

M State

VAWA

BROCHURE

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INTRODUCTION

If you've tried to read M State's procedures for addressing sexual offenses, it can be a challenge to understand some of their complexity. This guide is intended to help explain the College's responsibility under Title IX and the Violence Against Women Act (VAWA). Additionally, this guide will:

- provide you with specific resources available both on and off campus
- provide you with details on available supportive measures
- educate you on your right to an Advisor and how they can assist you throughout the process
- inform you of policy definitions that describe prohibited conduct
- inform you of possible sanctions for policy violations
- provide you with common questions and answers asked by parties (Complainants and Respondents)

IF YOU HAVE EXPERIENCED SEXUAL MISCONDUCT

If you are off campus and experiencing an emergency, you can call local police by dialing 911. You may also call the local police department's non-emergency line in your location.

1. Go to a safe location as soon as you are able.
2. Seek immediate medical attention if you are injured, believe you may have been exposed to the risk of an STI/STD, or pregnancy.
3. **Medical Attention:** Evidence collection should be completed within approximately 120 hours of an assault, but fluids, hair samples and DNA can be collected for a long time thereafter. Even if you have washed or bathed, evidence can often still be obtained. After 120 hours, it may still be helpful to have medical attention, even if you are not trying to obtain evidence of an assault. Sexual assault nurse examiners are trained in the collection of forensic evidence and can check for injuries and exposure to sexually transmitted infections and diseases. If you are still wearing any clothes worn during the incident, wear them to the hospital, but bring a change of clothes, as the hospital will keep the clothes you are wearing as evidence. If you have changed clothes, bring the ones you were wearing during the incident to the hospital in a clean paper (not plastic) bag or wrapped in a clean

bedsheet. Leave sheets/towels at the scene of the incident. Police will collect them. Typically, police will be called to the hospital to take custody of the forensic kit, but it is up to you whether you wish to speak with them or file a criminal complaint.

Choose how to proceed. You have options. You can: (1) do nothing until you are ready, (2) pursue resolution by M State, and/or (3) initiate criminal proceedings, and/or 4) initiate a civil process against the perpetrator. You may pursue whichever combination of options is best for you. If you pursue resolution by M State, your options can include a formal response, informal resolution, and/or supportive measures. If you wish to have an incident investigated and resolved by M State, students should contact the Title IX Coordinator. Employees should contact either Human Resources or the Title IX Coordinator. M State procedures will be explained and are summarized below. Those who wish incidents to be handled criminally should contact the local Police Department who has jurisdiction over where the incident occurred and have the right to be assisted by M State in doing so.

CONFIDENTIALITY

To make informed choices, all parties should be aware of confidentiality and privacy considerations, as well as institutional mandatory reporting requirements.

Confidential Reporting: If a Complainant wishes to keep the details of an incident confidential, they should speak with campus mental health counselors. Campus counselors are available to help on an emergency basis. Their service is free of charge. Local resources such as crisis centers are also confidential and have no duty to report disclosed information to M State.

Confidential Resources:

- [Link to M State counselors](#)
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies Clergy/Chaplains
 - Attorneys

Mandated Reporting: All employees not designated as confidential above are mandated reporters. This means they are required to share information that you have disclosed to them with the Title IX

Coordinator, though that does not obligate you to any formal involvement. The Title IX Coordinator will simply reach out to you to offer support and the opportunity to file a formal complaint.

Officials with Authority or OWAs: Giving an OWA notice of an incident will result in the offering of supportive measures and options for formal and informal resolution. If a formal complaint is filed with an OWA or the Title IX Coordinator, such incidents will be investigated and resolved in a prompt and equitable manner under the College's resolution procedures, which are discussed later within this brochure.

You may request that the Title IX Coordinator provide you with supportive measures and resources without initiating a formal resolution process. If you wish to pursue a formal resolution process, the Title IX Coordinator will be unable to honor any request for confidentiality. The Respondent must be provided sufficient information, including the identity of the Complainant, to allow them to appropriately respond.

If M State decides it is obligated to pursue formal resolution based on the notice you have given, the Title IX Coordinator can initiate a complaint. You are not obligated to participate in the resolution process as Complainant, or you could participate as a witness, instead. Regardless of whether you participate, you will have all the rights to which a Complainant is entitled, if you want them. The ability of M State to enforce its policies may be limited if you decide not to participate at all.

Duties with respect to minors (those under age 18) may require reporting to state agencies and/or local law enforcement. As a result, confidentiality cannot be guaranteed.

Officials with Authority (OWA) at M State are (not an exhaustive list):

- Title IX Coordinator
- Deputy Title IX Coordinator (Vice President for Human Resources)
- Dean of Students
- Director of Housing
- Any Cabinet Level administrator

SEXUAL MISCONDUCT: RISK REDUCTION FOR INTIMATE PARTNER VIOLENCE, STALKING, SEXUAL HARASSMENT, AND SEXUAL ASSAULT

While victim-blaming is never appropriate and M State fully recognizes that only those who commit sexual offenses are responsible for their actions, M State provides the suggestions that follow to help members of the campus community reduce their risk of being victimized and their risk of committing sexual offenses.

REDUCING THE RISK OF VICTIMIZATION

- ✓ Make any limits and/or boundaries you may have known as early as possible.
- ✓ Tell a sexual aggressor “no,” as clearly and firmly as possible.
- ✓ Remove yourself, if possible, from an aggressor’s physical presence.
- ✓ Reach out for help, either from someone who is physically nearby or by calling someone. Bystanders around you may be waiting for a signal that you need help.
- ✓ Take affirmative responsibility for your alcohol and/or drug consumption, understanding that alcohol and drugs can increase your vulnerability to sexual victimization.
- ✓ Look out for your friends and ask them to look out for you. Respect them, and ask them to respect you, but be willing to challenge each other about high-risk choices.

REDUCE THE RISK OF BEING ACCUSED OF A SEX OFFENSE

- ✓ Show your potential partner respect if you are in a position of initiating sexual behavior.
- ✓ If they say “no,” accept it and don’t push. If you want a yes, ask for it, and don’t proceed without clear permission.
- ✓ Communicate your intentions to your potential sexual partner clearly and give that person a chance to share their intentions and/or boundaries with you.
- ✓ Respect personal boundaries. If you are unsure what’s okay in any interaction, ask.
- ✓ Avoid ambiguity. Just ask. Don’t make assumptions about consent, about whether someone is attracted to you, how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you *don’t* have consent.
- ✓ Don’t take advantage of the fact that someone may be under the influence of drugs or alcohol, even if that person chose to become that way. Their loss of control does not put you in control.
- ✓ Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or doesn’t want to happen. They may be undecided about how far to go with you, or you may have misread a previous signal.
- ✓ Respect the timeline for sexual behaviors with which others are comfortable and understand that everyone is entitled to change their minds.
- ✓ Recognize that even if you don’t think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, physical size, or a position of power or authority you may hold.

- ✓ Do not assume that someone's silence or passivity is an indication of consent. Pay attention to both verbal and non-verbal signals to avoid misreading intentions.
- ✓ Understand that consent to one type of sexual behavior does not automatically grant you consent to other types of sexual behaviors. If you are unsure, stop and ask.
- ✓ If your partner indicates a need to stop, or withdraws consent, respect them. Immediately.
- ✓ If you've had consent with your partner previously, still check in with them. Just because something was okay with them before doesn't mean it will be okay in the future.

A BRIEF SUMMARY OF TITLE IX'S RECENT HISTORY

In 2011, the Obama-era Department of Education (ED) perceived that colleges needed to be more victim-centered in addressing sexual violence and should have more transparent and accessible policies and procedures for addressing complaints. At the instigation of then Vice President Joe Biden, ED issued a set of guidelines for colleges under Title IX in what is known as the Dear Colleague Letter. That letter resulted in investigation-centered approaches that were trauma-informed, confidential, and relatively informal. Additionally, in subsequent presidential administrations, Title IX continued to be amended under both Trump and Biden administrations, altering the law and implementation on college campuses.

To summarize:

- Title IX protects students and employees who are impacted by sexual harassment, sexual assault, domestic violence, dating violence, and stalking. When these behaviors occur, and a formal complaint is made, M State is obligated to address and remedy the complaint to ensure that no one is denied effective access to the educational program or activities of M State.
- Colleges have jurisdiction requirements that they must follow to determine whether a complaint falls within Title IX or is to be addressed within other M State policies and procedures.
- Complainants are well-protected by the regulations in terms of supportive measures that are offered by institutions to try to address the impact of sex offenses.

- Complainants and Respondents are each entitled to an Advisor of their choosing (who can be an attorney) throughout the resolution process, and M State can provide a non-attorney Advisor to each party, if needed.
- The regulations have created options for informal resolution that were not available before 2020.
- To protect Respondents' due process rights, institutions are required to use a formal grievance process for certain types of allegations. That formal process includes an investigation, a live hearing, questioning of the parties through their Advisors, a determination by an objective Decision-maker, and an appeal.

WHEN DOES TITLE IX APPLY?

Title IX only applies when M State has jurisdiction over the complaint. This happens when the Complainant is participating in (or attempting to participate) in the College's educational program or activities, AND the Respondent is a student or employee of M State, AND the behavior occurred within the College's control in the United States (meaning not on private property, outside the scope of the educational program, etc.).

If it is unclear whether Title IX applies to your situation, contact the Title IX Coordinator for additional assistance. If Title IX does not apply to your situation, the conduct may still be addressable under other M State policies. For such complaints contact the Title IX Coordinator, Kara Helmig, at 218-299-6522 or email titleix@minnesota.edu.

A BRIEF HISTORY OF VAWA

The Violence Against Women Act §304. VAWA was originally enacted in 1994 to address concerns with violent crimes and violence against women. The goals of VAWA are to prevent violent crimes, respond to the needs of crime victims, learn more about crime, and change public attitudes through a collaborative effort made by a variety of organizations and systems. In 2013, President Obama signed the Violence Against Women Reauthorization Act, which, among many provisions, amended sections of the 1990 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

To summarize, the major relevant provisions of VAWA are:

- A requirement for institutions to maintain statistics about the number of incidents of dating violence, domestic violence, sexual assault, and stalking that meet the specific definition of those terms
- Requirement for institutions to provide primary prevention programs to incoming students and new employees that must include: a statement that the institution prohibits the crimes of dating and domestic violence, sexual assault, and stalking; the definition of consent in reference to sexual activity; a description of safe and positive options for bystander intervention; information on risk reduction; and information on the institution's policies and procedures after

a sex offense occurs; and an obligation to describe all of these within M State's [Annual Security Report](#).

- A requirement to provide ongoing prevention and awareness campaigns for students and employees and to describe these in the annual security report
- A requirement to describe each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding that includes how to file a disciplinary complaint, and how the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault, or stalking
- A requirement for institutions to describe the range of protective (supportive) measures that the institution may offer
- A requirement for institutions to provide a prompt, fair, and impartial disciplinary proceeding in which: officials are appropriately trained and do not have a conflict of interest or bias for or against any party; the Complainant and Respondent have equal opportunities to have others present, including an Advisor of their choice; the Complainant and Respondent receive simultaneous notification, in writing, of the results of the hearing and any available appeal procedures; the procedures completed in a reasonable prompt timeframe; the Complainant and Respondent are given timely notice of meetings at which one or the other or both may be present; and the Complainant and the Respondent and their Advisors are given timely and equal access to information that will be used during formal and informal disciplinary meetings and hearings

There are a lot of similarities between Title IX and VAWA compliance. Ultimately, both ensure Complainants and Respondents have a full understanding of their rights, the institution's responsibilities, and transparency with navigating the institution's process for resolving reported sex offenses.

POLICY TERMINOLOGY AND SEX OFFENSE DEFINITIONS

There is certain terminology used in both the policy and procedures that are important for you to know. Additionally, members of the Title IX team will use these terms in their written and verbal communication. Below is a chart of the most common terminology used and its definition:

<i>Term</i>	<i>Definition</i>
<i>Actual Knowledge</i>	Notice of sexual harassment or allegations of sexual harassment to the College's Title IX Coordinator or any official of M State who has the authority to institute corrective measure on behalf of M State College

<i>Complainant</i>	An individual who is alleged to be the victim of conduct that could constitute sexual harassment
<i>Formal Complaint</i>	A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that M State investigate the allegations of sexual harassment
<i>Respondent</i>	An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment
<i>Supportive Measures</i>	Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed
<i>Advisor</i>	A person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any
<i>Confidential Resource</i>	An employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation
<i>Decision-Maker</i>	The person, panel, and/or Chair who hears evidence, determines relevance, and makes the final determination of whether the policy has been violated and/or assigns sanctions
<i>Investigator</i>	The person or persons designated by M State to gather facts about an alleged violation of the policy, assess relevance and credibility, synthesize the evidence, and compile this information into

	an investigation report of relevant evidence and a file of directly related evidence
<i>Mandated Reporter</i>	An employee of M State who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator
<i>Notice</i>	When an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct
<i>Official with Authority (OWA)</i>	An employee of M State explicitly vested with the responsibility to implement corrective measures for harassment discrimination, and/or retaliation on behalf of M State
<i>Parties</i>	The Complainant(s) and Respondent(s), collectively

M State, as a member of the Minnesota State Colleges and University system, has adopted anti-discrimination and anti-harassment policies based on State Board policies. You can review the College’s full policy [here](#).

Sex offenses, including sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence, and/or stalking are violations of M State’s conduct code and its sexual misconduct policy. A number of federal laws and regulations, including Title IX, VAWA, and the Clery Act, mandate how institutions of higher education must respond to sex offenses. Many types of sex offenses also constitute violations of Minnesota law.

Members of the campus community, guests, and visitors have a right to be free from sexual offenses and to be protected by M State policy regardless of sex, sexual orientation, gender identity, or gender expression. All members of the campus community must conduct themselves in a way that does not infringe upon the rights of others. When individuals are found to have violated policy, M State will impose serious sanctions, as noted in the Sanctions section of this document.

SEX OFFENSE DEFINITIONS

The following are the definitions of conduct prohibited by M State sexual harassment policy:

SEXUAL HARASSMENT:

Sexual Harassment, as an umbrella category includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking and is defined as:

- Unwelcome conduct on the basis of sex¹ or that is sexual in nature that satisfies one or more of the following:

QUID PRO QUO:

- an employee of the College/University
- conditioning² the provision of an aid, benefit, or service of M State,
- on an individual's participation in unwelcome sexual conduct.

SEXUAL HARASSMENT:

- Unwelcome conduct,
- Determined by a reasonable person,
- To be so severe,
- pervasive, and
- objectively offensive
- that it effectively denies a person equal access to M State education program or activity

SEXUAL ASSAULT, defined as:

- any sexual act³ directed against another person
- without the consent of the Complainant,
- including instances in which the Complainant is incapable of giving consent.

DATING VIOLENCE, defined as:

- violence,
- on the basis of sex,
- committed by a person,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - o The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the person involved in the relationship. For the purposes of this definition-
 - o Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - o Dating violence does not include acts covered under the definition of domestic violence.

¹ Including sexual orientation, sex stereotypes, gender identity and gender expression

² Implicitly or explicitly

³ This includes six sub-offenses clearly defined in the Policy [link](#).

DOMESTIC VIOLENCE, defined as:

- Violence,
- On the basis of sex,
- Committed by a current or former spouse or intimate partner of the Complainant,
- By a person with whom the Complainant shares a child in common, or
- By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of your state, or
- By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of your state.

STALKING, defined as:

- Engaging in a course of conduct,
- On the basis of sex,
- Directed at a specific person, that would
 - o Cause a reasonable person to fear for the person's safety, or the safety of others; or
 - o Suffer substantial emotional distress.

SEXUAL EXPLOITATION, defined as:

- One person taking non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses

CONSENT

knowing, voluntary, and clear permission by word or action to engage in sexual activity

In all sexual encounters, it is important that you obtain consent. Each of us is responsible for obtaining consent and has a right to choose to give consent or not give consent. Consent is:

- Informed, knowing, and voluntary (freely given)
- Active (not passive)
- Affirmative, clear words or actions that create mutually understandable permission regarding the conditions of sexual or intimate activity
- Not something that can be given by someone who is known to be, or who should be known to be, mentally or physically incapacitated

- ❑ Not something that can be obtained by use of physical force, compelling threats, intimidating behavior, or coercion

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time. Any party can place conditions on their willingness to consent, and those conditions must be respected.

People may experience the same interactions differently, therefore each party is responsible for making sure that their potential partner has provided ongoing, clear consent to engage in any sexual activity or contact.

Consent to some forms of sexual activity (e.g., kissing, fondling, etc.) should not be construed as consent for other kinds of sexual activities (e.g., intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

To legally give consent in Minnesota, individuals must be at least 16 years old.

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

SEXUAL HARASSMENT PROCEDURES

M State's full grievance process for sexual harassment defined above and in accordance with the regulations can be accessed [here](#).

M State treats Complainants and Respondents equitably by providing remedies to a Complainant when a determination of responsibility for sexual harassment has been made against the Respondent and by following a grievance process that complies with the Title IX regulations and VAWA.

Here is an overview of the major steps in the process:

STEP ONE: INTAKE

The Title IX Coordinator may assist the Complainant with understanding the policy and procedures, their options, and accessing resources. Assuming the Complainant chooses to file a complaint and move forward with a formal or informal resolution process, the next step is an Initial Assessment. If there is an anonymous report, third-party report, or an unidentified Complainant, the Title IX Coordinator will attempt to: (1) take appropriate action to determine who was impacted and/or involved in the reported behavior to offer them supportive measures and resources and explain their process options, and (2) take reasonable action to stop the behavior, remedy its effects on individuals and the campus community, and prevent it from recurring in the future.

All resolutions will be conducted by officials who receive annual training on issues related to sexual harassment, which includes domestic violence, dating violence, sexual assault, and stalking. The Title IX Coordinator, Investigators, Decision-makers, and any person who facilitates an informal resolution process are required to be trained on: the definitions of sexual harassment; the scope of the College's education program or activity; how to conduct an investigation and grievance process that includes hearings, appeals, and informal resolution processes, as applicable; and serving impartially, including by avoiding prejudgment of the facts at issue, identifying conflicts of interest, and bias.

Additionally, Decision-makers must receive training on any technology used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Any materials used for training the Title IX team will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal Complainants of sexual harassment. You can view the training materials provided to the Title IX team [here](#). (Scroll to bottom of the page.)

M State resolution process is confidential. The institution will protect the confidentiality of parties throughout the resolution process, consistent with the provisions of state and federal law. Any required release of information about a resolution will be accomplished without the inclusion of identifying information about the Complainant. Information about the Respondent will only be released to the extent permitted by law.

STEP TWO: INITIAL ASSESSMENT

An initial assessment of the allegations is made by the Title IX Coordinator to determine appropriate jurisdiction and applicable policies/procedures. Under the federal Title IX regulations, the Title IX Coordinator is required to dismiss any formal complaint if one or more of the following is true:

- The alleged conduct would not constitute sexual harassment as defined within the Sexual Harassment policy, even if proved
- The alleged conduct did not occur in M State's education program or activity
- The alleged conduct did not occur against a person in the United States
- The Complainant is not participating or attempting to participate in M State's education program or activities at the time of filing the complaint.

Additionally, the Title IX Coordinator *may* dismiss any formal complaint if one or more of the following is true:

- At any time during the investigation or hearing a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal Complaint or any allegations therein
- The Respondent is no longer enrolled or employed by M State
- Specific circumstances prevent M State from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein

Upon a dismissal required or permitted under the federal Title IX regulations, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale to the parties simultaneously. The parties (meaning the Complainant and Respondent) will have an opportunity to appeal this decision by following the appeal procedures located [here](#).

If a dismissal occurs, the Title IX Coordinator may refer or reinstate the allegations for resolution under an alternative campus process, if appropriate.

M State recognizes that incidents which fall outside of the narrow scope of the Title IX regulations may also negatively impact access to the institution's education programs and activities and are counter to the mission and values of the institution. Therefore, M State has also adopted the Process B under the Equal Opportunity, Harassment, Discrimination, and Sexual Misconduct Policy and its implementing procedures to address other sex offenses that may fall outside the protections of Title IX.

STEP THREE: CHOOSE AN ADVISOR (if you have not already)

The parties are each entitled to an Advisor of their choice to accompany them to any and all meetings pertaining to the complaint. An Advisor can be anyone, including but not limited to an attorney, friend, roommate, or parent. Advisors can be extremely helpful in assisting parties with navigating the Title IX resolution process, especially when it comes to the hearing. M State is required to have a live hearing as part of its formal grievance process. At the live hearing, the Decision-maker(s) must permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up

questions, including those challenging credibility. If a party does not have an Advisor, M State will provide an Advisor, without fee or charge, from a pool of trained Advisors. M State-appointed Advisors are not attorneys.

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>]

Victim Advocates

Complainants may want to choose an advocate as their Advisor, or to have access to an advocate for support. Advocates are individuals who may or may not be employed by an institution for the purpose of providing confidential support and resources independent of or in conjunction with a sex- or gender-based discrimination or misconduct resolution process. Advocates are typically trained to provide crisis response services and connection to law enforcement, legal, health, and other emergency services. Advocates are often involved in assisting with the provision of supportive measures for Complainants such as academic adjustments, employment adjustments, housing relocation, and coordination of medical or mental health services.

Below is a list of community-based, and national advocacy services available:

- Local Organizations:
 - Rape & Abuse Crisis Center
<https://www.raccfm.com/>
- National Organizations Supporting Crime Victims
 - National Center for Injury Prevention and Control
 - National Organization for Victim Assistance (NOVA)
 - National Coalition of Anti-Violence Programs (NCAVP)

STEP FOUR: INVESTIGATION

Trained campus or external Investigators will conduct an investigation that is prompt, thorough, reliable, equitable, fair, and impartial. They will interview the parties and witnesses and prepare a report. Your Advisor can accompany you to all interviews. The Decision Maker may convene a pre-hearing meeting(s) with the parties and their Advisors to invite them to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of

time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Decision Maker must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Decision Maker, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Decision Maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Decision Maker may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Decision Maker may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will be recorded. As part of the investigation, parties and their Advisors will be provided access to all relevant and directly related evidence collected and will be given an opportunity to review and comment upon it.

STEP FIVE: HEARING

M State resolution process provides for a neutral and independent Decision-maker. The Decision-maker(s) will have the opportunity to question Investigators, parties, and witnesses during a hearing. Hearings are held in person, though any party may request to participate through video conference. The Title IX Coordinator may also decide that the entire hearing should take place through videoconference. The parties may make opening and closing statements. During the hearing, parties' Advisors will have the opportunity to question the other party and witnesses. If a party or witness chooses not to submit to questioning during the hearing, any prior statements made by that party or witness cannot be considered by the Decision-maker(s).

Standard of Evidence: M State does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; or 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. This means that Decision-makers consider whether, given the available relevant, credible evidence, it is more likely than not that a violation occurred or a high probability that a violation of policy occurred.

Past History: Questions and evidence about the Complainant's sexual predisposition cannot be asked. Questions about a Complainant's prior sexual behavior cannot be asked unless:

- Such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, OR
- The questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

STEP SIX: FINAL DETERMINATION

The parties will be informed of the outcome of the College's resolution of a complaint in writing, without significant delay between the notifications to each party. This notice will include the final determination, any sanctions imposed, a rationale for the final determination and any sanctions, the institution's procedures for the parties to appeal, any change to the results that occurs prior to the time that such results become final, and when M State considers those results to be final.

STEP SEVEN: APPEAL

All parties involved in sexual harassment proceedings may appeal a decision within 3 business days on the basis of grounds permitted by M State policy. All parties are included in any appeal reconsideration and have equal rights of participation. All appeals are conducted by written exchange of materials. There is only one level of appeal. That decision is final. See [Procedures](#) for further details on appeal procedures.

TIMELINES FOR RESOLUTION

M State is committed to resolving complaints within a reasonably prompt timeframe. M State's policy and procedures detail this timeline more specifically. M State's process allows for the temporary delay of the grievance process or limited extensions of time frames for good cause with written notice to the Complainant and the Respondent. This notification will include specifics of the delay or extension with a detailed reason for the action. Contact the Title IX Coordinator if you need a delay in the process, or an extension for an aspect of the process.

INFORMAL RESOLUTION PROCESS

To initiate an informal resolution process, a Complainant must submit a formal complaint first. After submission of the formal complaint, the Title IX Coordinator will provide additional information if an informal resolution is an option. Parties who wish to initiate an informal resolution process should contact the Title IX Coordinator.

All parties must agree, in writing, to initiate an informal resolution process. The parties may agree as a condition of engaging in informal resolution that statements made or evidence shared during the informal resolution process will not be considered in the formal grievance process unless all parties consent.

It is not necessary to pursue informal resolution first to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time and begin or resume the formal grievance process.

There are three main types of informal resolution:

- Supportive Resolution. When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- Alternative Resolution. When the parties agree to resolve the matter through an alternative resolution mechanism as described below, [including mediation, restorative practices, facilitated dialogue, etc.], usually before a formal investigation takes place; see discussion below.
- Accepted Responsibility. When the Respondent accepts responsibility for violating policy, and desires to accept the sanction(s) and end the resolution process.

Alternative Resolution Approaches

Alternative Resolution is an informal approach, including mediation, restorative practices, facilitated dialogue, etc.] by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of an Alternative Resolution approach.

The Title IX Coordinator may look to the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the parties:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

The ultimate determination of whether Alternative Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator is authorized to negotiate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors. Alternative Resolution agreements are not subject to appeal once agreed upon by all parties.

Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and M State are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of M State

policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

RIGHTS OF COMPLAINANTS AND RESPONDENTS

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to M State officials
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations
- The right to be informed in advance of any public release of information by the College regarding the allegation(s) or underlying incident(s), whenever possible
- The right not to have any personally identifiable information released by the College to the public without consent provided, except to the extent permitted by law
- The right to be treated with respect by M State officials
- The right to have M State policy and procedures followed without material deviation
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence
- The right not to be discouraged by M State officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities
- The right to be informed by M State officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the College in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by M State Security and/or other College officials

- The right to be informed of available supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; and/or other services, both on campus and in the community
- The right to a M State-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Referral to counseling, medical, and/or other healthcare services
 - Referral to the Employee Assistance Program
 - Referral to community-based service providers
 - Visa and immigration assistance
 - Student financial aid counseling
 - Education to the institutional community or community subgroup(s)
 - Altering campus housing assignment(s)
 - Altering work arrangements for employees or student-employees
 - Safety planning
 - Providing campus safety escorts
 - Providing transportation accommodations
 - Implementing contact limitations (no contact orders) between the parties
 - Academic support, extensions of deadlines, or other course/program-related adjustments
 - Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
 - Timely warnings
 - Class schedule modifications, withdrawals, or leaves of absence
 - Increased security and monitoring of certain areas of the campus
 - Any other actions deemed appropriate by the Title IX Coordinator
- The right to have the College maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the College's ability to provide the supportive measures
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible
- The right to have the Investigator(s), Advisors, and/or Decision-maker(s) identify and question relevant available witnesses, including expert witnesses
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant, may be asked of any party or witness
- The right to have inadmissible prior sexual predisposition/history or irrelevant character evidence excluded by the Decision-maker

- The right to know the relevant and directly related evidence obtained and to respond to that evidence
- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record
- The right to receive a copy of all relevant and directly related evidence obtained by the investigation, subject to privacy limitations imposed by state and federal law, and a ten (10) calendar day period to review and comment on the evidence
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) calendar days to review and comment on the report prior to the hearing
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant
- The right to regular updates on the status of the investigation and/or resolution
- The right to have complaints addressed by Investigator(s), Title IX Coordinator(s), and Decision-maker(s) who have received relevant annual training
- The right to a Hearing Panel that is not single-sex in its composition, if a panel is used
- The right to preservation of confidentiality/privacy, as permitted by law
- The right to meetings, interviews, and/or hearings that are closed to the public
- The right to petition that any M State representative in the process be recused on the basis of disqualifying bias and/or conflict of interest
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process
- The right to the use of the appropriate standard of evidence, preponderance of the evidence; clear and convincing evidence, to make a finding after an objective evaluation of all relevant evidence
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process (if any) and a detailed rationale of the decision including an explanation of how credibility was assessed, delivered simultaneously (without undue delay) to the parties

- The right to be informed in writing of when a decision by the institution is considered final and any changes to the final determination or sanction(s) that occur post Notification of Outcome
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal
- The right to a fundamentally fair resolution as defined in these procedures

SANCTIONS AND REMEDIES

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

Examples of Student Sanctions:

- **Warning:** An official written notice that the student has violated College policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the College.
- **Restitution:** Compensation for damage caused to the College or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- **Fines:** Reasonable fines may be imposed. Fines are specified to include: \$100 for intentionally or negligently activating a fire alarm.
- **Community/College Service Requirements:** For a student or organization to complete a specific supervised Community/College service.
- **Loss of Privileges:** The student will be denied specified privileges for a designated period of time.
- **Confiscation of Prohibited Property:** Items whose presence is in violation of college policy will be confiscated and will become the property of the College. Prohibited items may be returned to the owner at the discretion of the Dean of Students (or designee).

- Behavioral Requirement: This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, etc.
- Educational Program: Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- Restriction of Visitation Privileges: May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
- College Housing Probation: Official notice that, should further violations of Residence Life or College policies occur during a specified probationary period, the student may immediately be removed from College/housing. Regular probationary meetings may also be imposed.
- College Housing Reassignment: Reassignment to another College housing facility. Residential Life personnel will decide on the reassignment details.
- College Housing Suspension: Removal from College housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to College housing may be specified. Under this sanction, a student is required to vacate College housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for College housing, the student must gain permission from the Director of Residence Life (or designee). This sanction may include restrictions on visitation to specified buildings or all M State housing during the suspension.
- College Housing Expulsion: The student's privilege to live in, or visit, any College housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.
- College Probation: The student is put on official notice that, should further violations of College policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
- Eligibility Restriction: The student is deemed "not in good standing" with the College for a specified period of time. Specific limitations or exceptions may be granted by the Dean of Students and terms of this conduct sanction may include, but are not limited to, the following:
 - Ineligibility to hold any office in any student organization recognized by the College or hold an elected or appointed office at the College; or
 - Ineligibility to represent the College to anyone outside the College community in any way including: participating in the study abroad program, attending conferences, or representing the College at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
- College Suspension: Separation from the College for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Dean of Students. During the suspension period, the student is banned from property, functions,

events and activities without prior written approval from the Dean of Students. This sanction may be enforced with a trespass action as necessary.

- College Expulsion: Permanent separation from the College. The student is banned from property and the student's presence at any College-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary.
- Withholding Diploma: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement as a sanction if the student is found responsible for an alleged violation.
- Revocation of Degree: The College reserves the right to revoke a degree awarded from the College for fraud, misrepresentation, or other violation of College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- Other Sanctions: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Dean of Students or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the Code of Student Conduct:

- 1) One or more of the sanctions listed above and/or
- 2) Deactivation, de-recognition, loss of all privileges (including status as a M State registered group/organization), for a specified period of time.

Examples of Employee Sanctions/Responsive/Corrective Actions

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Enhanced supervision, observation, or review
- Required Counseling
- Required Training or Education
- Probation
- Denial of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Reassignment
- Delay of tenure track progress
- Assignment to new supervisor
- Restriction of stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay
- Termination

Other Actions: In addition to or in place of the above sanctions/responsive actions, the College may assign any other responsive actions as deemed appropriate.

Long Term Remedies and Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term remedies or actions with respect to the parties and/or the

campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

PREVENTION AND AWARENESS PROGRAMS

VAWA Training: Incoming students and new employees are provided with education and training on awareness and risk reduction of sexual violence, dating violence, domestic violence, stalking and consent in compliance with the Violence Against Women Act.

Ongoing Campaigns: Ongoing awareness and prevention campaigns are provided throughout the school year to students, faculty and staff.

FREQUENTLY ASKED QUESTIONS (FAQ)

Can an attorney be my Advisor?

Yes. You have the right to an Advisor of your choice, which can include an attorney.

Will my parents/guardians find out about this incident?

It depends. If you are a minor, members of the Title IX team have certain mandatory reporting obligations, which may include notifying your parents/guardians of the incident.

If you are not a minor, this incident is a part of your education record, which is protected under the Family Educational Rights and Privacy Act (FERPA). This means that your education record cannot be shared with anyone with whom you have not given M State permission to share.

Do I have to resolve this through a formal grievance process?

No. You have options. If you are a Complainant and wish to resolve informally, you must first make a formal complaint. Upon receipt of this formal complaint, the Title IX Coordinator will provide you with additional information. Any party who wishes to resolve the matter informally should contact the Title IX Coordinator. All parties must agree, in writing, to informally resolve for this to be an option.

Is there a time limit on when I can report?

There is no statute of limitations on when a complaint can be filed however there are certain jurisdictional requirements that must be met to pursue a formal grievance process under Title IX.

Will I get in more trouble if I was drinking underage during the incident?

M State maintains a policy of offering parties and witnesses amnesty from minor policy violations such as underage consumption of alcohol or the use of illicit drugs related to the incident.

What happens if the Respondent fails to comply with the sanctions?

Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s). Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination.

What happens if the Respondent transfers, leaves, or resigns prior to the conclusion of the formal resolution process?

If a Respondent permanently withdraws or resigns, the resolution process ends with a dismissal, as M State no longer has disciplinary jurisdiction over the withdrawn student or former employee. However, M State will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

What if law enforcement is involved?

M State action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced. M State may undertake a short delay in its investigation if circumstances require. Communication will be sent to the parties explaining the reason(s) for the delay and the anticipated duration of the delay.

Do I have to be cross-examined during the hearing?

If you want the Decision-Maker(s) to consider any prior statements made or evidence submitted by you, then yes, you must submit to cross-examination during the hearing. You have a choice not to, but your statements and evidence will not be considered by the Decision-maker(s).

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