

Sexual Assault

Statement on Sexual Assault

Sexual assault is not tolerated by Macalester under any circumstances. Perpetrators of sexual assault may be subject to legal prosecution as well as disciplinary action by the College. Anyone who is the victim of sexual assault is encouraged to seek immediate medical and emotional support. The college strongly encourages students who believe they have been sexually assaulted to report the incident to campus security even if they do not plan to take any further action. If uncertain about a specific situation, students are encouraged to contact a member of the Sexual Assault Response Team. Sexual assault resource guides for students, survivors, faculty and staff can be found at www.macalester.edu/sexualassault

Sexual Assault is a criminal act under Minnesota state law. Links to Minnesota Statutes concerning sexual violence can be found at http://www.mncasa./svji_legal_links.html.

- *Definition:* Sexual assault involves unwelcome physical contact, real or threatened, with a person's bodily orifices (anal, oral, or vaginal), genitals, buttocks or breasts or the clothing touching these areas. Sexual violence includes the use of force or coercion, with or without the use of a weapon, to accomplish sexual penetration or sexual contact.
- *Consent:* Sexual assault is unwelcome sexual contact to which there has been a lack of consent at the time of the activity. Lack of consent means that a person has not voluntarily agreed to engage in a sexual act. The lack of consent applies to instances when a person is unable to give informed consent because of sleep, the influence by alcohol and other drugs or any other mental or physical condition that may limit this capacity. Influence by alcohol and other drugs will not lessen the responsibility of the alleged perpetrator. Minnesota law clearly states that consent is not implied by the existence of a prior or current social relationship between the perpetrator and the complainant.
- Sexual assault can occur against both males and females. It may be perpetrated by an assailant not known to the victim, or may occur when the victim knows his or her assailant, as in the case of "acquaintance" or "date" rape. Sexual violence is unacceptable regardless of the relationship.
- Sexual assault can occur anywhere or any time of day, and against any person regardless of age, race, gender, nationality, class status, sexual orientation, ability, religion, or physical appearance. It may be perpetrated by an assailant not known to the victim, but more often is perpetrated by someone the victim knows.
- There are things that we can do to reduce our risks of experiencing sexual assault, but the only person who can stop sexual assault completely is the person committing the assault. Sexual assault is never the survivor's fault.

Responding to a Sexual Assault

Students have many options for reporting and responding to sexual assault. If you are in physical danger always call 911 immediately. It is helpful to avoid disturbing the crime scene. It is also best to refrain from showering or douching prior to receiving medical attention.

-Options for support off campus include:

- Contacting the St Paul Police or other emergency services at 911. Campus Security Staff, Student Affairs Staff or Hospital staff are available to assist with filing a report with the local police.
- Contact the 24 hour hotline of Sexual Offense Services of Ramsey County at **651-643-3006**
www.co.ramsey.mn.us/ph/yas/sos.htm

- **Seek assistance at Regions Hospital, 640 Jackson St, St Paul, MN 55101**
(651) 254-9200 <http://www.regionshospital.com/>

Options for support on campus include:

- Call campus Security at 651-696-6555. Campus Security will dispatch an officer to the scene and page a professional staff member trained to deal with crisis situations.
- You may contact the Office of Student Affairs, at 651-696-6220. During the follow-up, a professional staff member will assess the situation, assist the victim(s) and contact other resources as needed.
- You may directly contact a member of the Macalester College Harassment Committee who will assist you in filing a report. www.macalester.edu/committees/mchc
- You may contact a member of the Sexual Assault Support Team, a group of faculty and staff trained to provide support for victims of sexual assault, who will provide further information and assistance. More information about the SAST and prevention programs at Macalester can be found at www.macalester.edu/sexualassault
- Macalester's Health and Wellness Center provides counseling services on weekdays. It can also provide referral guidance for off-campus services.
- Further guidance is available in the Student Sexual Assault Resource Guide (<http://macalester.edu/sexualassault/pdfs/20081201StudentGuide.pdf>).

Procedures for Responding to Complaints of Sexual Assault

Macalester College Harassment Committee

All sexual assault complaints, except against the College President, will be received and processed by the Macalester College Harassment Committee (MCHC). Official complaints against the President will be promptly heard and dealt with by the Macalester Board of Trustees. Those members who have been specifically trained will be assigned to cases involving sexual assault. For additional information on the MCHC please see the section Macalester College Harassment Committee, General Policies.

Community members may also use the MCHC as a resource regarding questions or concerns about an incident or situation without registering a complaint.

Contact information for members of the MCHC can be found at this link: www.macalester.edu/committees/mchc
or by calling:

Office of Student Affairs	651-696-6220
Office of the Provost	651-696-6160
Employment Services	651-696-6280

Filing a Complaint

The College encourages anyone who has been sexually assaulted to report the situation and seek emotional/medical support and consider filing a formal complaint.

The College is able to respond formally to situations:

- that occurred on campus
- were part of official College programs (regardless of location)

- where the complainant (victim) and respondent (perpetrator) are members of the of the campus community.
- Even if the perpetrator is unknown or is not a member of the college community, College staff will assist victims in identifying appropriate campus or civil authorities and making a report.

The College does not limit the time frame for a report of sexual assault. Reports may be taken at any time after an offense has occurred, although the College's ability to take action may be limited if significant time has passed. A formal complaint is an official statement given by the victim of sexual assault (or on their behalf), which is used as the basis for initiating and supporting an investigation by the MCHC. Students may also report an occurrence of sexual assault with campus security or using the online reporting form without requesting further action from the MCHC. Such reports may be filed anonymously. Further action may or may not be taken on reports depending on the information received. Reports noting offenses occurring within campus boundaries are represented in the annual crime statistics published by the college.

- *Formal Complaints:* Formal complaints are typically made in writing, identify the accused party (ies) and are signed. The person bringing the complaint is referred to in this process as the complainant, while the person accused is referred to as the respondent. A formal complaint should also include a specific description of the objectionable behavior or circumstances, and any available supporting information.
- In cases where the complainant is unable or unwilling to provide a formal written statement, a member of the MCHC may formulate and bring forward the complaint. The complainant will not be named without their expressed permission.
- In situations where the MCHC becomes aware of pattern of behavior by a single perpetrator, the MCHC may take action without a specific individual complainant being named.
- There is no parallel process whereby anyone other than a MCHC member may attempt to resolve the suspected case of sexual assault.
- The MCHC will treat any public reference to possible sexual assault, such as an allegation in an article published in the student newspaper as cause for investigation.
- The MCHC member receiving the complaint will offer support services to the individual and determine whether a report must be made to the police (the law requires reporting in certain instances). Regardless of whether a report to the police is made, the MCHC member will follow established Macalester procedures independent from any police involvement and is specifically prohibited from engaging in any information outside of established college procedures except as the law requires.
- *Sexual Assault Support Team:* As part of standard procedures, complainants will be referred to a member of the Sexual Assault Support Team (SAST). The SAST is a group of faculty and staff trained to provide support to victims of sexual assault. The SAST
- member will be available to attend meetings with the complainant and provide consistent support and connection to available resources.
- For additional information on the rights of the complainant and respondent in this process please see the section Macalester College Harassment Committee General Procedures

Confidentiality

Individuals submitting or receiving complaints are expected to observe community standards of responsibility and confidentiality. During the course of an investigation, the investigators may impose restrictions on the parties and other participants for the purpose of maintaining the confidentiality of those involved in the investigation and minimizing the potential disruptiveness that the investigation may have on the College community. Anyone involved in an investigation that violates such restrictions will be subject to appropriate sanctions.

- Note: Any College employee who suspects sexual assault has occurred or is occurring or who receives information regarding sexual assault must immediately bring the matter to the attention of the MCHC (except those exempted by position of medical, clergy or counseling privilege). In addition, all community members (not just employees) are encouraged to notify the MCHC should they become aware of incidents of harassment

MCHC Procedures Upon Receiving a Complaint

MCHC Review Team

Three members of the MCHC will participate in complaint resolution (the Review Team). One member will be designated as chair of the review team and assume responsibility for coordinating the team during the process. A fourth member of the MCHC will be informed that an investigation is occurring but will not receive information specific to the complaint and be available to serve as part of the appeal process if needed. All MCHC members eligible to hear complaints of sexual assault will have completed additional training on sexual assault prior to their service.

Investigation of the Complaint

The MCHC Review Team receiving the complaint will conduct an investigation and determine a course of action. Possible options include formal action, no action, or at the request of the complainant a recommendation for an informal resolution. MCHC members will work quickly to conduct the investigation process which would typically be completed within two weeks.

- During the investigation process, the MCHC Review Team will review past records and reports, talk with witnesses, and meet with all named parties involved in the incident under review.
- In cases involving a third party bringing forward a concern, the MCHC member receiving the information will consult with the individual who was reportedly assaulted if available and appropriate.
- The respondent will be notified of the complaint, informed of the procedures and options available to them and asked to provide a written account of the incident.
- The official written statement submitted by the complainant will remain confidential during the initial investigation procedures.
- Other persons named in the complaint will be notified and informed of procedures and options available to them. The review team may also interview additional witnesses identified during the investigation.
- If upon reaching the completion of an investigation the MCHC Review Team concludes that neither an informal resolution nor formal action is warranted, a memorandum detailing the complaint and the reasons for this conclusion will be completed for the files. The complaint will be considered closed at that point.

Formal Action

In most situations where the investigation finds cause for further action, the complaint will be referred to a member of the College senior staff (Vice President) or relevant College authority for formal action. This provides an opportunity for a review of the facts surrounding the case and a decision on appropriate responsibility and sanctions. Complaints where a student is the respondent will be forwarded to the Vice President for Student Affairs. Cases where a faculty member is the respondent will be forwarded to the Provost and cases where a staff member is the respondent will be forwarded to the Vice President responsible for that line. The Chair of the MCHC review team will work with the appropriate Vice President during this process. Formal action would include the following:

- The Vice President will receive the investigation file from the MCHC Review Team and will schedule a meeting with the respondent. If a student is the respondent, a student member of the Conduct Hearing Board will be selected to observe, but not participate in the proceedings.
- The Vice President will discuss the situation with the respondent to determine responsibility for violation of College policy and assign an appropriate sanction as needed. The Vice President may choose to meet with the complainant in advance of making a decision if appropriate.
- The Vice President will meet with the chair of the MCHC review team to determine responsibility and assign sanctions as appropriate.
- The Vice President will notify the respondent of the decision and any sanctions assigned as a result.
- The Vice President will notify the complainant of the outcome of the situation.

Informal Resolution

In some cases, where requested by the complainant, an informal resolution may be pursued with the support of the MCHC Review Team. Informal resolution will take place if the respondent agrees to the terms requested by the complainant. The informal resolution could take many forms, including:

- a message communicated from the complainant to the respondent through the facilitator
- the respondent agreeing to terms set by the complainant which specify future changes in behavior
- other forms of resolution that are agreeable to the complainant

At any time during this process one or both parties may decline to participate in the informal resolution. If an attempted informal resolution is not successful, the MCHC Review Team, in conjunction with the complainant will determine the next course of action. Options include reopening the investigation, referring the case for formal action or determining that no further action would be taken at that time. The members of the MCHC Review Team must agree that the terms of any informal resolution are appropriate. A final copy of the terms will be provided in written form to both the complainant and respondent.

Violations of an informal agreement by the respondent will be treated as violations of formal College decisions and referred for formal action as outlined above. Notice of charges and decisions will then be placed in the respondent's official College file.

Sanctions

At the completion of a formal process the chair of the MCHC Review Team and the relevant College authority will meet and make a determination regarding the case including any sanctions that are warranted. Past records will normally be reviewed only at the sanctioning phase of the investigation. When a student is found responsible of a violation through the Formal process, the relevant College authority will make a determination regarding the case including any sanctions that are warranted.

- Sanctions may include those cited in the College Conduct Process, as described in the Student Handbook. Sanctions may be adjusted to address the circumstances of the situation at hand.
- Sanctions for staff may range from reprimands or training to immediate termination of employment or expulsion.
- In the case of sanctions against a member of any collective bargaining unit, contractual grievance and arbitration procedures will remain available to the employee.
- When a severe sanction against a faculty member is recommended, a hearing must first be held and conducted according to the rules stipulated by the American Association of University Professors (AAUP). A hearing will take place before the Faculty Personnel Committee. Members who find it necessary to recuse themselves will be replaced by available former members of the Committee with preference given to those having served most recently.
- Sanctions take effect at the time in which they are determined, unless otherwise specifically noted. Should a student provide an intention to appeal, the implementation of sanctions will be delayed until the outcome of the appeal is determined.

The relevant College authority will also prepare a written "Case Determination" that describes the decision and sanctions in detail. This document must indicate whether any record is to be placed in the respondent's personnel file and if so, the precise statement is to be attached to the document and will be included in the case file kept by the MCHC. The College authority will then meet with the respondent to inform her or him of the decision and provide a copy of the Case Determination and any attachment. In most cases, the complainant will be made aware of the outcome of the case. Records are kept in accordance with policies outlined under the section Macalester College Harassment Committee, General Procedures.

Appeal

Appeals of decisions made by the MCHC may be submitted by either party within ten working days of the date of

the letter notifying the parties of the decision. Appeals will be submitted in writing and outline the basis for the appeal. Appeals are accepted on the basis of procedural errors that may have impacted the final decision.

Appeals will be heard by the fourth member of the MCHC designated at the beginning of the process and the Associate Dean of Student Services. If the respondent is a student then the student member of the Conduct Hearing Board who observed the process will be a part of the appeal review. The appeal review team may overturn the decision determined through formal action or request that the Vice President reconsider the case. Decisions of the appeal review team are final.

*The procedures described in this policy are intended as guidelines describing how complaints of sexual assault will typically be handled. The College reserves the right to vary from these procedures based upon its evaluation of the circumstances of each matter.