

Discrimination, Harassment, and Sexual Violence: Important Information

Discrimination and Harassment

Bemidji State University is committed to a policy of equal opportunity and nondiscrimination in employment and education. No person shall be harassed or discriminated against in the terms and conditions of employment, personnel practices, or access to and participation in, programs, services, and activities with regard to **race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, or gender expression**. In addition, discrimination in employment based on **familial status or membership or activity in a local commission** as defined by law is prohibited. Harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student and student, staff and student, employee and employee, and other relationships with persons having business at, or visiting the educational or working environment.

- **Discrimination** means conduct that is directed at an individual because of his or her protected class and that subjects the individual to different treatment by agents or employees so as to interfere with or limit the ability of the individual to participate in, or benefit from, the services, activities, or privileges provided by the system or colleges and universities or otherwise adversely affects the individual's employment or education.
- **Discriminatory harassment** means verbal or physical conduct that is directed at an individual because of his or her protected class (see the list above), and that is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile work or educational environment.

Any individual who believes she or he has been or is being subjected to conduct prohibited by the Bemidji State University Equal Opportunity and Nondiscrimination in Employment and Education Policy is encouraged to report the incident to the designated officer. The report/complaint should be brought as soon as possible after an incident occurs. Students may also fill out a complaint online at the following link: <https://www.bemidjistate.edu/mybsu/student-complaints/>. Reports concerning discrimination, harassment, or sexual violence will be routed to Deb Peterson, the designated officer for conducting investigations.

Any student, faculty member or employee who knows of, receives information about or receives a complaint of discrimination/harassment is strongly encouraged to report the information or complaint to the designated officer of the university. Administrators and supervisors shall refer allegations of conduct they reasonably believe may constitute discrimination or harassment to the designated officer. Individuals who participate as complainant, witness, or respondent are protected from retaliation according to the policy and allegations of retaliation will be investigated and those who have been found to have retaliated will be disciplined.

The designated officer for conducting these investigations is Deb Peterson, the Title IX Coordinator and Investigator and Affirmative Action Officer. Deb's office is Deputy 315 and she can be reached at 218.755.4121 or at Debra.Peterson@bemidjistate.edu.

Further information on the nondiscrimination policy and procedure can be obtained from the Bemidji State University's Affirmative Action website or Minnesota State and on posters posted throughout campus.

- BSU Affirmative Action: <https://www.bemidjistate.edu/offices/affirmative-action/>
- Minnesota State 1B.1 policy and 1B.1.1 procedure: <http://www.minnstate.edu/board/policy/index.html>

Sexual Violence

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.

Sexual violence is a broad term that refers to 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. The following definitions are helpful.

Affirmative consent:

- Affirmative 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.*
- Affirmative consent must be present throughout the entire sexual activity and can be revoked at any time.
- There is no consent
 - If coercion, intimidation, threats, and/or physical force are used;
 - 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;
 - *This includes conditions due to alcohol or drug consumption, or being asleep or unconscious.*
 - If there is no protest, there is no resistance, or silence;
 - If there was consent for sexual activities in the past. Past consent 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; and,
 - 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 is 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.

Non-forcible sex 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 refers to 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:

- Involvement without consent in any sexual act in which there is force, expressed or implied, or use of duress or deception upon the complainant. 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.
- Involvement in any sexual act when the complainant is unable to give consent.
- 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.
- Offensive sexual behavior directed at another, such as indecent exposure or voyeurism.

Stalking is 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.

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, prevention training, and 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. This procedure describes reporting options, the investigative and disciplinary process, prevention training and other related services.

Persons who report sexual assault and relationship violence or who cooperate with investigations of such reports are protected from retaliation under the university's Sexual Violence policy. Allegations of retaliation will be investigated and those who have been found to have retaliated will be disciplined.

Those who experience or who are witnesses to a sexual assault and report the incident in good faith shall not be sanctioned by the university for admitting in the report to a violation of the institution's code of conduct policy on the personal use of drugs or alcohol.

Students can also fill out a complaint online at: <https://www.bemidjistate.edu/mybsu/student-complaints/>. Deb Peterson, the designated officer for conducting investigations, receives complaints concerning discrimination, harassment, or sexual violence. Deb Peterson also serves as Title IX Coordinator and Investigator and Affirmative Action Officer. Her office is Deputy 315 and she can be reached at 218.755.4121 or at Debra.Peterson@bemidjistate.edu.

A flowchart depicting the discrimination and harassment complaint process can be found by following this link: <https://www.bemidjistate.edu/offices/affirmative-action/wp-content/uploads/sites/49/2018/01/1B.1-Complaint-Procedure-Flowchart-2017.pdf>. Further information on the nondiscrimination policy and procedure can be obtained from the Bemidji State University's Affirmative Action website or Minnesota State.

- BSU Affirmative Action: <https://www.bemidjistate.edu/offices/affirmative-action/>
- Minnesota State 1B.3 policy and 1B.3.1 procedure: <http://www.minnstate.edu/board/policy/index.html>

If you experience sexual violence, you may want

EMERGENCY/URGENT ASSISTANCE FOR SAFETY

Call 911. If you have been the complainant of a sexual assault, you should seek medical attention from the Sanford Bemidji Hospital or Bemidji State University Health Services at the Student Center for Health and Counseling immediately regardless of whether you report the matter to the police.

TO GET MEDICAL HELP

The Student Center for Health and Counseling provides STD screenings and pregnancy tests. If you wish to have an evidence collection kit ("rape kit"), you can do so at Sanford Hospital Bemidji. If possible, do not shower, brush your teeth, urinate, eat, drink or change clothes. Evidence collection must take place no later than 120 hours after the assault. Even if the 120 hours have passed, you may report incidents of sexual violence at any time. Medical resources are

- Examinations by a Sexual Assault Nurse Examiner – Sanford Bemidji Emergency Room, 218.333.5596, 1300 Anne Street NW, Bemidji, MN
- Ask questions of a Sexual Assault Nurse Examiner – Barb Eriksson-Capes and Jennifer Fraik, 218.755.2053, Cedar Hall First Floor, BSU

TO TALK

Confidential support is also available from professional counselors in the Student Center for Health and Counseling. These individuals can provide you with support while allowing you the time and space you need to process what has happened and can provide you with basic information about your options and available resources. **Support Within Reach Sexual Violence Resource Center** also provides confidential services 24 hours a day to women, children, and men who have experienced sexual violence directly or indirectly. They also offer prevention education for the community.

- Student Center for Health and Counseling – 218.755.2053, Cedar Hall First Floor, BSU
- Support Within Reach Sexual Violence Resource Center – 218.444.9524 OR 800.708.2727, 403 4th Street NW, Suite 140, Bemidji, MN

Other mental health services can be found by calling

- Suicide Prevention – Local Counseling Crisis Line – 1.800.422.0045
- Text “MN” to 741741

TO REPORT A CONCERN AND GET SUPPORT

Students who wish to report a concern may seek assistance from staff identified as **responsible employees**. These are employees who have the authority to take action to redress sexual violence, who have been given the duty to report to appropriate school officials about incidents of sexual violence or any other misconduct by students, or who a student could reasonably believe has this authority or responsibility. **These staff include Campus Safety Officers and those who have campus security responsibilities, staff who work in student housing and with student conduct, advisors to recognized student organizations, athletic coaches, and the Title IX Coordinator, Deb Peterson.** These individuals will protect your privacy by limiting the people with whom they share what you tell them; however, they cannot guarantee you confidentiality, as they must notify the Title IX Coordinator. They and others will explain your options and resources and attend to your immediate needs for safety and interim measures (e.g., no contact orders, housing and academic accommodations, counseling, and escort).

- Department of Public Safety – 218.755.3888, Walnut Hall, BSU
- Bemidji Police Department – 218.333.9111, 613 Minnesota Avenue, Bemidji, MN
- Housing and Residence Life – 218.755.3750, Walnut Hall, BSU
- Deb Peterson, Title IX Coordinator/Affirmative Action Officer – 218.755.4121, 315 Deputy Hall, BSU
- Dr. Randy Ludeman, Director of Housing and Residential Life – 218.755.3750, Walnut Hall, BSU
- Dr. Jesse Grant, Associate Vice President for Student Affairs and Student Conduct Officer, 218.755.2075, 313 Deputy Hall, BSU

Title II of the Americans with Disabilities Act may be applicable to survivors of sexual violence, which means providing necessary academic accommodations.

TO UNDERSTAND THE UNIVERSITY’S TITLE IX ADMINISTRATIVE/DISCIPLINARY PROCESSES

You are encouraged to contact the Title IX Coordinator/Affirmative Action Officer Deb Peterson. The Title IX Coordinator will investigate all reports of sexual assault and relationship violence and ensure the provision of interim measures and final administrative remedies. In certain rare circumstances where it is necessary to ensure your safety and that of the university community, the university may be obligated to investigate known incidents of sexual assault and relationship violence, even if you may not feel ready. Such a decision would be discussed with you in advance, however, and the university would ensure that you have a support person throughout the process.

TO REPORT A CRIMINAL CONCERN

Sexual assault and relationship violence also are crimes. To report these matters if they occur on campus, you may contact the Department of Public Safety (our campus’ Campus Security Authority), a Responsible Employee, or the Affirmative Action Officer/Title IX Coordinator and Investigator as soon as possible. The Bemidji Police Department may also be contacted. If you are off campus, you may file a police report with the appropriate law enforcement agency. A criminal investigation does not relieve the university of its obligation to respond under Title IX, and both a criminal and university investigation may proceed at the same time.

TO KNOW THE RIGHTS OF A COMPLAINANT

This may be a confusing and difficult time. Remember that the identified resources are always available to you, and you can seek support at any time. Friends and family can offer support as well. “You are not alone. There are people who can help you. You have options.” Complainants of sexual violence occurring on property owned by Bemidji State University will be informed of their rights under Minnesota State Statutes section 135A.15. These rights include the following:

- The complainant has the right to file criminal charges with local law enforcement.
- Local university authorities, at the request of the complainant, will provide assistance in notifying the appropriate law enforcement officials and disciplinary authorities of any incident of sexual assault.
- At the direction of law enforcement authorities, the campus security office will provide complete and prompt assistance in obtaining, securing, and maintaining evidence in connection with an incident of sexual assault.
- University authorities will provide assistance to the sexual assault complainant or complainant in preserving materials relevant to a campus disciplinary proceeding.
- All sexual assault complaints will be investigated and resolved by the appropriate campus disciplinary authorities.
- The complainant may be accompanied by an attorney or other support person at, and may participate in, any campus disciplinary proceeding concerning the sexual assault complaint.
- The complainant will be informed of the outcome of any campus disciplinary proceeding concerning the sexual assault complaint, consistent with laws relating to data practices.
- At the request of the sexual assault complainant, university authorities, in cooperation with appropriate law enforcement authorities, will provide assistance in shielding the complainant from unwanted contact with the alleged assailant including transferring the complainant to alternative classes or alternative university-owned housing, if alternative classes or housing is available and feasible.
- If a student who has complained of sexual violence chooses to transfer to another institution, the university will provide that student with information about resources for those who have experienced sexual violence available at the institution to which the student is transferring.
- University authorities will inform sexual assault complainants of their rights to assistance from the office of the Crime Complainant Ombudsman and the Crime Complainant Reparations Board and will provide assistance in contacting these offices.
- The complainant will be treated with dignity. In addition, campus authorities will not suggest that the complainant is at fault for their experiences, nor will they suggest that the student should have acted in a different manner to avoid the sexual violence.

If you are accused of sexual violence or relationship abuse and want...

TO TALK

Professional counselors in the Student Center for Health and Counseling can provide you with support and can provide you with basic information about your options and available resources.

CONFIDENTIAL COUNSELING RESOURCES:

- Student Center for Health and Counseling – 218.755.2053, Cedar Hall First Floor, BSU

OTHER MENTAL HEALTH AND COUNSELING CONCERNS:

- Student Center for Health and Counseling – 218.755.2053, Cedar Hall First Floor, BSU
- Suicide Prevention – Local Counseling Crisis Line – 1.800.422.0045
- Text “MN” to 741741

TO UNDERSTAND THE UNIVERSITY'S TITLE IX ADMINISTRATIVE/DISCIPLINARY PROCESSES

The Title IX Coordinator/Affirmative Action Officer investigates all reports of sexual assault and relationship violence and serves as a neutral party during the process. If you are alleged to have engaged in sexual assault and/or relationship violence, the Title IX Coordinator will provide you with the name of an individual who can support you throughout the investigation process.

Bemidji State University investigation and disciplinary procedures concerning allegations of sexual violence against employees or students must

- Be respectful of the needs and rights of individuals involved and treat them with dignity;
- Not suggest to the complainant that he or she was at fault for the sexual assault or should have behaved differently to prevent the assault;
- Proceed as promptly as possible;
- Permit a student complainant and a student respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures and applicable data practices law;
- Afford employees the right to representation consistent with the appropriate collective bargaining agreement or personnel plan;
- Be conducted in accordance with applicable due process standards and privacy laws;
- Simultaneously inform both the complainant and respondent of the outcome in a timely manner, as permitted by applicable privacy law.
- Be based on a preponderance of evidence standard, meaning that it is more likely than not that the policy, procedure, or code has been violated.

A flowchart depicting the sexual violence complaint process can be found by following this link:

<https://www.bemidjistate.edu/offices/affirmative-action/wp-content/uploads/sites/49/2016/07/Sexual-Violence-Complaint-Process-Flowchart-003.pdf>

How safe is Bemidji State University?

Campus security authorities (the Department of Public Safety) must report any incidents of sexual assault, domestic violence, dating violence, and stalking on a yearly basis. These aggregate data are published every year as a part of the Annual Security and Fire Safety Report. Names of those who report sexual assault are not included as a part of the report – demographics only are reported. The most current report can be accessed by following this link:

<https://www.bemidjistate.edu/services/public-safety/wp-content/uploads/sites/92/2017/10/2017-BSU-Crime-and-Fire.pdf> .

In addition, Bemidji State University also reports statistics on sexual assault yearly to the Minnesota Office of Higher Education in response to Minnesota Statute 135A.15, sub. 6. The most current report can be accessed by following this link:

<https://www.bemidjistate.edu/offices/affirmative-action/title-ix/> .

Education

The BSU Student Center for Health and Counseling website contains a wealth of information that may be helpful to students ranging from alcohol and other drug prevention programs, a link to the Personal Empowerment Through Self-Awareness online course, information on health and sexual health education, information on STI prevention, and resources on a variety of topics (i.e., mental health and counseling, suicide prevention, general health, alcohol and drugs, tobacco cessation, and community services). Students can also gain valuable leadership experience by being trained as a Lifestyle Educator.

The Student Center for Health and Counseling also provides educational events periodically throughout the year.