

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

**Name:** Diversity and Equity Committee

**Date:** October 23, 2013

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

**Purpose (check one):**

- |                                                                                                  |                                                             |                                             |
|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------|---------------------------------------------|
| <input checked="" type="checkbox"/> Proposed<br>New Policy or<br>Amendment to<br>Existing Policy | <input type="checkbox"/> Approvals<br>Required by<br>Policy | <input type="checkbox"/> Other<br>Approvals |
| <input type="checkbox"/> Monitoring /<br>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 (First 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, 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**

No recommendation action for the first reading.

**RECOMMENDED MOTION**

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

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

<b>BOARD POLICY</b>		<b>1B.3</b>
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.  
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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*

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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.*