

The below policy and procedure is an excerpt from the Saint Paul College Policy and Procedures manual, pages 30-39.

SAINT PAUL COLLEGE POLICIES
Chapter 1 – College Organization and Administration

01.08.00.0 Sexual Violence

Part 1. Policy statement.

The College shall comply with Minnesota State Colleges and Universities (MnSCU) System Policy 1B.3. Sexual Violence Policy (<http://www.mnscu.edu/board/policy/index.html>).

Sexual violence is an intolerable intrusion into the most personal and private rights of an individual, and is prohibited at Saint Paul College. Saint Paul College is committed to eliminating sexual violence in all forms and will take appropriate remedial action against any individual found responsible for acts in violation of this policy. Acts of sexual violence may also constitute violations of criminal or civil law, or other Minnesota State Colleges and Universities Board of Trustees Policies that may require separate proceedings. To further its commitment against sexual violence, Saint Paul College provides reporting options, internal mechanisms for dispute resolution, and prevention training or other related services as appropriate.

Subpart A. Application of policy to students, employees, and others. This policy applies to all Saint Paul College students and employees and to others, as appropriate, where alleged incidents of sexual violence have occurred on Saint Paul College property. Incidents of sexual violence alleged to have been committed by a student at a location other than on Saint Paul College property are covered by this policy pursuant to the factors listed in Minnesota State Colleges and Universities Board Policy 3.6, Part 2. Reports of sexual violence alleged to have been committed by a Saint Paul College employee at a location other than Saint Paul College are covered by this policy.

Reports of sexual violence committed on Saint Paul College property by individuals who are not students or employees are subject to appropriate actions by Saint Paul College, including, but not limited to, pursuing criminal or civil action against them. Allegations of discrimination or harassment are governed by Minnesota State Colleges and Universities Board Policy 1B.1.

Part 2. Definitions.

The following definitions apply to this Policy and Procedure 01.08.00.1.

Subpart A. Sexual violence. Sexual violence includes a continuum of conduct that includes sexual assault, and non-forcible sex acts, dating and relationship violence, stalking, as well as aiding acts of sexual violence.

Subpart B. Sexual assault. “Sexual assault” means an actual, attempted, or threatened sexual act with another person without that person’s consent. Sexual assault is often a criminal act that

can be prosecuted under Minnesota law, as well as form the basis for discipline under Saint Paul College student conduct codes and employee disciplinary standards. Sexual assault includes but is not limited to:

1. Involvement without consent in any sexual act in which there is force, expressed or implied, or use of duress or deception upon the victim. Forced sexual intercourse is included in this definition, as are the acts commonly referred to as “date rape” or “acquaintance rape.” This definition also includes the coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another.
2. Involvement in any sexual act when the victim is unable to give consent.
3. The intentional touching or coercing, forcing, or attempting to coerce or force another to touch an unwilling person’s intimate parts (defined as primary genital area, groin, inner thigh, buttocks, or breast).
4. Offensive sexual behavior that is directed at another such as indecent exposure or voyeurism.

Subpart C. Dating and relationship violence. Dating and relationship violence includes physical harm or abuse, and threats of physical harm or abuse, arising out of a personal intimate relationship. This violence also may be called domestic abuse or spousal/partner abuse and may be subject to criminal prosecution under Minnesota state law.

Subpart D. Stalking. Stalking is conduct directed at a specific person that is unwanted, unwelcome, or unreciprocated and that would cause a reasonable person to fear for her or his safety or the safety of others or to suffer substantial emotional distress.

Subpart E. Consent. Consent is informed, freely given and mutually understood. If coercion, intimidation, threats, and/or physical force are used, there is no consent. If the complainant is mentally or physically incapacitated or impaired so that the complainant cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious. Silence does not necessarily constitute consent, and past consent of sexual activities does not imply ongoing future consent. Whether the respondent has taken advantage of a position of influence over the complainant may be a factor in determining consent.

Subpart F. Non-forcible sex acts. Non-forcible acts include unlawful sexual acts where consent is not relevant, such as sexual contact with an individual under the statutory age of consent, as defined by Minnesota law, or between persons who are related to each other within degrees wherein marriage is prohibited by law.

Subpart G. Saint Paul College property. “Saint Paul College property” means the facilities and land owned, leased, or under the primary control of Saint Paul College.

Subpart H. Employee. “Employee” means any individual employed by Saint Paul College, including student workers.

Subpart I. Student. The term “Student” includes all persons who:

1. Are enrolled in one or more courses, either credit or non-credit, through a college or university;

2. Withdraw, transfer or graduate, after an alleged violation of the student conduct code;
3. Are not officially enrolled for a particular term but who have a continuing relationship with the college or university; or
4. Have been notified of their acceptance for admission or have initiated the process of application for admission or financial aid; or
5. Are not college or university employees and are not enrolled in the institution but live in a college or university residence hall.

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SAINT PAUL COLLEGE POLICIES

Chapter 1 – College Organization and Administration

01.08.00.1 If You Have Been Sexually Assaulted Procedure

Part 1. Procedure objective.

The College shall comply with Minnesota State Colleges and Universities (MnSCU) System Policy 1B.3.1 Sexual Violence Procedure (<http://www.mnscu.edu/board/policy/index.html>).

This procedure is designed to further implement the Saint Paul College policy prohibiting sexual violence. 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.

Part 2. Definitions.

Subpart A. Policy definitions. The definitions in Policy 01.08.00.0 also apply to this procedure.

Subpart B. Campus security authority. Campus security authority includes the following categories of individuals at a college or university:

1. A college or university security department;
2. Other individuals who have campus security responsibilities in addition to a college or university security department;
3. Any individual or organization identified in a college or university security policy as an individual or organization to which students and employees should report criminal offenses;
4. An official of a college or university who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings; advisors to recognized student organizations, and athletic coaches. Professional counselors, whose official responsibilities include providing mental health counseling, and who are functioning within the scope of their license or certification are not included in this definition.

Part 3. Reporting incidents of sexual violence.

Subpart A. Prompt reporting encouraged. 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, campus Public Safety or Saint Paul College campus security authorities for appropriate action.

Subpart B. Assistance in reporting. When informed of an alleged incident of sexual violence, Saint Paul 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, campus Public Safety or campus security authorities.

Saint Paul College campus security authorities, when informed of an alleged incident of sexual violence, shall promptly assist the complainant, as requested, 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 Public Safety, campus officials responsible for enforcing the student conduct code or employee conduct standards.

When appropriate, Saint Paul 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. Saint Paul College may take actions it deems necessary or appropriate in response to all protection, restraining or no contact orders.

Part 4. Confidentiality of reporting.

Subpart A. Confidential reports. Because of laws concerning government data contained in Minnesota Statutes §13, the Minnesota Government Data Practices Act, Saint Paul 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.

Subpart B. 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 Saint Paul 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, Saint Paul 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.

Subpart C. Required Reports. Any campus security authority or any Saint Paul College employee with supervisory or student-advising responsibility who has been informed of an alleged incident of sexual violence must follow Saint Paul College 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.

Part 5. Policy notices.

Subpart A. Distribution of policy to students. Saint Paul College shall, at a minimum, at the time of registration make available to each student information about its sexual violence policy and procedure, and shall additionally post a copy of its policy and procedure at appropriate locations on campus at all times. Saint Paul College may distribute its policy and procedure by posting on an Internet or Intranet Web site, provided all students are directly notified of how to access the policy by an exact address, and that they may request a paper copy.

Subpart B. Distribution of policy to employees. Saint Paul College shall make available to all employees a copy of its sexual violence policy and procedure. Distribution may be accomplished by posting on an Internet or Intranet Web site, provided all employees are directly notified of the exact address of the policy and procedure and that they may receive a paper copy upon request.

Subpart C. Required Notice. Saint Paul College shall have a sexual violence policy, which shall include the notice provisions in this part.

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 Saint Paul 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 §611A.01 – 611A.06, including the right to assistance from the Crime Victims Reparations Board and the commissioner of public safety;
- c. 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;
- d. Assistance available from campus authorities in preserving for a sexual violence complainant materials relating to a campus disciplinary proceeding;
- e. That complaints of incidents of sexual violence made to campus security authorities shall be promptly and appropriately investigated and resolved;
- f. That, at a sexual assault complainant's request, Saint Paul 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.

Part 6. Investigation and disciplinary procedures.

Subpart A. Immediate action. Saint Paul 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.

Saint Paul 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.

Subpart B. General principles. Saint Paul College shall use system procedure 1B.1.1 Report/Complaint of Discrimination/Harassment Investigations and Resolution when investigating complaints of sexual violence. 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.

Saint Paul 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. Simultaneously inform both the complainant and respondent of the outcome in a timely manner, as permitted by applicable privacy law.
7. Be based on a preponderance of evidence standard, meaning that it is more likely than not that the policy or code has been violated.

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.

Subpart C. Relationship to parallel proceedings. In general, Saint Paul College investigation and disciplinary procedures for allegations of sexual violence will proceed independent of any action taken in criminal or civil courts. Saint Paul College need not, and in most cases should not, delay its proceedings while a parallel legal action is on-going. If Saint Paul 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 Saint Paul College procedures.

Subpart D. False statements prohibited. Saint Paul 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.

Subpart E. Withdrawn complaint. If a complainant no longer desires to pursue a complaint through the college proceeding, Saint Paul College reserves the right to investigate and resolve the complaint as it deems appropriate.

Subpart F. Saint Paul College discretion to pursue certain allegations. Saint Paul 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.

Subpart G. Saint Paul College discretion to deal with policy violations disclosed in investigation. Saint Paul 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 that come to light during the investigation of an incident of sexual violence. In order to encourage reporting of sexual violence, under appropriate circumstances Saint Paul College administrators may choose to deal with violations of Saint Paul College policy in a manner other than disciplinary action.

Subpart H. 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.

Subpart I. 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.

Part 7. Sexual violence prevention and education.

Subpart A. Campus-wide training. Saint Paul College must:

1. Include in the College sexual violence policy a description of educational programs that they offer to students and employees to promote the awareness of sexual violence offenses, including sexual violence prevention measures and procedures for responding to incidents.
2. Provide training on awareness of sexual violence prevention measures and procedures for responding to incidents of sexual violence. At a minimum, all incoming students and all new employees must be provided this training. Education shall emphasize the importance of preserving evidence for proof of a criminal offense, safe and positive options for bystander intervention, and information on risk reduction to recognize warning signs of abusive behavior and risk associated with the perpetration of sexual violence.

Subpart B. Other training and education. Saint Paul Colleges and affiliated 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.

Subpart C. Training for individuals charged with decision making authority. Prior to serving as either an investigator or decision maker for complaints under this procedure, administrators must complete investigator or decisionmaker training provided by the system office. Investigators/decisionmakers and anyone else involved in the adjudication process must receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Part 8. 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 §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 college and university campuses 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.

Available in Alternate Format

This document is available in alternative formats to individuals with disabilities by contacting Caidin Riley, Director of Disability Services at 651.846.1547 or caidin.riley@saintpaul.edu. For TTY Communication, contact the Minnesota Relay Service at 7-1-1 or 1.800.627.3529.

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