

# FAQs About St. Cloud State University's Response to Sexual Misconduct

## General:

### Who does this affect?

This affects concerns and complaints about student on student, student on employee, employee on student, and employee on employee behavior while they are students and employees of St. Cloud State University. Non-student or non-employee (vendors, contractors, community members, other) concerns and complaints will also be investigated.

### What does Title IX have to do with sexual misconduct? What is sexual misconduct and what will the university do about it?

Title IX of the Education Amendments of 1972, 20 U.S.C. Sections 1681 *et seq.*, prohibits discrimination on the basis of sex in educational programs. The access of students to educational opportunity should not be denied on the basis of sex. If it was not previously clear, it is now clear that the U.S. Department of Education will expect institutions to address all reported acts of sexual misconduct which includes but is not limited to: discrimination, violence, harassment and coercion, April 4, 2011, Dear Colleague Letter.

If you believe you have experienced sexual misconduct, but are unsure of whether it was a violation of SCSU's policy, you should contact the Title IX Coordinator, the Women's Center, the Asst. Dean of Student Life and Development, or Public Safety. Staff in these offices can help you define and clarify the event(s) and advise you of your options. The definitions are available in the documents linked below.

### What policies are being enforced?

MnSCU Policy 1B.3 Sexual Violence <http://www.mnscu.edu/board/policy/1b-03.pdf>

MnSCU Policy 1B.1 Non-Discrimination in Employment & Education Opp. <http://www.mnscu.edu/board/policy/1b-01.pdf>

SCSU Student Code of Conduct <http://www.stcloudstate.edu/studenthandbook/code/default.asp>

### What other information is available?

April 4, 2011, Dear Colleague Letter <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>

### Who is the Title IX Coordinator?

Ellyn Bartges, AS 102, (320)308-5123, Office of Equity & Affirmative Action

### What about Mandatory Reporting?

This does not supersede or alter Minnesota mandatory reporting procedures.

### If the assault happened while I was under the influence of drugs or alcohol will something be done if I complain? What if the person who assaulted me was under the influence?

The use of alcohol and/or drugs by either party will not diminish the respondent's responsibility. However, alcohol and/or drug use by the complainant (or drugs being put into the complainant's drink) can affect the complainant's memory and may affect the outcome of the complaint. The investigation will extend to possible circumstantial evidence, physical evidence and/or witnesses to determine the facts. Use of alcohol or drugs should not discourage anyone from filing a complaint and use of alcohol or drugs will never excuse a violation by a respondent. Evidence will be required to reach a determination of responsibility.

## For Witnesses:

### I work at SCSU but I am a student. Do I have to report what I heard about sexual harassment?

Yes, all employees at SCSU have an obligation to report instances of discrimination, including harassment, rape, assault and coercion based on sex or gender, to their own supervisor or the SCSU Title IX Coordinator. This will result in getting the information to someone who can determine whether further investigation is needed.

### What will happen if I do not report?

If you fail to report information about harassment the victim is less likely to obtain a remedy and future victims are likely. Failing to investigate and address sexual misconduct increases the risk of liability for the institution. A future victim could include you personally in a legal claim if the subsequent victim discovers you knew of the original complaint. The State of Minnesota will represent you in claims resulting from your employment unless you act contrary to law. You will be represented by the State of Minnesota if you report in good faith.

## **For Victims:**

### **Does information remain private? Can information be shared confidentially?**

Information about students is private and confidential and protected by all university employees. However, information about instances of sexual misconduct must be shared among university staff whose responsibilities require responding to such complaints. Keeping what you say 'confidential,' may not mean that the listener will tell no one-- unless that listener has a legally protected ability not to share the information. See Minn. Stat. 144.293, Subd. 2. For an SCSU employee to keep this information between the two of you he or she must be providing the professional service that is protected.

The university is required to inform all parties involved in complaints of sexual misconduct –respondent and the complainant; of the outcome of university procedures in writing. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim.

### **Will my parents be told?**

No, not unless you tell them or there is a significant threat to your health or safety or that of someone else. Whether you are the complainant, a witness or the respondent, the university's relationship is to the student and not a parent. Federal law does permit informing parents if the student's health and safety are in jeopardy.

### **Will the accused student know my identity?**

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the respondent student has the right to know the identity of the complainant/victim. Complaints of alleged discrimination or sexual misconduct will be investigated through the MnSCU 1B.3 Policy which does not involve a hearing where the complainant and accused must face each other. Though there is no hearing, fair procedures will be followed before adverse actions are taken.

### **What services or assistance does SCSU provide to victims of sexual assault or harassment?**

Information, support counseling and advocacy for victims are provided by staff in the Women's Center and Student Life and Development. Students have access to the Student Health Services Center. The Title IX Coordinator will provide information about investigations and other processes. Counseling is available at Counseling and Psychological Services. Residential Life staff will assist a victim in various ways. Public Safety provides escorts on campus, as requested.

### **What should I do about preserving evidence of a sexual assault?**

Police are in the best position to secure evidence of a crime but as employees we are required to assist in preserving evidence according to the federal Clery Act regardless of whether the crime has been reported to police. In cases of sexual assault, physical evidence can be collected from the victim's person at a hospital within 72 hours of the assault, and some more limited evidence up to 120 hours. Other evidence can often be obtained from towels, sheets, clothes etc. for a much longer time and those items should be stored in a paper bag, never plastic as this will destroy DNA evidence. If you report to the police an officer can collect those items. If you are a victim of a sexual assault you can go to the St. Cloud Hospital Emergency Trauma Center before washing yourself or your clothing. Police will be called only at your request. A sexual assault advocate will be available to explain your options and answer your questions. If you are still wearing the clothing you had on at the time of the assault, those will be kept as part of the evidence and clothing will be provided to you by the hospital.

### **How do I get to the St. Cloud Hospital Emergency Trauma Center?**

If you do not have transportation contact the Central Minnesota Sexual Assault Center which has arrangements with a local taxi company to provide transportation to be paid for by the Center.

### **Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?**

SCSU recognizes that various violations of the Student Code of Conduct involve student alcohol use. The seriousness of sexual misconduct is a major concern and in most cases the university does not intend to hold complainants accountable for drug or alcohol use when more serious violations or crimes have occurred.

A "Good Samaritan" exception exists for violations of the Alcohol and Other Drug Policy. A student, who may be in violation of the alcohol and other drug policy, but comes to the aid of another student by seeking professional help, will not likely be cited for an 'alcohol and other drug' policy violation.

## **For Students Who Are Accused:**

### **What do I do if I am accused of sexual misconduct?**

DO NOT contact the victim. You may immediately want to contact someone in the campus community who can serve as your advisor. You may also contact the Title IX Coordinator or the Office of Student Life and Development. They can explain the university's procedures for addressing sexual misconduct complaints. You may also want to talk to a counselor at Counseling and Psychological Services office or seek other community assistance.

## Campus & Other Resources:

• <b>Title IX Coordinator, Ellyn Bartges</b>	(320) 308-5123	<a href="http://www.stcloudstate.edu/affirmativeaction">www.stcloudstate.edu/affirmativeaction</a>
• <b>Central MN Sexual Assault Center **</b>	(320) 251-4357	<a href="http://www.cmsac.org">www.cmsac.org</a>
• <b>Counseling &amp; Psychological Services **</b>	(320) 308-3171	<a href="http://www.stcloudstate.edu/counseling">www.stcloudstate.edu/counseling</a>
• <b>Human Resources Office</b>	(320) 308-3203	<a href="http://www.stcloudstate.edu/humanresources">www.stcloudstate.edu/humanresources</a>
• <b>LGBT Resource Center</b>	(320) 308-5166	<a href="http://www.stcloudstate.edu/lgbt">www.stcloudstate.edu/lgbt</a>
• <b>Residential Life</b>	(320) 308-2166	<a href="http://www.stcloudstate.edu/reslife">www.stcloudstate.edu/reslife</a>
• <b>Student Disability Services</b>	(320) 308-4080	<a href="http://www.stcloudstate.edu/sds">www.stcloudstate.edu/sds</a>
• <b>Student Health Services **</b>	(320) 308-3191	<a href="http://www.stcloudstate.edu/healthservices">www.stcloudstate.edu/healthservices</a>
• <b>Student Life &amp; Development Office, Student Conduct-Asst. Dean of Students</b>	(320) 308-3111	<a href="http://www.stcloudstate.edu/sld">www.stcloudstate.edu/sld</a>
• <b>University Public Safety</b>	(320) 308-3333	<a href="http://www.stcloudstate.edu/publicsafety">www.stcloudstate.edu/publicsafety</a>
• <b>Women's Center</b>	(320) 308-4958	<a href="http://www.stcloudstate.edu/womenscenter">www.stcloudstate.edu/womenscenter</a>

\*\* *Patient/Client confidentiality*