



**Policy 1B.3**  
**Sexual Harassment and Sexual Violence**  
**Policy**

Revised 12/18/2013

Mesabi Range College is committed to ensuring an educational and employment environment free of sexual harassment, sexual violence, or harassment based on sexual orientation. All members of the college are expected to report incidents of sexual harassment, sexual violence or assault, or harassment based on gender or sexual orientation. Sexual harassment is a violation of Section 703 of Title VII of the Civil Rights Act of 1964, as amended in 1972 (42 U.S.C.S. 2000e., et. seq.), the Minnesota Human Rights Law 363.03 subdivision 51. And Title IX of the Educational Amendments (20 U.S.C. 1681, et. seq.) and is punishable under both federal and state laws.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, evaluation of a student's academic performance, or term or condition of participation in student activities or in other events or activities sanctioned by the College; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions or other decisions about participation in student activities or other events or activities sanctioned by the College; or
3. Such conduct has the purpose or effect of threatening an individual's employment; interfering with an individual's work or academic performance; or creating an intimidating, hostile, or offensive work or educational environment.

Sexual harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student to student, employee to employee, and other persons having business with or visiting the educational environment. Sexual harassment may occur when it is directed at members of the opposite gender or when it is directed at members of the same gender. It includes, but is not limited to:

1. Unwelcome pressure for sexual activity; or
2. Unwelcome, sexually motivated or inappropriate patting, pinching, or physical contact; physical contact may be appropriate, if necessary to restrain individuals to avoid physical harm to persons or property; or
3. Demands for sexual favors or promises of preferential treatment with regard to an individual's employment or educational status accompanied by implied or overt threats to concerning an individual's employment or education status; or
4. Unwelcome behavior or words of a sexual nature directed at an individual because of gender; or
5. Visual harassment such as showing or displaying photos, drawings, cartoons, posters, computer screen savers and/or file names; or calendars of a sexual nature; leering or staring.

A victim of sexual harassment may seek resolution through informal procedures. Such action may include:

1. Tell the harasser that a specific behavior is unwanted and must stop immediately.
2. Write a letter to the harasser describing the incident(s) and informing the harasser that the behavior must stop immediately.
3. Keep records of date, time and place of each offensive incident, persons who may have seen or heard the activity, and the victims' response. Also record steps taken to resolve the situation.
4. Look for verification and witnesses, or others who will substantiate the charges.

**Sexual violence:** Acts of sexual violence are criminal behaviors and create an environment contrary to the goals and missions of the system and colleges and universities. Acts of sexual violence include:

1. Forcible acts, which include non-consensual sexual contact, and/or sexual contact in which the victim is incapable of giving consent (such as when the complainant is under the influence of alcohol or drugs);
2. Nonforcible sex acts such as incest and statutory rape; and
3. The threat of an act of sexual violence. Sexual violence may include, but is not limited to:
  - touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
  - coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
  - coercing, forcing, or attempting to coerce or force the sexual intercourse or a sexual act on another; or
  - threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

**Sexual harassment and violence as sexual abuse.** Under certain circumstances, sexual harassment or violence may constitute sexual abuse according to Minnesota law. In such situations, the system office and colleges and universities shall comply with the reporting requirements in M.S. Section 626.556 (reporting of maltreatment of minors) and M.S. Section 626.557 (Vulnerable Adult Protection Act). Nothing in this policy will prohibit the College from taking immediate action to protect victims of alleged sexual abuse.

**Non-consensual Relationships.** Substantial risks are involved even in seemingly consensual romantic/sexual relationships where a power differential exists between the involved parties. The respect and trust accorded a faculty member or other employee by a student, as well as the power exercised by faculty in giving grades, advice, praise, recommendations, opportunities for further study or other forms of advancement may greatly diminish the student's actual freedom of choice concerning the relationship. Similarly, the authority of the supervisor to hire, fire, evaluate performance, reward, make recommendations, assign and oversee the work activities of employees may interfere with the employee's ability to choose freely in the relationship. Further, it is inherently risky where age, background, stature,

credentials or other characteristics contribute to the perception that a power differential exists between the involved parties which limits the student or employee's ability or make informed choices about the relationship.

Claims of a consensual romantic/sexual relationship will not protect individuals from sexual harassment charges nor guarantee a successful defense if charges are made. It is the faculty member, supervisor or staff who will bear the burden of accountability because of his/her special power and responsibility, and it may be exceedingly difficult to use mutual consent as a defense. Therefore, all employees should be aware of the risks involved in entering into a romantic/sexual relationship where there is a superior/subordinate relationship.

### **Reporting and Resolution of Sexual Harassment/Sexual Violence**

The Mesabi Range College encourages the reporting of any and all suspected incidents of sexual harassment and sexual violence.

If you have experienced sexual harassment or sexual violence or have questions about sexual harassment, you and/or a person of your choice should see one of the colleges Sexual Harassment Officers:

Kelly Bakk	749-7765 (Virginia)
Tracy Delich	744-7533 (Eveleth)

You may also ask any student or employee to communicate with a contact person or designated officer for you.

A victim of sexual harassment/sexual violence may seek resolution through formal procedures by making a verbal or written complaint to the Sexual Harassment Officer, or to any other employee of the College. Any student or employee who receives a complaint or information about sexual harassment/sexual violence will notify the Sexual Harassment Officer within two working days. If the complaint is against the Sexual Harassment Officer, the verbal or written complaint will be made directly to the Provost, who will follow the procedures contained in this policy.

Individuals interested in filing a formal complaint must present a written statement which includes the nature of the complaint, facts upon which the charge is based, and the resolution being requested.

An individual has the right to choose alternative complaint procedures, and this policy does not deny the right of an individual to pursue other means of complaint. Along with or instead of Mesabi Range College's complaint/grievance procedure, victims have the right to contact or file complaints with the Minnesota Department of Human Rights or to initiate civil action.

Victims of sexual violence have the right to file criminal charges. Mesabi Range College encourages the reporting of any and all incidents of sexual violence to a law enforcement agency. Mesabi Range College will provide advocacy and support, through a counselor, for any person who chooses to report a crime of sexual violence.

A report of sexual violence that is made to the college will be reported to law enforcement by the Sexual Harassment Officer only with the permission of the victim, except when the laws pertaining to minors and vulnerable adults apply.

### **Investigation of Sexual Harassment/Sexual Violence**

1. The Sexual Harassment Officer shall authorize an investigation within five (5) working days of receiving information, a report or complaint alleging sexual harassment/sexual violence. This investigation may be conducted by the Sexual Harassment Officer or by a third party designated by the College. The investigation shall begin within five (5) working days after the Sexual Harassment Officer or appropriate college administrator has been notified of an incident.
2. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods deemed pertinent by the investigator.
3. All persons may have in their presence a support person of their choice during all contacts with the Sexual Harassment Officer and authorized investigator. This support person may participate in these interviews to the extent that data privacy allows.
4. In determining whether alleged conduct constitutes sexual harassment/sexual violence, the investigator will consider the surrounding circumstances, the nature of the sexual advances, the relationship(s) between the parties, and the context in which the alleged incident(s) occurred. Whether a particular action or incident constitutes sexual harassment/sexual violence requires a determination based on all the facts and surrounding circumstances.
5. The College may take immediate steps, at its discretion, to protect the complainant, other students and/or employees, pending completion of the investigation of alleged sexual harassment/violence.
6. Upon completion of the investigation, the Sexual Harassment Officer shall make a report to the appropriate college administrator within five (5) working days after the investigation has been completed. In cases of sexual violence, a report will also be forwarded to MnSCU.

### **College Action**

- A. Upon receiving a report from the Sexual Harassment Officer indicating that the complaint is valid, and that sexual harassment/sexual violence has occurred, the appropriate college administrator will take appropriate action, based on the results of the investigation.
- B. Within five (5) working days of completing the investigation, the appropriate college administrator shall notify the complainant in writing of the investigation and any disciplinary action taken as a result of the complaint.
- C. The College will not discipline any person who has, in good faith, reported sexual harassment/sexual violence when an investigation determines that sexual harassment has not occurred.
- D. Any College action taken pursuant to this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota Statutes and policies. Mesabi Range College will take disciplinary action it deems necessary and appropriate to end incidents of harassment or sexual violence and prevent their recurrence. Disciplinary action toward employees may include, but is not limited to, counseling, warning, suspension, or termination; disciplinary action toward students may include, but is not limited to, counseling, warning, probation, suspension, or expulsion.

### **Right to Appeal**

- A. The complainant or the accused shall have the right to appeal decisions resulting from this policy.
- B. A written appeal must be made to the Provost within five (5) working days after notification of the decision which is being appealed.
- C. The Provost will make a decision within five (5) working days of hearing the appeal and notify the appellant.
- D. Further appeals may be made to MnSCU.
- E. During the time of appeal and review, disciplinary action taken as a result of the complaint will be enforced.

### **Non-Harassment**

The College recognizes that not every advance or comment of a sexual nature constitutes harassment. Whether a particular action or incident is harassment or is inappropriate without a discriminatory effect on employment or education requires a determination based on all the facts and surrounding circumstances. False accusations of sexual harassment can have a serious detrimental effect on innocent parties.

### **Bill of Rights for Victims of Sexual Violence**

- A. Victims of sexual violence have the right to file criminal charges.
- B. Within one working day of being requested to do so by the victim, the Sexual Harassment Officer will notify appropriate law enforcement and disciplinary officials of an incident of sexual violence.
- C. The victim has the right to participate in and be present at any disciplinary proceeding concerning a sexual violence complaint. The victim's attorney and/or other support person may also be present at such proceedings.
- D. Mesabi Range College will notify the victim of the outcome of any campus disciplinary proceeding concerning a sexual violence complaint, consistent with laws relating to data practices.
- E. At the discretion of law enforcement authorities, Mesabi Range College will be complete and prompt in obtaining, securing and maintaining evidence in connection with an incident of sexual violence.
- F. Mesabi Range College will preserve for a victim or complainant materials relevant to a campus disciplinary proceeding.
- G. At the victim's request, Mesabi Range College will shield the victim from unwanted contact with the alleged assailant. If such a request is made, all attempts will be made to provide alternative classes or work opportunities.

### **Further Actions for Victims of Sexual Violence**

1. Seek assistance from a counselor, therapist, advocate, or support group.
2. Contact the Sexual Assault Program of Northern St. Louis County, 749-4725 or 1-800-300-3102, or Range Women's Advocates, 749-5054 or 1-800-232-1300.
3. If you have not done so already, report to law enforcement at a time when you are ready.
4. Contact the Office of Crime Victims' Ombudsman, at 612-642-0397 or 1-800-237-0390, if you feel your rights have been violated or that you have been treated unfairly by the criminal justice system.
5. Contact the Minnesota Crime Victims Reparations Board, 1-800-657-3704, to determine if you are eligible for assistance with financial losses due to the crime.

### **UNRESOLVED QUESTIONS OR GRIEVANCES**

Discrimination complaints or grievances not addressed or processed by means of this policy may be referred to:

Commissioner of Human Rights  
Minnesota Department of Human Rights  
190 East 5th Street, Suite 700  
St. Paul, MN 55101  
1-800-657-3704

Questions about sexual harassment and sexual violence can also be directed to:

Office of the Attorney General  
102 State Capitol  
St. Paul, MN 55155-1002  
612-297-4193 or 1-800-657-3787

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