

Bemidji State University Policies

Policy Name: Sexual Violence Policy	Effective Date: 4/21/2004
Policy Owner: Assistant to the President-Affirmative Action	Last Review: 4/1/2018
	Next Review: 9/1/2021

Policy Statement

Sexual violence is an intolerable intrusion into the most personal and private rights of an individual, and is prohibited at Bemidji State University. Bemidji State University 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.

Scope and Purpose of Policy

Part 1. Application of policy to students, employees, and others

This policy applies to all Bemidji State University students and employees and to others, as appropriate, where incidents of sexual violence on system property have been reported. Reports of sexual violence committed by a student at a location other than on system property are covered by this policy pursuant to the factors listed in MnSCU Board Policy 3.6, Part 2. Reports of sexual violence committed by a system employee at a location other than system property are covered by this policy.

Reports of sexual violence committed on system property by individuals who are not students or employees are subject to appropriate actions by Bemidji State University, including, but not limited to, pursuing criminal or civil action against them.

Allegations of discrimination or harassment are governed by the Bemidji State University harassment and discrimination policy.

Part 2. University policies

Bemidji State University shall adopt a clear, understandable written policy on sexual violence that applies to its campus community, including but not limited to its students and employees. The policy content and implementation must be consistent with the standards in this policy, Bemidji State University's Response to Sexual Violence Procedure, and the Report/Complaint of Discrimination/Harassment Investigation and Resolution Procedure, and Minnesota State's 1B.3 policy and 1B.3.1 procedure.

Definitions

The following definitions apply to this policy and Bemidji State University's Response to Sexual Violence Procedure.

Affirmative consent

Consent is informed, freely given, and mutually understood willingness to participate in sexual activity that is expressed by clear, unambiguous, and affirmative words or actions. It is the responsibility of the person who wants to engage in sexual activity to ensure that the other person has consented to engage in the sexual activity. Consent must be present throughout the entire sexual activity and can be revoked at any time. 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. A lack of protest, absence of resistance, or silence alone does not constitute consent, and past consent of sexual activities does not imply ongoing future consent. The existence of a dating relationship between the people involved or the existence of a past sexual relationship does not prove the presence of, or otherwise provide the basis for, an assumption of consent. Whether the respondent has taken advantage of a position of influence over the complainant may be a factor in determining consent.

Dating, intimate partner, and relationship violence

Violence including 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 law.

Employee

Any individual employed by Bemidji State University, including student workers.

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.

Sexual assault

An actual, attempted, or threatened sexual act with another person without that person's affirmative consent. Sexual assault is often a criminal act that can be prosecuted under Minnesota law, as well as form the basis for discipline under Bemidji State University's student code of conduct 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. Intentional and unwelcome touching of a person's intimate parts (defined as primary genital area, groin, inner thigh, buttocks, or breast); or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts.
4. Offensive sexual behavior directed at another, such as indecent exposure or voyeurism.

Sexual violence

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

Stalking

Conduct directed at a specific person that is unwanted, unwelcome, or unreciprocated and that would cause a reasonable person to fear for their safety or the safety of others or to suffer substantial emotional distress.

Student

All persons who:

1. Are enrolled in one or more courses, either credit or non-credit, through Bemidji State University; or
2. Withdraw, transfer, or graduate after an alleged violation of the code of student conduct; or
3. Are not officially enrolled for a particular term but who have a continuing relationship with Bemidji State 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 university employees and are not enrolled at Bemidji State University but live in a university residence hall.

System property

The facilities and land owned, leased, or under the primary control of Minnesota State, its Board of Trustees, system office, colleges, and universities.

Procedures

Acts of sexual violence may also constitute violations of criminal or civil law, or of other Bemidji State University policies that may require separate proceedings. To further its commitment against sexual violence, Bemidji State University provides reporting options, an investigative and disciplinary process, and prevention training or other related services as appropriate. Bemidji State University's procedure for investigating instances of sexual violence is described in its Response to Sexual Violence Procedure.

Rationale

Sexual violence is an intolerable intrusion into the most personal and private rights of an individual, and is prohibited at Bemidji State University. To further its commitment against sexual violence, Bemidji State University this procedure provides reporting options, an investigative and disciplinary process, and prevention training or other related services as appropriate.

Supporting References

- Minnesota State Board Procedure 1B.3.1 Response to Sexual Violence
<http://www.minnstate.edu/board/procedure/1b-03p1.pdf>
- Minnesota State Board 1B.3 Sexual Violence Policy
<http://www.minnstate.edu/board/policy/1b-03.pdf>
- Bemidji State University Response to Sexual Violence Procedure
- Bemidji State University Report/Complaint of Discrimination/Harassment Investigation and Resolution Procedure
- Minnesota State Board Policy 3.6 Student Conduct
<http://www.minnstate.edu/board/Policy/3-06.pdf>
- Bemidji State University Student Code of Conduct
<https://www.bemidjistate.edu/offices/development-enrollment/handbook/conduct/>