



Policy 1B.3.1
Sexual Violence Procedure
Revised 6/2007
Contact Information Updated 8/2015

This procedure provides a process through which individuals alleging sexual violence may pursue a complaint. This procedure is intended to protect the rights and privacy of both the complainant and respondent and other involved individuals, as well as to prevent retaliation and reprisal.

Reporting Incidents of Sexual Violence

Complainants of sexual violence may report incidents at any time, but are strongly encouraged to make reports promptly in order to best preserve evidence for a potential legal or disciplinary proceeding. Complainants are strongly encouraged to report incidents of sexual violence to law enforcement for the location where the incident occurred. Complainants are also encouraged to contact the local victim/survivor services office, counseling and health care providers, and a Mesabi Range College Designated Officer to assist in taking appropriate action.

Designated Officers for Mesabi Range College:

Employees contact: Carmen Bradach, Human Resources Director
Virginia Campus, Room A108, 218-749-7743

Students contact: David Dailey, Dean of Student Affairs
Virginia Campus, Student Services, 218-749-7772

Assistance in Reporting

When informed of an alleged incident of sexual violence, all Mesabi Range College students and employees are urged to encourage and assist complainants, as needed, to report the incident to local law enforcement, local victim/survivor services and the Mesabi Range College Sexual Harassment Officer.

Sexual Harassment Officers (Advocates), when informed of an alleged incident of sexual violence, shall promptly assist the complainant, including providing guidance in filing complaints with outside agencies including law enforcement; obtaining appropriate assistance from victim/survivor services or medical treatment professionals; and filing a complaint with campus officials responsible for enforcing the student conduct code or employee conduct standards.

Tracy Delich, Counselor – Eveleth Campus, 218-744-7533
Kelly Bakk, Counselor – Virginia Campus, 218-749-7765

When appropriate, Mesabi Range College may pursue legal action against a respondent, including, but not limited to, trespass or restraining orders, in addition to disciplinary action under the applicable student or employee conduct standard.

Confidential Reports

Because of laws concerning government data contained in Minnesota Statutes chapter 13, the Minnesota Government Data Practices Act, Mesabi Range College cannot guarantee confidentiality to those who report incidents of sexual violence except where those reports are privileged communications with licensed health care professionals. Some off-campus reports also may be legally privileged by law, such as reports to clergy, private legal counsel, or health care professionals.

Reports to Campus Security Authorities.

Complainants of sexual violence may contact any campus security authority for appropriate assistance or to report incidents. Absolute confidentiality of reports made to campus security authorities cannot be promised. However, campus security authorities shall not disclose personally identifiable information about a complainant of sexual violence without the complainant's consent except as may be required or permitted by law. There may be instances in which Mesabi Range College determines it needs to act regardless of whether the parties have reached a personal resolution or if the complainant requests that no action be taken. In such instances, Mesabi Range College will investigate and take appropriate action, taking care to protect the identity of the complainant and any other reporter in accordance with this procedure.

Any campus security authority or any college or university employee with supervisory or student-advising responsibility who has been informed of an alleged incident of sexual violence must follow college or university procedures for making a report for the annual crime statistics report. In addition, the campus security authority shall report to other school officials, as appropriate, such as the campus affirmative action office, the campus office responsible for administering the student conduct code, and/or the designated Title IX compliance coordinator, in order to initiate any applicable investigative or other resolution procedures.

Campus security authorities may be obligated to report to law enforcement the fact that a sexual assault has occurred, but the name or other personally identifiable information about the complainant will be provided only with the consent of the complainant, except as may be required or permitted by law.

Required Notice

1. Notice of complainant options.

Following a report of sexual violence the complainant shall be promptly notified of:

- a. Where and how to obtain immediate medical assistance; complainants should be informed that timely reporting and a medical examination within 72 hours are critical in preserving evidence of sexual assault and proving a criminal or civil case against a perpetrator. Complainants should be told, however, that they may report incidents of sexual violence at any time.
- b. Where and how to report incidents of sexual violence to local law enforcement officials, and/or appropriate Mesabi Range College contacts for employees, students and others. Such contacts should be identified by name, location and phone number for 24-hour availability, as applicable.
- c. Resources for where and how complainants may obtain on- or off-campus counseling, mental health or other support services.

2. Notice of complainant rights.

Complainants shall be notified of the following:

- a. Their right to file criminal charges with local law enforcement officials in sexual assault cases;
- b. Rights under the crime victims bill of rights, Minnesota Statutes Sections 611A.01 –611A.06, including the right to assistance from the Crime Victims Reparations Board and the commissioner of public safety;

- a. Availability of prompt assistance from campus officials, upon request, in notifying the appropriate campus investigating authorities and law enforcement officials, and, at the direction of law enforcement authorities, assistance in obtaining, securing and maintaining evidence in connection with a sexual violence incident;
- b. Assistance available from campus authorities in preserving for a sexual violence complainant materials relating to a campus disciplinary proceeding;
- c. That complaints of incidents of sexual violence made to campus security authorities shall be promptly and appropriately investigated and resolved;
- d. That, at a sexual assault complainant's request, Mesabi Range College may take action to prevent unwanted contact with the alleged assailant, including, but not limited to, transfer of the complainant and/or the respondent to alternative classes, or a work site or to alternative college-owned housing, if such alternatives are available and feasible.

Complaint Procedure

Investigation and Disciplinary Procedures

Mesabi Range College may, at any time during the report/complaint process, reassign or place on administrative leave an employee alleged to have violated this policy, in accordance with the procedures in System Procedure 1B.1.1. Such action must be consistent with the applicable collective bargaining agreement or personnel plan.

Mesabi Range College may summarily suspend or take other temporary measures against a student alleged to have committed a violation of this policy, in accordance with System Procedure 1B.1.1 or Board Policy 3.6.

General Principles

Procedures used in response to a complaint of sexual violence should avoid requiring complainants to follow any plan of action, to prevent the possibility of re-victimization. Mediation or other negotiated dispute resolution processes between the complainant and the respondent concerning allegations of sexual violence shall be used only if both parties voluntarily consent. No party shall be required to participate in mediation.

Mesabi Range College investigation and disciplinary procedures concerning allegations of sexual violence against employees or students shall:

1. Be respectful of the needs and rights of individuals involved;
2. Proceed as promptly as possible;
3. Permit a student complainant and a student respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures and applicable data practices law;
4. Employees shall have the right to representation consistent with the appropriate collective bargaining agreement or personnel plan;
5. Be conducted in accordance with applicable due process standards and privacy laws;

6. Inform both the complainant and respondent of the outcome in a timely manner, as permitted by applicable privacy law.

The past sexual history of the complainant and respondent shall be deemed irrelevant except as that history may directly relate to the incident being considered. A respondent's use of any drug, including alcohol, judged to be related to an offense may be considered to be an exacerbating rather than mitigating circumstance.

Relationship to Parallel Proceedings

In general, Mesabi Range College investigation and disciplinary procedures for allegations of sexual violence will proceed independent of any action taken in criminal or civil courts. Mesabi Range College need not, and in most cases should not, delay its proceedings while a parallel legal action is on-going. If Mesabi Range College is aware of a criminal proceeding involving the alleged incident, they may contact the prosecuting authority to coordinate when feasible. Criminal or civil court proceedings are not a substitute for Minnesota State Colleges and Universities procedures.

False Statements Prohibited

Mesabi Range College takes allegations of sexual violence very seriously and recognizes the consequences such allegations may have on a respondent as well as the complainant. Any individual who knowingly provides false information regarding the filing of a complaint or report of sexual violence or during the investigation of such a complaint or report may be subject to discipline or under certain circumstances, legal action. Complaints of conduct that are found not to violate policy are not assumed to be false.

Withdrawn Complaint

If a complainant no longer desires to pursue a complaint through the college or university's proceeding, the college or university reserves the right to investigate and resolve the complaint as it deems appropriate.

Mesabi Range College reserves discretion whether to pursue alleged violations of policy under appropriate circumstances, including, but not limited to, a determination that an effective investigation is not feasible because of the passage of time, or because the respondent is no longer a student or employee of the college.

Mesabi Range College reserves the right to determine whether to pursue violations of policy by students or employees other than the respondent, including a complainant or witness, which comes to light during the investigation of an incident of sexual violence. In order to encourage reporting of sexual violence, under appropriate circumstances Mesabi Range College administrators may choose to deal with violations of Mesabi Range College policy in a manner other than disciplinary action.

Employees

If the respondent is an employee, the investigation and disciplinary decision-making shall be conducted pursuant to the procedures outlined in Board Procedure 1.B.1.1 except that use of the optional "Personal Resolution" described in Part 3. Subpart B. should not be encouraged in dealing with allegations of sexual violence due to the seriousness of the conduct.

Nothing in this procedure is intended to expand, diminish or alter in any manner any right or remedy available under a collective bargaining agreement, personnel plan or law. Any disciplinary action imposed as a result of an investigation conducted under this procedure will be processed in accordance with the applicable collective bargaining agreement or personnel plan.

Students

Mesabi Range College will process complaints against students using the investigation and decision-making process of System Procedure 1B.1.1. Mesabi Range College shall notify students of the process used. If the decision-maker issues an adverse decision against the student, the student may appeal to the Provost or designee.

Individuals who are both an Employee and a Student

If the respondent is both a student and employee, the investigation shall be conducted by the designated officer, as defined by Board Procedure 1.B.1.1. The results of the investigation shall be submitted for review to both the Human Resources Director or designee, concerning the personnel action, and to the Dean of Students or designee concerning the student action.

Sanctions

Sanctions that may be imposed if a finding is made that sexual violence has occurred include, but are not limited to, suspension, expulsion of students or termination from employment. The appropriate sanction will be determined on a case-by-case basis taking into account the severity of the conduct, the student's or employee's previous disciplinary history, and other factors as appropriate.

Retaliation Prohibited

Actions by a student or employee intended as retaliation, reprisal or intimidation against an individual for making a complaint or participating in any way in a report or investigation under this policy are prohibited and are subject to appropriate disciplinary action.

Campus-Wide Training

Mesabi Range College offers educational programs to students and employees to promote the awareness of sexual violence offenses, including sexual violence prevention measures and procedures for responding to incidents. Some of the programming emphasizes the importance of preserving evidence for proof of a criminal offense. Mesabi Range College's student organizations are encouraged to develop educational programs, brochures, posters and other means of information to decrease the incidence of sexual violence and advise individuals of the legal and other options available if they are the complainants of an incident or they learn of such an incident.

A Campus Civility Awareness Program is offered at Mesabi Range College to address the specific needs of college students. Some of the specific topics to be covered include the impacts of bullying, harassment and assault on college campuses. This program will also address appropriate ways to respond to inappropriate behavior and Mesabi Range College reporting procedures.

Maintenance of Report/Complaint Procedure Documentation

Data that is collected, created, received, maintained or disseminated about incidents of sexual violence will be handled in accordance with the privacy requirements of the Minnesota Statutes chapter 13 (Minnesota Government Data Practices Act), and other applicable laws.

Information on reports of incidents of sexual violence that are made to Campus Security Authorities shall be documented in accordance with the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, codified at 20 United States Code section 1092 (f). Such information will be used to report campus crime statistics on Mesabi Range College as required by that Act. During and upon the completion of the complaint process, the complaint file shall be maintained in a secure location. Access to complaint file information shall be in accordance with the applicable collective bargaining agreement or

personnel plan, the Minnesota Government Data Practices Act, the Family Educational Rights and Privacy Act and other applicable law and policy.

Review/Revision History:

Reviewed and updated Per MnSCU Policy 1B.3.1 6/30/07

Contact Information Updated 8/2015