

Saint Mary's University of Minnesota
Discrimination/Sexual Harassment/Sexual Assault Policy

INSTITUTIONAL GOAL

Saint Mary's University of Minnesota is committed to creating a campus-wide environment free of discrimination, sexual harassment, and sexual assault by educating all members of the university community on such issues and by establishing procedures for addressing allegations of such behavior.

POLICY STATEMENT

Statement

Saint Mary's University of Minnesota prohibits and will not tolerate discriminatory practices, sexual harassment or sexual assault of any member of this university community on any university-owned property and pledges to seek out and eradicate all forms of discrimination in its activities and programs. Saint Mary's University of Minnesota supports federal and state laws that prohibit discrimination against any person because of race, color, creed, religion, national origin, gender, sexual orientation, age, marital status, status with regard to public assistance, or disability. Sexual harassment is a type of discrimination. Title VII of the Civil Rights Act prohibits sexual harassment of employees. Title IX of the Education Amendments of 1972 prohibits sexual harassment of students. The Minnesota Human Rights Act prohibits sexual harassment of both students and employees. The President of this university is ultimately responsible for the education of the members of this university community and resolution of complaints regarding discrimination, sexual harassment and sexual assault; as such, the President will be kept informed of all complaints made pursuant to this policy

Discrimination

Discrimination is the segregation or separation of individuals based on race, color, creed, religion, national origin, gender, sexual orientation, age, marital status, status with regard to public assistance, or disability. Discriminatory practices include any instances of differential treatment that interfere with an individual's full participation in this university community. Examples: discouraging classroom participation, preventing students from seeking help outside class, causing students to drop or avoid certain classes, reducing the development of the individual collegial relationships crucial for future professional development, dampening career aspirations, undermining self-confidence, assigning tasks/responsibilities without regard to experience, qualification's and/or job description, providing training opportunities annually, or evaluating job performance based on arbitrary standards.

Sexual Harassment

Sexual harassment is the exercise of power by one individual over another using conduct of a sexual nature to achieve superiority. It is unwelcome and, typically, repeated behavior by which an individual subjects another individual to unwanted sexual attention, implicitly or explicitly coerces or attempts to coerce an individual into a romantic or sexual relationship, punishes or threatens to punish an individual for refusing to comply with requests for sexual favors, or engages in conduct that interferes with work or academic performance or creates an intimidating, hostile, or offensive working or academic environment. Examples: non verbal: suggestive or insulting sounds, leering, whistling, or obscene gestures; verbal: sexual innuendo, suggestive comments, insults, humor and jokes about sex or gender-specific traits, sexual propositions, or

threats; physical: touching, pinching, brushing the body, or sexual assault.

Sexual Assault

Sexual assault is forced sexual activity without the expressed consent of both parties. Sexual assault is an illegal, reprehensible act of physical aggression and coercion, not an expression of sexual intimacy. The use of alcohol or drugs may impair the ability to consent to sexual activity. Examples: stranger rape, acquaintance or date rape, sadism, same-sex assault, child molestation, or incest.

Education

The university believes that education can be pro-active in eliminating incidents of discrimination, sexual harassment, or sexual assault and offers programs and training for residence hall staff, for security staff, for new students, for residential students, and for employees on these issues.

Dissemination of Information

The Director of the Affirmative Action Office will distribute copies of this policy to all current members of the university community annually.

PROCEDURES

Any member of the university community who believes that she or he has been discriminated against, sexually harassed or sexually assaulted may request assistance as follows:

- For Winona campus undergraduate students - the Vice President for Student Development (145 Heffron, ext. 1781), the Dean of Students (145 Heffron, ext. 1640), or their hall director
- For Winona campus employees - their supervisor or Vice President
- For Twin Cities campus students and employees - a Dean, their program director, their supervisor, or the Vice President
- For all students and employees - **Ann E. Merchlewitz**, the Director of the Affirmative Action Office (170 Heffron Hall, ext. 1503).

Winona campus undergraduate students may ask the Vice President for Student Development or the Dean of Students to be shielded from unwanted contact with the person against whom the complaint is being brought. Twin Cities campus students may ask a Dean to be shielded from unwanted contacts with the person against whom the complaint is being brought. Employees may request shielding from unwanted contact by contacting their supervisor or **Ann E. Merchlewitz**. To shield the complainant, the university may assign the complainant to different housing, assign the person against whom the complaint is brought to different housing, adjust class schedules, impose restraining orders, alter work assignments, etc.

Informal Complaint Procedure

Any member of the university community who believes that he or she has been discriminated against, sexually harassed or sexually assaulted by another member of the university community may file an informal complaint with the Director of the Affirmative Action Office (“the Director”). The Director or her designee will investigate the complaint and determine whether grounds for maintaining an informal complaint exist. If such grounds exist, the complainant and the Director will agree to adopt one of the following courses of action:

1. The Director will attempt an informal resolution of the complaint directly and privately with the person complained against, maintaining the anonymity of the complainant if he or she so wishes.
2. The Director and the complainant will seek an informal resolution of the complaint by meeting together with the person against whom the complaint is brought.
3. The Director will appoint someone from the university community who will resolve the complaint informally. That persons will meet with both parties, separately (maintaining the anonymity of the complainant if he or she so wishes) or together.
4. The Director will investigate the complaint. Said investigation will include notifying the person against whom the complaint is brought about the complaint and offering said person the opportunity to respond to the complaint. The Director will then decide whether discrimination, sexual harassment, or sexual assault occurred and will then make recommendations for sanctions to the Vice President for Student Development or a Dean, in the case of students, or to the appropriate supervisor, in the case of employees.

Each party to the complaint may be assisted in all stages of the informal procedure by an advocate, of his or her choice, from the university community

An informal complaint that is not resolved to the satisfaction of the complainant may be filed as a formal complaint.

Formal Complaint Procedure

Any member of the university community who believes that he or she has been discriminated against, sexually harassed or sexually assaulted by another member of the university community may file a formal complaint with the Director of the Affirmative Action Office (“the Director”). The complaint must be made in writing. Complaint forms are available in the Affirmative Action Office. The Director will appoint an ad hoc committee to hear the complaint. The committee will be gender balanced and will have one representative from each of the following groups: (1) the student body, (2) the faculty, (3) student services, (4) maintenance and clerical, (5) administration. The Director will serve as a non-voting *ex officio* member. The ad hoc committee will notify the person against whom the complaint is brought of the complaint. It will then hold a hearing to gather information. The committee has sole discretion to determine the processes and procedures for said hearing. Either party to the complaint may have an advocate from the university community, i.e., a faculty member, a staff member, or a student, at the hearing who will act as a support person for the individual. The complainant may participate in the proceedings and have input into the sanctions. The complainant’s past sexual history will not be discussed during the proceedings. The ad hoc committee will make a finding of whether or not discrimination, sexual harassment, or sexual assault occurred and will make recommendations to the Vice President for Student Development or a Dean, in the case of students, or to the appropriate supervisor, in the case of employee, for appropriate sanctions. Student sanctions may encompass any action up to and including expulsion; employee sanctions may encompass any action up to and including termination. Appeals are directed to the president of the university. A copy of the findings and sanctions, where applicable, will be given in a timely manner to both parties and a copy will be retained in the Affirmative Action Office.

No retaliatory actions may be taken against a complainant, the person against whom a complaint

is brought, an advocate, a witness or a member of the ad hoc committee.

Persons who have witnessed an incident, who have been approached to assist a possible victim, or who have concerns about their own behavior, may contact the Director for guidance and advice.

The university reserves the right to take appropriate disciplinary action against persons who file false reports of discrimination, sexual harassment, or sexual assault pursuant to this policy.

The university must investigate and take appropriate disciplinary action on all instances of discrimination, sexual harassment, or sexual assault of which it has knowledge. The Director of the Affirmative Action Office is charged with the responsibility for such investigations.

All methods of resolving discrimination, sexual harassment or sexual assault complaints are intended to protect the rights of all parties involved and to redress injuries or grievances suffered by any member of the university community. They are not intended to usurp or replace the processes of law to which any person is entitled.

In the case of sexual assaults, the victim should immediately contact campus safety/security for assistance. The sexual assault should then be reported to the Vice President for Student Development, the Dean of Students, or a Dean, as appropriate. Campus safety/security staff will promptly and completely, if so directed by law enforcement personnel, obtain, secure and maintain evidence of the assault. The victim should try to preserve evidence of the assault. The university will assist a complainant with filing a report or filing charges with law enforcement personnel by scheduling a meeting for the complainant with an investigator from the appropriate police department and providing other assistance as appropriate. Requests for such assistance should be directed to **Ann E. Merchlewitz**, the Director of the Affirmative Action Office.

CONSENSUAL RELATIONSHIPS

Long-established standards of professional ethics discourage personal relationships of a romantic or sexual nature between persons who are in a supervisor-subordinate relationship on campus, especially between faculty or staff personnel and students. No non-academic or personal ties should be allowed to interfere with the academic integrity of the teacher-student relationship or the general integrity of the supervisor-subordinate working relationship at Saint Mary's University of Minnesota. With respect to sexual relationships, in particular, what might appear to be consensual, even to the parties involved, may, in fact, not be so.

On this basis, the university strongly discourages any consensual romantic or sexual relationship between any faculty member and a student or any supervisor and a subordinate at the university. The relationships covered by this policy include relationships between administrators, coaches, advisors, program directors, counselors, residential staff members (including Resident Assistants), and other similarly situated staff members who have supervisory authority for a student or employee and that student or employee.

If charges of sexual harassment are made by a student against a faculty member when the faculty

member has engaged in a romantic or sexual relationship with the student, it will not be a defense to allege that the relationship was consensual. If charges of sexual harassment are made by an employee against a supervisor when the supervisor has engaged in a romantic or sexual relationship with a subordinate, it will not be a defense to allege that the relationship was consensual. In short, any faculty member or any supervisor enters at peril into a romantic or sexual relationship with a student or subordinate.

OPTIONS

You May Choose to Use One of the University's Internal Procedures

* Winona campus undergraduate students may report to their Hall Director, to the Dean of Students, 145 Heffron Hall, ext. 1640, or to the Vice President for Student Development, 145 Heffron Hall, ext. 1781 for resolution through the university's disciplinary process.

* Twin Cities campus students may report to their program director or dean for resolution through the grievance procedure.

* Employees may report to an appropriate supervisor for resolution through employee handbook procedures.

* Students or employees may file a complaint pursuant to this policy by contacting **Ann E. Merchlewitz**, Director of Affirmative Action, 170 Heffron, 507-457-1503.

A student or employee may use only one internal procedure (student disciplinary, student grievance, employee handbook or the Discrimination/Sexual Harassment/Sexual Assault formal procedure).

You May Choose One of Several Off-Campus Options

* For sexual assault, Winona campus students or employees may contact the Winona Law Enforcement Center to make a report or file criminal charges:

non-emergency: 454-6100

TDD/voice: 452-2382

emergency: 911

* For sexual assault, Twin Cities campus students or employees may contact the appropriate law enforcement agency to make a report or file criminal charges. In Minneapolis, contact should be made with the Minneapolis City Police Department:

non-emergency: 612-348-2345

TDD/voice: 612-673-3383

emergency: 911

* Students or employees may contact the crisis hotline for a referral to local mental health agencies

First Call for Help at 211

* Winona campus students or employees may contact the Women's Resource Center for information, referrals, and advocates for victims of battering (Battered Women Task Force) and sexual assault (Sexual Assault Crisis Center)

77 East Fifth Street
Winona, MN 55987
452-4440

* Twin Cities campus students or employees may contact the following agencies for information, referrals, and advocates for victims of sexual assault:

Minnesota Coalition Against Sexual Assault
612-872-7734

Sexual Violence Center
612-871-5100 (business)
612-871-5111 (crisis line)

*Hennepin County Medical Center
Sexual Assault Resource Service*
612-347-5832 (office)
612-347-3161 (crisis line)

Rape & Sexual Abuse Center
612-374-9077 (office)
612-825-4357 (24 hour help line)

Sexual Offense Services of Ramsey County
651-643-3022 (business)
651-643-3006 (crisis line)

*Sexual Assault Services -
Washington County*
651-777-5222 (office)
651-777-1117 (crisis line)

* For employment or educational issues, Winona campus students or employees may file a complaint with the Winona Human Rights Commission which negotiates a confidential and informal settlement.

City Hall
Winona, MN 55987
457-8200

* For employment and educational issues, Twin Cities campus students or employees may file a complaint with the Minneapolis Department of Civil Rights:

350 South Fifth Street
Room 239 City Hall
Minneapolis, MN 55415
612-673-3012

* For employment or educational issues, students or employees may file a complaint with the Equal Employment Opportunity Commission.

EEOC
330 South 2nd Ave
Suite 430
Minneapolis, MN 55401
612/335-4040

* For employment or educational issues, students or employees may contact the Minnesota Department of Human Rights

190 E. 5th Street, Suite 700
St. Paul, MN 55101
1-800-657-3704
651-296-5663
TTY: 651-296-1283

* Students or employees may contact an attorney to file a civil suit to recover damages from the offender.

The university's internal procedures and external procedures are not mutually exclusive. Students or employees may use an internal procedure at the same time as one or more of the external procedures.

You May Obtain a Restraining Order

Order for Protection

An Order for Protection (OFP) is a civil restraining order designed to prevent further acts of domestic abuse (an actual assault or fear of an assault) between people who live together, have lived together, are married, are related by blood, are involved in a significant romantic or sexual relationship, or have a child in common. In Winona County, the petition for an OFP may be obtained from the Court Administrator's Office on the fourth floor of the Winona County Courthouse. Contact the Women's Resource Center for assistance in filling out the form and filing it with the court. In Hennepin County, contact the Domestic Abuse Service Center (612-348-5073) for assistance in filling out the form and filing it with the court.

Harassment Order

A Harassment Order is a civil restraining order designed to prevent harassing behavior. Harassing behavior is defined as repeated, intrusive, or unwanted acts, including words or gestures that adversely affect the safety, security, or privacy of another regardless of the relationship between the two people. The steps to receive a Harassment Order mirror the steps to obtain an OFP. In Winona County, contact the Women's Resource Center for assistance in obtaining a Harassment Order. In Hennepin County, contact the Domestic Abuse Service Center (612-348-7959) for assistance in obtaining a Harassment Order.

In the Case of Sexual Assault, You May File a Report with the Police or Press Criminal Charges

You may file a report with the appropriate police department. A report is a record of the sexual assault. The report may lead to an investigation by the police and contact with the offender.

If you choose to press charges, you should contact the appropriate police department as soon as possible after the sexual assault. (In the case of a sexual assault, it is vitally important that all evidence of the assault be preserved; for example do not wash clothing or take a shower). The

authorities there will immediately commence an investigation into the circumstances surrounding the sexual assault. The matter will be referred to the County Attorney's Office for a determination on whether criminal charges should be filed. A statute of limitations exists for the criminal prosecution of most sexual assaults. Realistically, however, if too much of a delay occurs between the sexual assault and the report to the law enforcement authorities, information from the witnesses may be difficult to obtain and evidence may be destroyed.

MINNESOTA VICTIM'S RIGHTS

Rights Guaranteed Every Crime Victim and Witness in Court Proceedings

The right to be notified of:

- * plea bargain agreements
- * changes in court schedules
- * date, time and place of sentencing
- * release of offender from prison or institution
- * victim's rights
- * final disposition of the criminal case
- * transfer of the offender
- * escape and apprehension of the offender

The right to participate in prosecution:

- * to inform court of impact of crime at pre-trial sentencing
- * to have input into referring the offender into a pre-trial diversion program
- * to object to plea bargaining
- * to bring supportive person to pre-trial hearing
- * to attend sentencing
- * to give written objections to sentence
- * to request that the prosecutor demand a speedy trial

The right to protection from:

- * tampering with a witness
- * release of public data
- * insecure waiting areas during court
- * employers when called to testify in court
- * unknown sexually transmitted diseases by requiring that the convicted sex offender be tested

The victim may assert these rights by contacting the County Attorney's Office.

Office of Crime Victims Ombudsman

1-800-247-0390

The CVO offers assistance to crime victims and witnesses who feel that their rights have been violated, or who feel that they have been treated unfairly by the criminal justice system or by victim assistance programs.

The CVO is an impartial investigator and liaison who serves as a source of assistance and

information for victims and can refer victims to appropriate programs for crime victim's assistance.

If Sexually Assaulted, You Should Get Care at a Hospital Emergency Room

Why should a victim of sexual assault get emergency care?

- * to treat physical injuries
- * to get emotional support
- * to gather evidence

What tests are done in emergency rooms? You can expect some or all of these:

1. Fingernail scrapings
2. Woods Lamp exam to detect seminal fluid
3. Wet preparation (slides made) as sperm may be alive within six hours
4. Pubic hair exam; hair has 17 characteristics and will be compared to a sample from the suspect
5. Sperm typing; may be able to determine assailant's blood type
6. Mouth exam for injuries and seminal fluid if oral sex was performed
7. Toxicology testing for alcohol and drugs (if the victim was forced to take alcohol or drugs it makes the case stronger)
8. VDRL: venereal disease (syphilis) - ascertain not presently infected - victim needs a test within 30-45 days to see if disease caught from assailant
9. Urine test for pregnancy (test for a pregnancy previous to the assault)
10. Photos of any injuries
11. Acid phosphatase (up to 36 hours); in seminal fluid; proof of ejaculation

The evidentiary exam, by Minnesota law, is free and paid for by the county in which it is obtained if the sexual assault is reported to the law enforcement officials.
further:

12. Five days later: test for gonorrhea
13. Thirty-three days later: test for syphilis (caught from assailant)
14. Ten to fourteen days later: pregnancy test (pregnancy from assailant)
15. HIV testing

Compensation for medical expenses and lost wages can be regained under the Minnesota Crime Victims Reparations Act.

Off Campus Emergency Resources

Community Memorial Hospital
non-emergency: 454-3650
emergency: 457-4328

Women's Resource Center
452-4440

Winona City Police Department
Law Enforcement Center
non-emergency: 457-6302
TDD/voice: 452-2382

Emergency: 911

Hennepin County Medical Center
Sexual Assault Resource Service
612-347-5832 (office)
612-347-3161 (crisis line)

Minneapolis City Police Department:
non-emergency: 612-348-2345
TDD/voice: 612-673-3383
emergency: 911

On Campus Resources - Winona

Ann E. Merchlewitz
Affirmative Action Office
170 Heffron
507-457-1503

Shari Klippenstein
Dean of Students
145 Heffron Hall
507-457-1640

Chris Kendall
Vice President for Student Development
145 Heffron Hall
507-457-1781

Jerrie Siebert
Safety and Security
Info Desk/Toner Center
507-457-1888

Tim Gossen
Director of Residence Life
5 Toner Center
507-457-1406

Angel Weisbrod
Health Services
11 Toner Center
507-457-1493

Ann Gibson
Jay Johnson Wellness Center:
Counseling Center
9 Toner Center
507-457-1478

If you or someone you know has been sexually assaulted, telephone Campus Safety (ext. 0) through the university switchboard. Contact the Winona Law Enforcement Center by telephoning 9-911 or ask a staff member to call for you.

On Campus Resources - Twin Cities

Paul Tero
Vice President
104 Martin De Porres Hall
612-728-5201

Linka Holey
Associate Vice President
168 LaSalle Hall
612-728-5112

John Saulsberry
Campus Security
LaSalle Hall
612-728-5159