

Committee Chair Cirillo introduced the 1B.3 Sexual Violence Policy and said it had been originally drafted in 2004 and amended in 2011. He then invited Diversity and Equity Associate Director Renée Hogoboom to walk through the proposed changes.

Ms. Hogoboom stated that this was the first reading of proposed changes to the Sexual Violence Policy. She stated that the Board of Trustees had last amended the policy in 2011. That revision was due to a “Dear Colleague” letter issued by the U.S. Department of Education. At that time the policy was reviewed and some minor revisions were made to comport with the letter. On March 7, 2013 President Obama signed into law the Violence Against Women Reauthorization Act. The campus Sexual Violence Elimination Act (SaVE Act) was added within the reauthorization and imposes new regulations on our colleges and universities. The proposed policy includes definitions of stalking, dating and relationship violence. This is the only proposed amendment to the policy. The rest of the regulations will be addressed in the 1B.3.1 Sexual Violence Procedure.

Trustee Benson inquired if the policy was restricted to students and employees, or if it also applied to others; and if it applied to incidents that happened on our grounds. Ms. Hogoboom stated that if an incident happened on our grounds, and the alleged perpetrator was not a student or employee, we would contact law enforcement. General Counsel Olson concurred and stated that this creates special obligations for us with regard to our students.

Trustee Benson asked if there is a penalty for not notifying law enforcement immediately. Ms. Olson explained the Department of Education could take action against a college or university for not taking appropriate action, such as calling law enforcement. She added that we are hoping to get more direction from the Department of Education regarding their expectations when rules about these regulations are released sometime this fall. Ms. Olson stated that we have spent a lot of time on this issue, not only in researching federal law requirements, but also in applying them in our policy.

Trustee Benson inquired about the criminal implication of any of our institutions, for failing to report immediately.

Ms. Olson replied the potential criminal issues would involve vulnerable adults and children; because we are mandated reporters, there is an obligation to report abuse or violence toward children or vulnerable adults. If we don't report these types of incidents, there could be potential criminal charges. She stated that if a sexual assault occurred on campus that didn't involve employees or students, and we didn't report it, she was not sure there would be a criminal sanction possible against the university or its employees. However, she assured the Board that she could not imagine that happening.

Trustee Dickson asked if the definitions came from the law, the "Dear Colleague" letter, state statute, or if they had been created. Ms. Hogoboom said the definitions were created to conform to the law.

Committee Chair Cirillo inquired about the frequency of incidents per year that involve this policy.

Ms. Hogoboom stated she did not have the specific data but that every college and university in this country that receives any type of financial aid is required to do an annual Cleary Act Report; Ms. Hogoboom said she could provide the data to Committee Chair Cirillo.

The meeting adjourned at 10:07 a.m.

Respectfully submitted by Christine McGing

**MINNESOTA STATE COLLEGES AND UNIVERSITIES
BOARD OF TRUSTEES
Agenda Item Summary Sheet**

Name: Diversity and Equity Committee

Date: November 20, 2013

Title: Proposed Amendment to Board Policy 1B.3 Sexual Violence Policy
(Second Reading)

Purpose (check one):

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Proposed
New Policy or
Amendment to
Existing Policy | <input type="checkbox"/> Approvals
Required by
Policy | <input type="checkbox"/> Other
Approvals |
| <input type="checkbox"/> Monitoring /
Compliance | <input type="checkbox"/> Information | |

Brief Description:

Definitions of dating and relationship violence and stalking have been added to the policy to comply with new federal regulations.

Scheduled Presenter(s): Renée Hogoboom, Associate Director for Diversity and Equity

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

BOARD ACTION

Proposed Amendment to Board Policy
1B.3 Sexual Violence Policy (Second Reading)

INTRODUCTION

The system office is submitting an amendment to Policy 1B.3 Sexual Violence Policy.

BACKGROUND

The Board of Trustees approved this policy in 2004 and made a slight amendment in November 2011. On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act (“VAWA”). The Campus Sexual Violence Elimination Act (“SaVE Act”) was added within the authorization and imposes new requirements on colleges and Universities. The policy has been amended to better comport with these regulations. Colleges and Universities must comply with the new requirements on or before March 7, 2014.

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 September 16 and October 29, 2013, 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 Equity 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 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 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 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.

Subpart B. College and university policies. Each Minnesota State Colleges and Universities college and university shall adopt a clear, understandable written

35 policy on sexual violence that applies to its campus community, including, but not
36 limited to, its students and employees. The policy content and implementation
37 shall be consistent with the standards in this Policy and Procedure 1B.3.1.
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39 **Part 2. Definitions.**
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41 The following definitions apply to this Policy and Procedure 1B.3.1.
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43 **Subpart A. Sexual violence.** Sexual violence includes a continuum of conduct
44 that includes sexual assault, ~~and non-forcible sex acts,~~ dating and relationship
45 violence, stalking, as well as aiding acts of sexual violence.
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47 **Subpart B. Sexual assault.** “Sexual assault” means an actual, attempted, or
48 threatened sexual act with another person without that person’s consent. Sexual
49 assault is often a criminal act that can be prosecuted under Minnesota law, as well
50 as form the basis for discipline under Minnesota State Colleges and Universities
51 student conduct codes and employee disciplinary standards. Sexual assault
52 includes but is not limited to:
53

- 54 1. Involvement without consent in any sexual act in which there is force,
55 expressed or implied, or use of duress or deception upon the victim. Forced
56 sexual intercourse is included in this definition, as are the acts commonly
57 referred to as “date rape” or “acquaintance rape.” This definition also includes
58 the coercing, forcing, or attempting to coerce or force sexual intercourse or a
59 sexual act on another.
- 60 2. Involvement in any sexual act when the victim is unable to give consent.
- 61 3. Intentional and unwelcome touching, or coercing, forcing, or attempting to
62 coerce or force another to touch a person’s intimate parts (defined as primary
63 genital area, groin, inner thigh, buttocks, or breast).
- 64 4. Offensive sexual behavior that is directed at another such as indecent
65 exposure or voyeurism.
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67 **Subpart C. Dating and relationship violence.** Dating and relationship
68 violence includes physical harm or abuse, and threats of physical harm or
69 abuse, arising out of a personal intimate relationship. Individuals in the
70 relationship may be married or not married; heterosexual, gay or lesbian; and
71 in a long term or short term relationship. This violence also may be called
72 domestic abuse or spousal/partner abuse and may be subject to criminal
73 prosecution under Minnesota state law.
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75 **Subpart D. Stalking.** Stalking is conduct directed at a specific person that is
76 unwanted, unwelcome, or unreciprocated and that would cause a reasonable
77 person to fear for his or her safety or the safety of others or to suffer
78 substantial emotional distress.
79

80 **Subpart E–C. Consent.** Consent is informed, freely given and mutually
81 understood. If coercion, intimidation, threats, and/or physical force are used,

82 there is no consent. If the complainant is mentally or physically incapacitated or
83 impaired so that the complainant cannot understand the fact, nature, or extent of
84 the sexual situation, there is no consent; this includes conditions due to alcohol or
85 drug consumption, or being asleep or unconscious. Silence does not necessarily
86 constitute consent, and past consent of sexual activities does not imply ongoing
87 future consent. Whether the respondent has taken advantage of a position of
88 influence over the complainant may be a factor in determining consent.

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

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96 | **Subpart GE. System property.** “System property” means the facilities and land
97 owned, leased, or under the primary control of Minnesota State Colleges and
98 Universities, its Board of Trustees, system office, colleges and universities.

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100 | **Subpart HF. Employee.** “Employee” means any individual employed by
101 Minnesota State Colleges and Universities, its colleges and universities and
102 system office, including student workers.

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104 | **Subpart IG. Student.** The term “student” includes all persons who:

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

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116 *Date of Adoption:* 04/21/04

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

118 *Subject and Date of Revision*

119
120 *11/16/11 – Amended Part 1 and Part 1A to clarify policy. Amended Part 2C to further*
121 *define consent. Amended Part 2G to reflect the definition of “student” in other Board*
122 *policies.*