

**Policy Title: SEXUAL ASSAULT & SEXUAL MISCONDUCT**

**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, 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 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
- via e-mail at [karen.brzezinski@mstc.edu](mailto:karen.brzezinski@mstc.edu)
- In person or via mail:

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

**SEXUAL HARASSMENT POLICY**

Mid-State's policy on harassment, which includes harassment or discrimination based on sex can be found in the Student and Employee Right to Know and online at:

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

**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 may be 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 for 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 policy requires a non-intoxicated, verbal, mutually understood "Yes" for sexual contact or intercourse to be considered consensual. Non-verbal actions or the absence of "No" 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 a sexual assault are urged to report the information to any responsible employee or the Dean, Student Success, Stephanie Bender at (715) 422-5628 or via email at: [stephanie.bender@mstc.edu](mailto:stephanie.bender@mstc.edu).

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 offer 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.

## **CONSENT**

Mid-State policy requires that sexual intercourse and/or sexual contact be consensual. A non-intoxicated, verbal, mutually understood “Yes” defines consent at Mid-State.

Mid-State recognizes that sexual assaults occur under a variety of circumstances:

- On- and off-campus
- Between people of any gender or sexual identity
- Between students, faculty, staff, alumni, and visitors to campus
- Where consent existed and was retracted
- When impaired by drugs and/or alcohol
- Regardless of any previous interaction or relationship

No matter what the circumstances, sexual assault violates the standards of acceptable behavior at Mid-State.

## **STATE & FEDERAL LAW**

Mid-State students are subject to the 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 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://www.legis.state.wi.us/rsb/stats.html>. Sex with a person under the age of 18 in Wisconsin is a violation of 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

Policy Section: Administration

Policy Title: Sexual Assault & Sexual Misconduct

consensual. Consenting to sexual activity requires non-intoxicated, verbal communication that is free of threats, intimidation or other coercion.

Silence, the absence of “No” or inaction does not constitute consent. Non-verbal actions 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.

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 a 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, s/he assumes the risk of impaired thinking and communication. Sex under the influence is a hazardous activity and a violation of 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. Consenting to sexual activity requires non-intoxicated, verbal, mutually understood communication, free of threats, intimidation or other coercion. Being drunk is never an excuse for raping or assaulting someone. 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.

In the case of each party being impaired by drugs or alcohol, the hearing officer 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 hearing officer’s decision-making about whether college policy was violated.

### *Definition of Sexual Assault*

1. Non-Consensual Sexual Intercourse (or 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”.

2. Non-Consensual Sexual Contact:

Non-consensual sexual contact is any 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 himself/herself on the breasts, buttocks, groin or genitals, either directly or through clothing without a 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”.

If this is an issue of sexual harassment, please refer to Mid-State’s policy on Equal Opportunity, Harassment, and Affirmative Action online at: <https://www.mstc.edu/sites/default/files/2019-01/EqualOpport-AffirmativeAct.pdf>.

### **SEXUAL MISCONDUCT POLICY**

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

No matter what the circumstances, sexual misconduct violates the standards of acceptable behavior at Mid-State.

### **REPORTING POLICY VIOLATIONS**

#### **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 written documentation of sexual harassment, assault/misconduct. It contains the name(s) of those involved, the date, time, and location of the alleged event, and a short written summary of what is reported. A complaint can be filed by submitting an incident report using this link: [https://cm.maxient.com/reportingform.php?MidStateTC&layout\\_id=1](https://cm.maxient.com/reportingform.php?MidStateTC&layout_id=1) or by meeting with a college employee to report. All reports are collected by the Dean, Student Support & Retention and referred to the Title IX Coordinator. When a student reports a violation of the sexual assault/misconduct policy, the College will investigate. Coordinators will consult with the complainant about his/her wishes regarding how the investigation should proceed; the College may investigate even if the complainant decides not to participate.

The College will work with students to facilitate interim measures regarding living, academics, transportation, and working situations as requested and needed, regardless of whether campus security or local police authorities 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 witness or receive a first-hand report of sexual harassment, assault, stalking, or dating or domestic violence should contact the Title IX Coordinator whose office has been designated to receive reports from employees.
- Students who experience, witness, or receive a first-hand report of sexual harassment, assault, stalking, or dating or domestic violence are strongly encouraged to contact the Dean, Student Support & Retention whose office has been designated to receive reports from students and will

Policy Section: Administration

Policy Title: Sexual Assault & Sexual Misconduct

assist them in this process. 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 48<sup>th</sup> Street South  
Wisconsin Rapids, WI 54494  
(715) 424-1821
  
  - Marshfield Police Department  
110 West 1<sup>st</sup> Street  
Marshfield, WI 54449  
(715) 384-3113
  
  - Stevens Point Police Department  
1515 Strongs Avenue  
Stevens Point, WI 54481  
(715) 346-1500
- Confidential Resources. Students wishing to talk to someone on a confidential basis may do so. At Mid-State Technical College, the following counselors in Student Services 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
  
    - Michelle Stromme  
Stevens Point Campus  
(715) 342-3116

### **CONFIDENTIALITY OF THE REPORT**

To the extent permissible by law and the needs of the investigation process, Mid-State will endeavor to keep victim information private. However, 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 that information is reported directly to one of the confidential resources listed above. The College reserves the right (as permitted or required by applicable law) to issue timely warnings and make other announcements to the College community or that there is another significant emergency or dangerous situation involving an immediate threat to the health or safety of students or 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 other designated areas, including forcible and non-forcible sex offenses as defined by the federal government, in an annual security report that is submitted to the U.S. Department of Education. This security report did not reveal personally identifiable information.

The Title IX Coordinator or his/her Deputy Coordinator will meet with the complainant and discuss fully the options afforded to him/her, the rights and responsibilities of both parties (including the right to be accompanied during any college grievance proceeding and any related meeting by an advisor of their choice whose participation will be limited to consulting privately with the party accompanied by the advisor), the investigation process, the prohibition against retaliation, the need to preserve any relevant evidence or documentation in the case, and the availability of interim measures and remedies. At that time, a written complaint may be filed by the complainant, but a written complaint is not necessary.

As is set forth in this policy, in most cases, once a report is made to the non-confidential members of the College, or the College has notice of an incident of harassment, domestic violence, dating violence, sexual assault or stalking, confidentiality cannot be guaranteed since the College, as part of its investigative process will confront the respondent with allegations to obtain their explanation of events which may lead to sanctions including the accused dismissal from the College. Mid-State's authority to sanction members of the College community applies only to the violation of college rules, policies, and procedures. Legal action to pursue either civil or criminal proceedings may be initiated by contacting the police or the State's attorney. Students who believe they are victims of a crime as identified by federal law and state laws are encouraged to contact law enforcement. A victim has the option to pursue a complaint with the College, a criminal complaint with the appropriate law enforcement agency, or to pursue both options concurrently.

For victims aged 18 and older who report, relevant information will be shared only with those who need to know within the College, such as Title IX Coordinators and other individuals who are responsible for assisting or coordinating the school's response to incidents of sexual violence. In the case of minors, college employees must report child abuse to Child Protective Services or local law enforcement.

In an effort to protect victim safety and privacy, Mid-State maintains information about sexual violence in a secure manner. If the College has notice of an incident, Mid-State will balance the victim's request to keep identifying information confidential with Title IX's mandate to investigate hostile environments. Mid-State will redact a victim's identifying information when responding to requests for information pursuant to the Wisconsin Public Records law. Mid-State complies with federal Family Educational Rights and Privacy Act (FERPA), which governs the disclosure of student education records. Mid-State must respond

Policy Section: Administration

Policy Title: Sexual Assault & Sexual Misconduct

to court ordered subpoenas that are not prohibited by other applicable law, and may not be able to redact information when responding to a subpoena.

### **PROHIBITION AGAINST RETALIATION FOR REPORTING**

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 he or she made a report, filed a complaint, participated in the investigation of 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 it is eventually dismissed or found lacking in merit. A complaint will be presumed to have been made in good faith unless it is found to be a knowing falsehood or made with no factual basis whatsoever. It is a violation of this policy to make false accusations or knowingly provide false information pertaining to a complaint or investigation.

Students and employees who experience sexual harassment/assault/violence, dating violence, and/or stalking have the option to report to law enforcement and/or campus disciplinary processes.

### **STEP 2: INITIAL TITLE IX REVIEW**

Upon receipt of a sexual misconduct allegation, Mid-State Technical College's Title IX Coordinator, or Deputy 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 a resolution. Interim college measures can be enacted at 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 an 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 his/her contributions. The Title IX Coordinator will assign an investigator to the complaint. The Title IX Coordinator reserves the right to assign an external third party investigator as circumstances require.

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

- Complainant writes an account of the incident
- Initial meeting with responding party, review of rights and options
- Respondent writes an account of the incident
- Meet with witness(es) and those with knowledge of events

Policy Section: Administration

Policy Title: Sexual Assault & Sexual Misconduct

- Clarify information from witness statements with complainant and accused
- Follow-up meeting with complainant to review process and outline thoughts about possible outcomes
- Follow-up meeting with respondent to discuss the incident and possible outcomes
- Conclude investigation, issue written summary of findings and outcomes

#### **STEP 5: REVIEW OF INVESTIGATION AND FINDINGS AND DECISION**

The Title IX Coordinator, or Deputy Coordinator, will determine whether the Sexual Misconduct Policy has been violated. The Title IX Coordinator will notify all relevant parties of the decision. The decision and related documentation will be maintained and these records will be confidential.

#### **PREPONDERANCE OF EVIDENCE AS A STANDARD**

Evidence and information collected during the investigation of a sexual assault will be evaluated using the preponderance of evidence standard. The campus conduct process is not comparable to a trial. The College conduct process is educational in nature. Students and their advisor should expect a supportive and non-adversarial environment during the process. 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 accused student 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 staff at the hospital can collect other evidence and provide adequate follow up care.

#### **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. The Vice President, Student Services & Enrollment Management, or designee, will review the written appeal, investigation findings, and decision by the Title IX Coordinator. The Vice President, Student Services & Enrollment Management may interview the complainant, respondent, and any witnesses or the investigators. A final written decision will then be submitted to all parties.



### **RIGHTS OF STUDENTS RESPONDING TO VIOLATING COLLEGE POLICY**

1. To receive notification of the behavior which has allegedly violated College policy in a timely fashion.
2. To have an opportunity to respond to the claim that College policy has been violated.
3. To supply the investigative team with information or witnesses.
4. To receive an impartial decision about the alleged policy violation, and be notified of the outcome.
5. The right to have a support person attend any meetings or hearings. The support person may be a licensed attorney.
6. To have the option to appeal the decision or outcome.

### **RIGHTS OF THE COMPLAINANT IN A SEXUAL ASSAULT OR SEXUAL MISCONDUCT INVESTIGATION**

1. To have complaints of sexual misconduct/assault investigated by the College in a timely fashion.
2. To report the violation directly to the police, with or without assistance from campus personnel.
3. To consult with the Title IX Coordinator as a resource for understanding these rights and the investigation process.
4. To be notified that at any point during the complaint/investigation/appeal process, the complainant has the right to have the support of any willing member of the Mid-State community, friend, faculty or staff of her/his choice. The support person has the right to attend any function at which the complainant's presence is required. The support person may be a licensed attorney. Any person attending meetings or hearings in support of the complainant may advise the complainant but may not participate directly in the proceedings. (Note: Mid-State is represented by counsel in most sexual assault matters.)\*
5. To not have prior sexual history admitted during any disciplinary hearing. History of prior complaints, investigations, and cases may be admitted in an investigation and/or appeal.
6. To be notified of the outcomes, if any, in the case.
7. To appeal a disciplinary decision by a hearing officer(s) as outlined in the appeals section of the Student Handbook.

### **RIGHTS OF THE RESPONDENT IN A SEXUAL ASSAULT OR SEXUAL MISCONDUCT INVESTIGATION**

1. To be informed in writing of the nature of the accusations/complaints filed.
2. To be informed that complaints of sexual misconduct/assault will be investigated by the College, and possibly by the police.
3. To consult with the Title IX Coordinator as a resource for understanding these rights and the investigation process.
4. To be notified of available counseling, mental health or student services for students accused of sexual assault, both on or off campus.
5. To be notified that at any point during the complaint/investigation/Judicial Board process, the accused has the right to have the support of any willing member of the Mid-State community,

Policy Section: Administration

Policy Title: Sexual Assault & Sexual Misconduct

friend, faculty or staff of her/his choice. The support person has the right to attend any function at which the accused's presence is required. The support person may be a licensed attorney. Any person attending meetings or hearings in support of the complainant may advise the complainant but may not participate directly in the proceedings. (Note: Mid-State is represented by counsel in most sexual assault matters.)\*

6. History of prior complaints, investigations, and cases may be admitted in an investigation and/or appeal.
7. To refuse to answer some or all questions. The investigation will proceed with or without the participation of the accused.
8. To be notified of the outcomes, if any, in the case.
9. To appeal a disciplinary decision by a hearing officer(s) as outlined in the appeals section of the Student Handbook.

\*Typically students seek support from a faculty or staff member who knows them well, such as an advisor or mentor. Faculty or staff who agree to serve in this role may wish to consult with others who have supported students in previous judicial situations. Consult with Title IX Coordinator for more information.

#### **POSSIBLE SANCTIONS AND OUTCOMES**

If it is more likely than not sexual harassment, assault or misconduct has happened using the preponderance of evidence standard, a student will be found responsible for violating college policy and the investigating officer will consider a range of sanctions and outcomes.

Disciplinary sanctions possible for a person found responsible of violating the sexual harassment, sexual assault and sexual misconduct policies include but are not limited to suspension, expulsion, probation, counseling, deferred suspension, removal from campus, and/or any combination of the previous.

When determining appropriate disciplinary action, the investigating officers will consider the sexual assault or misconduct complaint as a whole, the disciplinary background of the accused individual(s), and the totality of the circumstances, including the nature of the conduct and the context in which it occurred.

A broader explanation of the College's Discrimination/Harassment Complaint Procedure for Students can be found online at:

<https://www.mstc.edu/sites/default/files/2019-02/DiscriminationHarassmentComplaintProcedureforStudents.pdf>

#### **OFF CAMPUS RESOURCES AND REPORTING OPTIONS AND LEGAL OPTIONS**

*Report incident to your local police department*

Sexual assault is a criminal matter and may be reported to your local police department. Mid-State strongly recommends that students filing a complaint have a staff member or a friend with her/him when a report is made to the police.

Policy Section: Administration

Policy Title: Sexual Assault & Sexual Misconduct

*File a civil suit against the assailant*

A civil suit against the accused is another legal option. Consultation with a lawyer is the best way to learn about this option.

**SUPPORT RESOURCES**

*Seek medical treatment*

If you have been assaulted, you may need medical treatment for injuries and may wish to have potential physical evidence collected. The hospital you visit will likely request an advocate from the Sexual Assault Recovery Program (SARP) to be with you at the hospital.

*Contact the Sexual Assault Recovery Program (SARP)*

SARP is a community based program whose trained advocates respond to the emergency room to support the victim. They will assist and guide the victim through the legal system as well as provide free sexual assault crisis counseling. The 24-hour crisis hotline is 866-666-4576.

*Contact the National Sexual Assault Hotline*

800-656-HOPE or 800-656-4673.

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