

Title IX Sexual Assault & Sexual Misconduct Policy Updated for 2020-2021 Academic Year

Notice of Non-Discrimination

Mid-State Technical College does not discriminate on the basis of sex in its education programs and activities and is required by Title IX not to discriminate in such a manner. Questions regarding Title IX and this Policy may be referred to the College's Title IX Coordinator or the Department of Education's Office of Civil Rights.

Title IX Coordinator

Mid-State's Title IX Coordinator, Dr. Karen Brzezinski, can be used by any community member as a resource for understanding the College's Title IX obligations, this Policy and navigating the investigative and judicial process. Faculty or staff supporters should consult the Coordinator with questions about how to best support students/staff going through the reporting/investigation process. The Title IX Coordinator is not a confidential resource. You may contact the Title IX Coordinator during normal business hours by phone at (715) 422-5325, by email at karen.brzezinski@mstc.edu or via mail at

Mid-State Technical College, Wisconsin Rapids Campus, 500 32nd Street North, Wisconsin Rapids, 54494.

Sexual Harassment Policy

Title IX Policy requires a college to respond to incidents of sexual harassment that occur within Mid-State related programs. The definition used for sexual harassment is based upon the Davis Standard, "actions that are so severe, pervasive, and objectively offensive that they effectively deny a person equal access to a school's education program or activity."

Sexual Assault and Sexual Misconduct Policy

Sexual assault and sexual misconduct, including non-consensual intercourse and non-consensual sexual contact, seriously infringe on the rights of others, violate the standards of acceptable behavior at Mid-State and maybe illegal in the State of Wisconsin. Mid-State expects all members of the college community and their guests to conduct themselves in a responsible manner, showing respect for others and the community at large. Mid-State is subject to, abides by, and supports the Wisconsin State statutes and local ordinances regarding criminal sexual assault and sexual contact.

Mid-State requires a non-intoxicated, verbal, mutually understood "Yes" for sexual contact or intercourse to be considered consensual. Non-verbal or the absence of "No" or "Stop" should not be considered invitations for intercourse or sexual contact. Consequently, returning to an individual's room, being physically aroused, removing clothing, stroking, assenting to dancing or cuddling, obtaining contraception, etc are not the same as a non-intoxicated verbal, mutually understood "Yes" and therefore do not constitute consent.

- Students who have been sexually assaulted, have witnessed a sexual assault, or have information about sexual assault are urged to report the information to the Title IX Coordinator

Karen Brzezinski by phone at (715) 422-5325, via email at Karen.Brzezinski@mstc.edu , or in-person or via mail at: Mid-State Technical College Wisconsin Rapids Campus, 500 32nd Street North Wisconsin Rapids WI 54494 or by utilizing this link: <https://www.mstc.edu/form/incident-report-form>

Mid-State will do all that is reasonably possible to offer safety, privacy, sensitivity, and support to persons reporting sexual assault and sexual misconduct, as well as offering educational programming to decrease the risk of sexual assault and sexual misconduct on campus. The College urges students to learn about the steps that can be taken to prevent sexual assault and sexual misconduct. Should the College believe that a threat exists to the safety or security of a person filing a complaint, or to others, it will take reasonable steps to attempt to mitigate that threat.

State and Federal Law

Mid-State students are subject to Wisconsin State Statutes and federal laws regarding sexual assault and other sex related acts. Wisconsin law makes no reference to the gender of either the victim or the assailant. Sexual assault victims of any gender are protected by the law, and assailants of any gender can be prosecuted under the law. For more information, review the Wisconsin State Statute 940.225 at <http://legis.state.wi.us/rsb/stats/html>. Sex with a person under the age of 18 in Wisconsin is a violation of the state law and of the College's policy. Persons under the age of 18 cannot give consent to sexual interactions.

Mid-State Technical College's Definition of Consent

Mid-State defines consent more strictly than Wisconsin or Federal Law. Mid-State requires that consent to sexual activity be informed, freely and actively given through mutually understood words which indicate a willingness to participate in mutually agreed upon sexual activity. Mid-State policy requires a non-intoxicated, verbal, mutually understood "Yes" for sexual contact or intercourse to be considered consensual. Consenting to sexual activity requires a non-intoxicated, verbal communication that is free of threats, intimidation, or other coercion. Silence or the absence of "No" or "Stop" or inaction does not constitute consent. Non-verbal actions should not be considered invitations for intercourse of sexual contact. Consequently, returning to an individual's room, being physically aroused, removing clothing, stroking, assenting to dancing or cuddling, obtaining contraception, etc are not the same as a non-intoxicated, verbal, mutually understood "Yes" and, therefore, do not constitute consent. Having sex with someone you know to be, or whom you should know to be, below their normal cognitive function is a violation of the Mid-State Sexual Assault Policy; sexual contact with anyone who is inebriated mentally or physically impaired, or incapacitated is a violation of this policy. People who have mental illness or deficiency, are unconscious for any reason, or are physically unable to communicate are assumed to be incapable of giving consent.

Consent Under the Influence of Alcohol or Drugs

If a person chooses to drink alcohol or use other drugs, they assume the risk of impaired thinking and communication. Sex under the influence of is a hazardous activity and is a violation of the College Policy. College policy recognizes that someone who is under the influence of drugs and/or alcohol may be physically unable to communicate and therefore may be unable to give consent.

In the case of each party being impaired by drugs or alcohol, the investigator will seek to understand which party initiated sexual contact and was therefore seeking consent, and which party was most impaired. Both factors will weigh into the decision making process.

Definition of Sexual Assault

Non-Consensual Sexual Intercourse/Rape:

Non-consensual sexual intercourse includes vaginal penetration however slight, by a penis, object, tongue or finger, anal penetration by a penis, object, tongue or finger, and oral copulation, mouth to genital contact or genital to mouth contact without a non-intoxicated, verbal, mutually understood “Yes”.

Non-Consensual Sexual Contact:

Non-consensual sexual contact is touching however slight, with any object or body part, of the breasts, buttocks, groin, or genitals, or touching either directly or through clothing, or making a person touch another or themselves on the breasts, buttocks, groin, or genitals, either directly or through clothing without non-intoxicated, verbal mutually understood “Yes”. Non-consensual sexual contact includes disrobing or exposure of breasts, buttocks, groin, or genitals to any individual, without a non-intoxicated, verbal, mutually understood “Yes.”

Sexual Harassment:

Actions that are so severe, pervasive, and objectively offensive that they effectively deny a person equal access to a school’s education program or activity.

The College has other definitions of sexual harassment that are not considered part of the Title IX policy but are still upheld according to the College Code of Conduct. Those definitions can be found here:

<https://www.mstec.edu/sites/default/files/2019-01/EqualOpport-AffirmativeAct.pdf>.

Sexual Misconduct

Sexual misconduct is when an individual takes non-consensual, unjust, or abusive advantage of another for their own advantage or benefit or to the advantage or benefit of anyone other than the person being exploited and that behavior does not constitute rape, sexual assault, or sexual harassment.

Reporting a Title XI Violation

Step 1: File a Complaint for Action

If you are a victim of sexual harassment, violence, assault, or misconduct Mid-State urges you to report it. A report is a written documentation of sexual harassment, assault/misconduct. It contains the names of those involved, a date, time, location or the alleged event, and a written summary of what is reported. A complaint can be filed by submitting an incident report using this link:

<http://www.mstec.edu/incident-report-form> or by meeting or emailing the Title IX Coordinator Karen Brzezinski karen.brzezinski@mstec.edu. The Title IX Coordinator collects all reports. This individual will make a determination if an investigation is required. The Coordinator will consult with the complainant about their wishes regarding how the investigation should proceed. The college may investigate even if

the complainant decides not to participate. The complainant may request an informal resolution to the complaint.

The College will work with students to facilitate individual support services as reasonable available and without fee or charge. Such measures are designed to restore or preserve equal access to recipients education program or activity. In certain cases, interim measures can be enacted regarding living, academics, transportation, and working situations as requested and needed, regardless of whether campus security or local police are involved. There is no statute of limitations for college complaints, but potential complainants are reminded that the College's ability to effectively investigate complaints can be impaired or negated as time passes.

- Employees who are witness or receive a first-hand report of sexual harassment, assault, stalking, or dating/domestic violence should contact the Title IX Coordinator whose office has been designated to receive reports.
- Students who experience, witness, or receive first-hand reports of sexual harassment, assault, stalking, or dating/domestic violence are strongly encouraged to contact the Title IX Coordinator. Students are also encouraged to contact law enforcement in the jurisdiction in which the incident took place to file a report:
 - Adams Police Department
105 N Main Street
Adams, WI 53910
608-339-6839
 - Grand Rapids Police Department
410 48th Street South
Wisconsin Rapids, WI 54494
715-424-1821
 - Marshfield Police Department
110 West 1st Street
Marshfield, WI 54449
715-384-3113
 - Stevens Point Police Department
1515 Strong Avenue
Stevens Point, WI 54481
715-346-1500
- Confidential Resources are available to students. The individual's below are not required to disclose information as they have professional obligations to maintain the confidentiality of their clients.
 - Brian Sadler
Wisconsin Rapids Campus, 715-422-5605
 - Shawn Zee
Marshfield Campus, 715-389-7015
 - Patti Lloyd
Stevens Point Campus, 715-422-5300
 - Christina Lorge
Stevens Point Campus, 715-422-5300

Confidentiality of the Report

To the extent permissible by the law and the needs of the investigation process, Mid-State will endeavor to keep victim information private. Once a report is made to the College, or the College has notice of an incident of harassment, domestic violence, dating violence, sexual assault or stalking, confidentiality cannot be guaranteed unless the information is reported directly to one of the confidential resources listed above. The College reserves the right to issue timely warnings and make other announcements to the College community or that there is a significant emergency or dangerous situation involving an immediate threat to the health or safety of students and employees on the College's campus. In making such announcements the College will withhold the name of the victim as confidential to the greatest extent of the law. Under federal law, the College must report the occurrence of certain designated crimes that occur on campus or in certain areas including forcible and non-forcible sex offenses as defined by the federal government, in an annual security report that is submitted to the US Department of Education. This security report will not reveal personally identifiable information. Mid-State keeps files in a secure locations and abides by FERPA.

For victims under the age of 18, college employees must report child abuse to Child Protective Services or local law enforcement.

Meeting with Complainant

The Title IX Coordinator will meet with the complainant and discuss fully the options afforded to them, the rights and responsibilities of both parties (including the right to be accompanied during any college grievance processing by a support person and/or advisor). The complainant will be informed about the investigation process, the prohibition against retaliation, the need to preserve relevant evidence or documentation of the case, and the availability of support measures.

Prohibition Against Retaliation for Report

State and federal laws and this Policy protects against retaliation for reporting sexual harassment, sexual assault, and sexual violence. The College prohibits retaliation against a person because they made a report, filed a complaint, participated in the investigation or a complaint, or assisted others who raised a complaint. Retaliation is a serious offense which can result in disciplinary action for students or employees. This protection from retaliation applies for any complaint made in good faith, even if eventually dismissed or found lacking in merit. It is a violation of this policy and the Student Code of Conduct to make false accusations or knowingly provide false information pertaining to a complaint or investigation.

Step 2: Initial Title IX Review

Upon formal receipt of sexual misconduct allegation, Mid-State Technical College's Title IX Coordinator will conduct an initial Title IX assessment. This process will determine if a formal investigation is warranted. This assessment will consider the nature of the complaint, safety of the individual(s) involved, safety of the campus community, and the complainant's expressed preference for resolution. Interim support measures can be enacted during this time.

Step 3: Notice of Sexual Misconduct Complaint

When it is determined that the complaint warrants a comprehensive investigation, Mid-State Technical College will notify the complainant and respondent of the decision.

Step 4: Investigation

When an investigation is deemed appropriate, Mid-State will strive to complete the investigation in 30 working days. This time frame may be extended due to the complexity of the circumstances and if law enforcement are involved. If a respondent does not wish to participate in the investigation process, the process will continue without their contributions. The Title IX Coordinator will assign a trained investigator(s) to the complaint. The Title IX Coordinator reserves the right to assign an external third-party investigator as circumstances require.

This is a general framework for how an investigation is conducted:

- Complainant write an account of the incident (can be done in the formal complaint) or in initial meeting with Title IX Coordinator
- Initial meeting with responding party, review of rights and options
- Respondent write an account of the incident
- Interview witnesses and those with knowledge of the events
- Site visits
- Evidence gathering
- Conclude investigation and send preliminary report to the parties and their advisors, if any.
- Parties have 10 days to respond in writing to the evidence and the investigator must consider the written responses prior to completion.
- Once parties have submitted their responses, the investigator(s) must either dismiss the allegations or determine if there is sufficient evidence to conclude that a Title IX violation occurred.
 - Incident are only dismissed for the following;
 - Sexual harassment did not occur against a person in the United States
 - The conduct would not constitute sexual harassment even if proven
 - Sexual harassment did not occur in the recipient's education program or activity
 - Complainant request in writing to dismiss the complaint
 - Respondent is no longer enrolled or employed by the institution
 - If dismissed, written notification will be given to both parties with the ability to challenge the dismissal.

Step 5: Preparing for Live Hearing

If it is determined that a Title IX violation occurred a live hearing will be concluded. The Title IX Coordinator initiates this step by sending written notice of the allegations to both parties and informing them of the right to choose an advisor to attend the hearing. If a party does not have an advisor, the College will provide one. Advisors may be attorneys. The respondent will be made aware of the complainant's identity. Both parties will be notified of their rights and obligations. Ten days before the

hearing the Title IX coordinator's office will send the final investigation report to the parties containing a fair summary of the evidence so they can prepare to respond to the hearing.

Preponderance of Evidence of Standard

Evidence and information collected during the investigation of a sexual assault will be evaluated using the preponderance of evidence standard. The Standard of evidence to determine whether a policy violation occurred is not as high as that of the criminal process. If the evidence and information collected during the investigation suggest it was more likely than not that a policy violation occurred the hearing officer will conclude the policy was violated and will find the responding party responsible.

Preserving Evidence

It is important to preserve any evidence that might be used during an investigation of an alleged sexual assault. Electronic evidence is often helpful, including texts, emails, facebook posts, chats, pictures, and any other electronic communication and should be downloaded and preserved. Physical evidence on your body or clothing can be documented with photos. Medical reports can provide evidence.

Step 6: Live Hearing

Hearings must be conducted live and in real time. Upon request of either party, the hearing may be conducted by video conference with parties in separate rooms. However, at all times, all participants, including parties, advisors, witnesses, and a decision maker, must be able to see and hear each other. A decision, who is not the Title IX Coordinator, will preside over the hearing. Advisors must conduct cross-examination of the parties and any witnesses. Cross-examination must occur directly, orally, and in real-time by the party's advisor and never by the party personally.

Step 7: Post Hearing

The decision maker will issue a written decision simultaneously to both parties which includes:

- Identification of the alleged violation
- Steps taken from the formal complaint through determination
- Findings of fact supporting the determination
- Conclusions regarding the application of the Code of Conduct
- Determination regarding responsibility for each allegation and rationale for the result
- Any disciplinary sanctions imposed on the respondent
- Whether remedies will be provided to the complainant
- Information about the appeals process

Appeals

Both parties have the right to request an appeal of the decision. Appeals occur under the following conditions:

- To determine if there was significant error in the process that impaired either party, including failure to follow appropriate procedures either prior to or during the initial review.
- To consider significant new evidence or material that was not known, not available or could not be discovered at the time of the review.

Appeals must be submitted in writing within five days of receiving the decision letter. In the event of an appeal, the initial decision shall be upheld until a final decision is made.

Possible Sanctions and Outcomes

If a Title IX violation has been determined using the preponderance of evidence standard, a range of sanctions may be applied. Sanctions include but are not limited to, suspension, expulsion, probation, counseling, deferred suspension, removal from campus, removal from program, removal from courses, or any combination of the previous.