

Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy

Reference Documents: SBHE Policy Manual, Section 520 & Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30,026; North Dakota Century Code (N.D.C.C.) Ch. 12.1-20; N.D.C.C. § 15-10-56 (3)(a); N.D.C.C. Ch. 44-04.

Policy

In accordance with North Dakota State Board of Higher Education Policy 520, it shall be the policy of Mayville State University (MSU) to comply with all aspects of Title IX of the Education Amendments of 1972 and the associated regulations. This policy shall not govern compliance with any other anti-discrimination or anti-harassment statute, rule, or regulation.

Effective August 14, 2020, this policy replaces **M613** and removes that document from active status.

Mayville State University is committed to providing an inclusive and welcoming environment for all members of the University community. The University will take steps to eliminate sexual or gender-based misconduct, prevent its recurrence, and eliminate the effects of such misconduct. The University strictly prohibits sexual and gender-based misconduct, which includes sex or gender discrimination (including sexual orientation, gender identity, or pregnancy), sexual harassment, gender-based harassment, sexual violence, sexual exploitation, sexual assault, domestic violence, dating violence, and stalking.

MSU strictly prohibits retaliation by its students or employees against a person who exercises their rights or responsibilities under any provision of federal law or state law including Title IX, Title VII, the Violence Against Women Reauthorization Act (VAWA), or any applicable MSU policy.

The University utilizes procedures that provide for the prompt, fair, and impartial investigation and resolution of cases involving sexual- and gender-based misconduct. Students or employees who violate this policy are subject to disciplinary action, up to and including suspension, dismissal, or termination from Mayville State University. Third parties who commit sexual- or gender-based misconduct may have their relationships with the University terminated and/or their privileges of being on MSU's campus withdrawn.

Notice of Nondiscrimination

Mayville State University is committed to the principle of equal opportunity in education and employment. Mayville State does not discriminate on the basis of race, color, national origin, religion, sex, age, disability, sexual orientation, gender identity, genetic information, creed, marital status, veteran's status, political belief or affiliation or any other status protected by law. Pursuant to Title IX of the Education Amendments of 1972, Mayville State does not discriminate on the basis of sex in its educational programs and activities, employment and admission.

Mayville State will promptly and equitably investigate reports of discrimination or harassment and take disciplinary action as appropriate.

Retaliation in any form against a person who reports discrimination or participates in the investigation of discrimination is strictly prohibited and will be grounds for separate disciplinary action.

Complaints and inquiries regarding Title IX, ADA, Section 504, or other discrimination may be referred to:

Dean of Student Affairs
Mayville State University
Old Main Building, 110B
330 Third St NE
Mayville, ND 58257
701-788-4647

Complaints or inquiries regarding harassment or discrimination may also be made to:

U.S. Equal Employment Opportunity Commission
330 South Second Avenue
Suite 720
Minneapolis, MN 55401-2224
1-800-669-4000
Fax: 612-335-4044
TTY: 1-800-669-6820
Web: www.eeoc.gov.

Complaints or inquiries regarding harassment or discrimination may also be made to: Office for Civil Rights
U.S. Department of Education
500 West Madison
Suite 1475
Chicago, IL 60611
Phone: 312-730-1560
Fax: 312-730-1576
Email: OCR.Chicago@ed.gov

Jurisdiction and Scope

The Sexual Harassment Policy applies to all members of the Mayville State University community including: students, faculty, and staff, and administrators. The Policy covers all University programs and activities in the United States.

Title IX Coordinator

The role of the Title IX Coordinator is to ensure compliance with federal and state law and regulations regarding Title IX. The Title IX Coordinator oversees the University's investigation, response to, and resolution of all reports of sexual- and gender-based misconduct. The Title IX Coordinator organizes the mandatory training for individuals involved in the University's sexual- and gender-based misconduct investigation and grievance process, which includes training on the definition of sexual harassment, the scope of the education program or activity, how to conduct an investigation and grievance process, including hearings and appeals, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias. The Title IX Coordinator also assists students and employees in understanding their rights, responsibilities, and options for reporting potential misconduct and receiving support services.

Inquiries and/or concerns relating to Title IX or sexual- and gender-based misconduct may be referred to the University's Title IX Coordinator:

Dean of Student Affairs
Mayville State University
Old Main Building, 110B
330 Third St NE
Mayville, ND 58257
701-788-4647

Reporting and Confidential Resources

A guiding principle in accepting reports or sexual misconduct is to avoid re-victimizing the recipient of the behavior by forcing them into any plan of action. Mayville State University will make every attempt to safeguard the privacy of the complainant and/or recipient of the behavior; however, it is important that complainants recognize that Mayville State cannot ensure confidentiality in all cases. Mayville State must weigh the request for confidentiality against its obligation to protect the safety and security of the entire campus.

Depending on the circumstances of the offense (the severity of the offense, the number of victims involved, etc.), Mayville State may be required to respond to an incident, even if confidentiality has been requested. Therefore, except as noted, Mayville State University employees cannot guarantee confidentiality. Mayville State University employees who become aware of a complaint or violation of this policy shall report the complaint or violation to the Title IX Coordinator.

Individuals desiring confidentiality should be encouraged to contact one of the following:

Fargo-Moorhead:

F-M Rape & Abuse Crisis Line: 800-344-7273 (Available 24 hours) www.raccfm.com

F-M Rape & Abuse Crisis Center: 701-283-7273 or e-mail at: info@raccfm.com

Grand Forks:

Community Violence Intervention Center (CVIC): (Crisis Line: 701-746-8900 or use the Contact Us" form at <https://cviconline.org/contact-us/>)

Mayville:

Hanna Kaster, Mayville State Counselor: 701-788-4772

Sanford Hospital – Mayville: 701-788-3800

Other:

National Sexual Assault Hotline: 800-656-4673 (HOPE)

Non-Confidential reports can be made to University employees. In particular, reports can be or will be directed to

Dean of Student Affairs
Mayville State University
Old Main Building, 110B
330 Third St NE
Mayville, ND 58257
701-788-4647

or

Sarah Gasevic
Director, Human Resources and Deputy Title IX Coordinator
Mayville State University
Old Main Building, 110B
330 Third St NE
Mayville, ND 58257
701-788-4647
sarah.gasevic@mayvillestate.edu

or

Dr. Jeffrey Powell
Director, Student Life and Deputy Title IX Coordinator
Mayville State University
Campus Center 106
330 Third St NE
Mayville, ND 58257
701-788-4697
jeffrey.powell@mayvillestate.edu

Information related to sexual misconduct or incidents involving criminal activity may, and are encouraged, contact:

911

or

Trail County Sheriff's Department
114 West Caledonia

PO Box 279
Hillsboro, ND 58045
701-636-4510

Students or others who would like to be accompanied by the Title IX Coordinator or a Deputy Coordinator may request their presence.

Definitions

For the purposes of this Policy, the listed terms shall have the following definitions:

- a. *Actual Knowledge.* Notice of sexual harassment or allegations of sexual harassment to an institution's Title IX Coordinator or any institution official with authority to institute corrective measures on the institution's behalf.
- b. *Bystander Intervention.* A philosophy and approach for prevention of various types of violence, which include: bullying, sexual harassment, sexual assault, dating violence, etc.
- c. *Complainant.* An individual who is alleged to be the victim of conduct that could, after investigation, constitute sexual harassment.
- d. *Confidential Employee.* (1) Any employee who is a licensed medical, clinical or mental health professional (i.e., physicians, nurses, physicians' assistants, psychologists, psychiatrists, professional counselors and social workers, and those performing services under their supervision), when acting in that professional role in the provision of services to a patient ("health care providers"); and (2) any employee providing administrative, operation, and/or relational support for such health care providers in their performances of such services. A confidential employee will not disclose information about sexual- or gender-based misconduct to the University's Title IX Coordinator, or others, in a way that identifies the individual(s) involved without their permission (subject to the exception set forth in the Privacy and Confidentiality section of this policy).
- e. *Consent.* For purposes of this policy, consent is defined as affirmative informed, voluntary and active permission to engage in a mutually agreed upon sexual act or sexual contact. Consent is expressed by clear and unambiguous words or actions that a reasonable person not under the influence of drugs and/or alcohol in the circumstances would believe communicates a willingness to participate in a sexual act or contact. It is the responsibility of each person who wishes to engage in sexual acts or contacts to obtain consent. Silence, the lack of protest, or the absence of resistance does not indicate consent. Consent may also be initially given but withdrawn at any time. Consent to a past sexual act or contact does not imply consent to a future sexual act or contact. Consent to one form of a sexual act or contact does not imply consent to other forms of sexual acts or contacts. Being impaired, such as by drugs or alcohol, does not eliminate a person's responsibility to obtain consent.

Consent cannot be obtained:

- By the use of physical force, threats, intimidation, deception or coercion;
- From one who is incapacitated, such as due to mental or physical condition or the use of drugs or alcohol;
- From one who is asleep or unconscious; or
- From one who is not old enough to give consent under North Dakota law.

- f. *Dating violence*. Violence committed by the respondent:
- i. Who is or has been in a romantic or intimate relationship with the complainant; and
 - ii. Where the existence of such a relationship shall be determined by considering the length of the relationship, the type of relationship, and the frequency of interactions between the complainant and respondent.
- g. *Deliberate Indifference*. When an institution's response to sexual harassment is clearly unreasonable in light of the information known to the institution at the time.
- h. *Discrimination*. Unfair or unequal treatment of an individual or a group based upon certain characteristics. Protected classification under this policy include: sex, sexual orientation, gender identity, marital status, and pregnancy. Discrimination is a violation of this policy when it establishes a quid pro quo, creates a hostile environment, or is done for a prohibited purpose.
- The University maintains prohibitions against harassment that is not sexual- or gender-based, including those found at M601.1.1 and M601.1.3¹ and in the *Code of Student Rights and Responsibilities*².
- i. *Domestic Violence*. Violence committed by the respondent, who is:
- i. A current or former spouse or intimate partner of the complainant;
 - ii. A person with whom the complainant shares a child in common;
 - iii. Cohabiting with or has cohabitated with the victim as a spouse or intimate partner;
 - iv. Similarly situated to a spouse of the complainant; or
 - v. Any person against whose acts the complainant is protected by N.D.C.C. ch. 14-07.1.
- j. *Education program or activity*. Includes locations, events, or circumstances over which an institution exercises substantial control over both the respondent and the context in which the sexual harassment occurs, as well as in any building owned or controlled by a student organization that is officially recognized by an institution.

¹ at <https://mayvillestate.edu/about-msu/consumer-information/university-policy-manual/>

² at <https://mayvillestate.edu/about-msu/consumer-information/#resources>

- k. *Employee*. Any person employed for wages or salary by MSU, in either full-time or part-time capacity, in any location or job. Examples include: officers, faculty, staff, graduate assistants, and student employees. Employee includes temporary, probationary, and regular employees.
- l. *Fondling*. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- m. *Formal Complaint*. A document filed by a complainant (which either contains the complainant's signature or indicates that the complainant is the one filing the complaint) or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the institution investigate.
- n. *Gender-Based Harassment*. Gender-based harassment is a form of discrimination based on gender and includes acts of verbal, nonverbal, or physical aggressions, intimidation or hostility based on actual or perceived gender, sexual orientation, or gender identity, even if the acts do not involve conduct of a sexual nature. Gender-based harassment also includes quid pro quo and hostile environment harassment. Gender-based harassment that creates a hostile environment is a violation of MSU policy.
- o. *Gender-Based Misconduct*. Gender-based misconduct is the broad term used to describe all prohibited discriminatory actions related to a victim's gender outlined in this policy.
- p. *Gender Identity*. A person's internal sense of being male, female, or some combination of male and female, or neither male nor female. A person's gender identity may be different from their biological sex.
- q. *Incapacitation*. Incapacitation means a person lacks the ability to make informed, rational judgements about whether or not to engage in a sexual act or contact.
- r. *Incest*. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- s. *Investigation*. An investigation is a deliberate action or set of actions completed by University employees or designees that occurs in response to an allegation of a violation of University policy. The University has employees who are trained in investigatory methods and has a relationship with other NDUS institutions and private counsel such that an investigation might be conducted by such a non-employee.

In general, the goal of an investigation is to determine whether the complaint made is or appears to be factual and supported; whether the policy violation that is

alleged is potentially provable, and in furtherance of these two goals to collect, catalog, and curate the available information such that a Hearing Officer can determine whether a violation of University policy has occurred. The mechanisms of such an investigation are contained with M520.2.

- t. *Preponderance of the Evidence.* Preponderance of the evidence is the evidentiary burden of proof used in MSU's disciplinary procedures and investigation processes (including this policy and its applicable procedures). The facts must show that the responding party violated University policy by preponderance of the evidence (i.e., it is more likely than not that the respondent's actions violated University policy) before disciplinary sanctions will be applied. The respondent is presumed to be not responsible until and unless there is a determination of responsibility at the conclusion of the grievance process.
- u. *Privacy.* MSU will strive to keep the parties' information private. Information will only be shared with individuals who need to know to adequately respond to the reported incident.
- v. *Rape.* Penetration, no matter how slight, of the vagina or anus of the complainant with any body part or object by the respondent, or oral penetration of the complainant by a sex organ of the respondent, without the consent of the complainant.
- w. *Respondent.* An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- x. *Responsible Employee.* MSU responsible employees include any employee who has the authority to take action to address the misconduct; has the duty to report misconduct; or is someone a student would reasonably believe has authority or responsibility to handle reports of sexual harassment. Examples of responsible employees include: presidents, vice-presidents, deans, directors, department heads, area managers, supervisors, professors, full-time faculty, part-time faculty, adjunct faculty, coaches, graduate assistants, resident assistants, and resident directors. A responsible employee who has knowledge of sexual harassment but does not report it to the Title IX Coordinator could be subject to discipline.
- y. *Retaliation.* Neither MSU nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same set of facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation. The exercise of rights protected under the First Amendment does not

constitute retaliation. Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation, although a determination regarding responsibility, alone, is not sufficient to conclude any party made a materially false statement in bad faith. Complaints alleging retaliation may be filed pursuant to the grievance procedures for sex discrimination under Title IX. Retaliatory conduct is prohibited and will be cause for disciplinary action, up to and including suspension, expulsion, and/or termination. Retaliation occurs when an adverse action is taken against an individual for engaging in a protected activity (without a non-retaliatory reason). Protected activity consists of, but is not limited to:

- i. Opposing conduct reasonably believed to constitute discrimination, including harassment that violates an employment discrimination statute or that University policy prohibits; or
 - ii. Filing a complaint about such practice; or
 - iii. Seeking an accommodation under this policy; or
 - iv. Testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination or other complaint.
- z. *Sex*. A person's biological status, based on biological traits such as genitalia, sex chromosomes, and internal reproductive organs.
- aa. *Sexual Assault*. Either rape, fondling, incest, statutory rape, or any of the sexual offenses listed in N.D.C.C. Ch. 12.1-20 or by the FBI's Uniform Crime Reporting system.
- bb. *Sexual Contact*. Any intentional sexual touching, whether or not through clothing or other covering, of another person's sexual or intimate body parts with an object or body part. Sexual contact also includes making another person touch themselves or another person in this manner; touching another person with one's sexual or intimate body parts; or the emission of ejaculate, urine, feces, or other bodily fluids on any part of a person for sexual or aggressive desires.
- cc. *Sexual Harassment*. Conduct on the basis of sex, constituting one (or more) of the following:
- i. An employee of the institution conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;
 - ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity; or
 - iii. Sexual assault, dating violence, domestic violence, or stalking, as defined in this section.
- dd. *Sexual Misconduct*. Sexual misconduct is the broad term used to describe all prohibited conduct of a sexual nature outlined in this policy.

- ee. *Sexual Orientation*. The sex or gender of those to whom one is sexually attracted.
- ff. *Stalking*. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress.
- gg. *Statutory Rape*. Sexual intercourse with a person who is under the statutory age of consent.
- hh. *Student*. All persons taking courses at and/or receiving instruction through the University, whether credit hours are earned, full-time or part-time, pursuing undergraduate, graduate, non-degree, or professional studies. The term student includes all persons who withdraw after allegedly violating the *Code of Student Rights and Responsibilities*, who are not enrolled for a particular term but have a continuing relationship with the University, who have been notified of their acceptance for admission, or who are living in University residence facilities designated for students regardless of their current enrollment status.
- ii. *Supportive Measures*. Non-disciplinary, non-punitive individualized services offered as appropriate (as reasonably available) and without fee or charge to the complainant or respondent.
- jj. *Title IX*. Title IX is a federal civil rights law passed as part of the Education Amendments of 1972. This law protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or subjected to discrimination under any education program or activity receiving Federal financial assistance.

Reporting

A complainant may choose to make a report to MSU to pursue resolution under this policy and may also choose to make a report to law enforcement. A complainant may pursue either, or both, of these options at the same time. If the complainant files a criminal complaint with local law enforcement MSU will comply with reasonable law enforcement requests for cooperation. Such cooperation may require the University to temporarily suspend the Title IX investigation while law enforcement gathers evidence.

Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in an incident reported under the Sexual Harassment Policy. Every effort will be made to respect and safeguard the privacy interests of the individuals involved in a manner consistent with the need for a careful assessment of the allegations and any necessary steps to eliminate the misconduct, prevent its recurrence, and address its effects.

Privacy generally means that information related to a reported incident will only be shared with a limited number of individuals that “need to know” the information in order to assist in the review, investigation and/or resolution of the incident. While not bound by confidentiality, these individuals will be discrete and respect the privacy of all individuals involved in the process. If a decision is made to pursue disciplinary action against a responding party, information related to the report will be shared with them. When the parties involved are students, information regarding a reported incident will not be shared with either party’s parents or guardians unless the party has signed a waiver that complies with FERPA or there is an articulable threat to the health or safety of the party or other individuals. MSU will share the final results of an investigation and the applicable sanctions with the complainant when the incident involved violent crime or sexual misconduct. The information that will be shared includes:

- i. The name of the accused student;
- ii. Any MSU policy that was broken and key findings that support the conclusion;
- iii. A description of disciplinary action taken;

While a responsible employee cannot offer confidentiality to an individual who discloses an incident of prohibited conduct, the responsible employee will maintain the privacy of all individuals involved by sharing the information related to the report with only those who need to know as outlined above. Confidentiality means that information shared with a designated campus or community professional will only be disclosed with the party’s expressed written permission, unless there is an imminent threat of harm to self or others. An individual can seek confidential assistance and support by speaking with specifically designated confidential employees and using the confidential resources identified in this policy.

Confidential and Responsible Employees

As set forth in the “definitions,” for purposes of reporting obligations under this policy, all MSU employees are designated as either “confidential employees” or “responsible employees.”

Responsible Employees who fail to report incidents of sexual- or gender-based misconduct when they knew or reasonably should have known about an incident of sexual- or gender-based misconduct involving a MSU employee or student may be subject to discipline. The University is required to investigate an allegation of sexual harassment when it has actual knowledge, as defined above.

Reports of sexual- and gender-based misconduct can be made: (1) online by submitting a report through the link “Contact Us: Report at Concern” at the University’s website (www.mayvillestate.edu). The reports can include the name of a reporting party or the report can be made anonymously. (2) by reporting to the Title IX Coordinator or a Deputy Coordinator; or (3) by speaking with a responsible employee, which does include members of the campus security team, who will then forward the information to the Title IX Coordinator. Once the Title IX Coordinator has been notified, the Title IX Coordinator will contact the Complainant to see if the Complainant wishes to file a formal complaint. Alternatively, the Coordinator may file a formal complaint on behalf of the University. Reports can be made any time after an incident involving sexual- or gender-based misconduct occurs; however, the University encourages

reports be made as soon as possible following an incident to ensure the most effective investigation possible. The University also strongly encourages reporting parties to report sexual- or gender-based misconduct because it provides the University with the best opportunity to offer appropriate support, resources and interim measures to assist a reporting party, assess any health or safety risks posed by the alleged misconduct, take immediate and appropriate steps to investigate what occurred, and take prompt and effective action to end any misconduct, remedy its effects, and prevent its recurrence.

As stated in the “definitions,” individuals who want to keep their confidentiality may speak to a confidential employee. A confidential employee will not disclose information about sexual- or gender-based misconduct to the University’s Title IX coordinator, or others, in a way that identifies the involved individuals without the individuals’ permission. A confidential employee is any employee who is a licensed medical, clinical, or mental health professional and is employed by Mayville State University for that purpose.

Responsible employees are under an obligation to share information with the Title IX coordinator when they know or reasonably should know about:

- A student who has experienced sexual- or gender-based misconduct, regardless of where or when the incident occurred; or
- An employee who has experienced sexual- or gender-based misconduct only if the accused person is a MSU employee or student.

Responsible employees are required to share all relevant information of which they are or become aware of that is related to the incident, including the names of the involved individual(s) and witnesses and the date, location, and circumstances of the incident, if known. Responsible employees who know about an incident involving sexual- or gender-based misconduct involving a student or employee who fail to report to the Title IX coordinator may be subject to discipline. Responsible employees should not perform an investigation or attempt to discover additional information before contacting the Title IX Coordinator.

MSU realizes that in some instances a complainant may tell a responsible employee about an incident of sexual- or gender-based misconduct but also request: (a) that their name and any other personally identifying information be confidential and not be shared with the respondent or others, (b) that no investigation be pursued, and/or (c) that no disciplinary action be taken. The responsible employee should communicate these requests to the Title IX Coordinator. The University will honor such requests if it is possible to do so while also protecting the health and safety of the University community and in compliance with state and federal law. The Title IX Coordinator will consider the totality of the known circumstances; the presence of any risks to the safety of the campus community; the potential impact of such actions on the complainant; and the existence of other available and relevant information or evidence regarding the alleged conduct. If the reporting party’s request to keep confidentiality can be honored, the University may take other steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the reporting party and the University community. If it is determined that the University cannot honor the complainant’s confidentiality request, the Title IX Coordinator will advise the complainant that the University intends to proceed with an investigation but that the complainant is not required to participate in the investigation or in any other actions undertaken by the

University. If the complainant declines to participate in the investigation the Title IX Coordinator may continue the investigation process if it is possible to do so without the complainant's participation; however, the University's ability to meaningfully investigate and respond may be limited.

Reports of sexual- and gender-based misconduct can be made online by submitting a report through the link "Contact Us: Report at Concern" at the University's website (www.mayvillestate.edu). The reports can include the name of a reporting party or the report can be made anonymously. Anonymous reports will be investigated; however, the University's ability to meaningfully investigate and respond may be limited.

Bystander Intervention

Bystander intervention, or being an active bystander, is part of being a member of the MSU community. We all play a role in preventing sexual violence when a problematic situation is observed or imminent. Being an Active Bystander includes:

- a. Standing up against attitudes, behaviors, or statements that sustain cultures endorsing violence as acceptable.
- b. Identifying and stopping situations that lead to sexual assault.
- c. Stepping up to disrupt, distract, speak up or call out for assistance.
- d. Believing and supporting others when they feel uncomfortable and/or hurt.
- e. Assisting others responding to problematic situations.

The Ideal Bystander:

- a. Is friendly to everyone.
- b. Is forthcoming and honest.
- c. Assists to diffuse a situation before it becomes a crisis.
- d. Avoids violent interventions.
- e. Is not antagonizing or accusatory.
- f. Asks for assistance when needed.
- g. Calls professional assistance (Title IX Coordinator, RA, Responsible Employee, Sheriff Department, Campus Security, EMT, etc.) when needed.

Being an active bystander does not mean that you should risk your personal safety or be a hero. There are appropriate responses dependent on you, the situation and who is involved. If your immediate safety, or the safety of others, is in danger you should seek outside help—which is still bystander intervention.

Good Samaritans & Amnesty for Alcohol and Drugs

Sometimes individuals may be reluctant to seek help after experiencing sexual- or gender-based misconduct, or reluctant to help others who may have experienced sexual- or gender-based misconduct because they fear being disciplined for underage alcohol consumption and/or consumption of other drugs. Individuals who appropriately report or seek assistance for themselves or for others will not be subject to disciplinary sanctions for allegations related to the use or consumption of alcohol or other drugs, nor will the incident become a part of the student's conduct record. However, because alcohol and drug misuse can negatively impact an individual's physical

and emotional well-being, individuals may be required to have an educational meeting with University personnel.

Conflicts of Interest and Consensual Relationships

Acting through its Policy Manual, Mayville State explicitly prohibits any form of sexual harassment directed toward, effected, or committed by employees, vendors or contractors, or students. MSU's Policy M611.4 addresses conflicts of interest between an employee and their outside-of-worktime interests, indicating disclosure of these interests is the obligation of the employee. MSU has established procedures for eliminating a conflict or potential conflict of interest in the exercise of the employee's authority. Further, Policy M601.1 addresses consenting romantic and sexual relationships between employees and students, and other relationships, again indicating disclosure of these relationships is the obligation of the employee, in particular when the employee is responsible for actions affecting the student's academic standing, grades, scholarship or grant awards or employment at the institution.

False Reports

Individuals who knowingly make false reports or otherwise provide false information in connection with a report of sexual- or gender-based misconduct may be subject to discipline. This prohibition against false reports or statements does not apply to reports or statements which are made in good faith but ultimately found not to be substantiated.

Education, Training, and Prevention

The University is committed to preventing sexual harassment on its campus. To that end, the University provides regular and ongoing prevention education and awareness programs. Incoming students and new employees are exposed to primary prevention and awareness programs as part of their new student orientation or new hire training. Current students, faculty, and staff receive ongoing training on how to prevent gender-based harassment, sexual misconduct, dating and domestic violence, stalking, and related retaliation. The Title IX Coordinator is responsible for overseeing the University's training and educational programs related to this Policy. To learn more about the University's prevention programs or to request training, please contact the Title IX coordinator.

Every MSU student has access to sexual- and gender-based harassment identification and mitigation each academic year. In particular, all incoming first-year students will receive primary prevention and awareness programming as part of their orientation.

Every MSU employee must complete this training each academic year. All new employees will receive primary prevention and awareness programming as part of their orientation. Returning employees will receive ongoing training each academic year. MSU employees who fail to complete required training by the stated deadline are subject to appropriate disciplinary action (e.g., a letter of reprimand placed in their personnel file).

Additional information about Title IX programs at the University is available under the University's website. See <https://mayvillestate.edu/about-msu/consumer-information/#resources>. All Title IX training materials will be available to the public on our University's Title IX website, <https://www.mayvillestate.edu/about-msu/consumer-information/title-ix/>.

Adopted: August, 2020

Revised: August, 2022

Sponsored by: Dean of Student Affairs