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Sexual Assault Data Reporting Manual for 2016 Institutional Reports

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Sexual Assault Data Reporting Contact

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About the Minnesota Office of Higher Education

The Minnesota Office of Higher Education is a cabinet-level state agency providing students with financial aid programs and information to help them gain access to postsecondary education. The agency also serves as the state's clearinghouse for data, research and analysis on postsecondary enrollment, financial aid, finance and trends.

The Minnesota State Grant Program is the largest financial aid program administered by the Office of Higher Education, awarding up to \$180 million in need-based grants to Minnesota residents attending accredited institutions in Minnesota. The agency oversees tuition reciprocity programs, a student loan program, Minnesota's 529 College Savings Plan, licensing and early college awareness programs for youth.

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About This Manual

This manual contains specifications for reporting data to the Minnesota Office of Higher Education for the state's campus sexual assault database maintained by the Office of Higher Education Research and Policy division.

Established by the 2015 legislature, this database will contain information on the number of sexual assaults that occurred by institution and administrative responses to those incidents.

Authorizing Legislation

Minn. Stat. § 135A.15, subd. 6 requires postsecondary institutions to annually report statistics on sexual assault to the Office of Higher Education. The Office of Higher Education is responsible for calculating state totals and republishing institutional reports in a manner consistent with state and federal laws on student and data privacy.

Minn. Stat. § 13.322 (privacy of sexual assault data) and 626.891 (law enforcement cooperation) were also amended by the 2015 legislation on Campus Sexual Assault.

Manual Use

This manual has been designed so that revisions, updates, or new information can be inserted as necessary. A copy of this manual should be kept at your institution by the main contact person for submitting sexual assault data to the Office of Higher Education, usually the Title IX coordinator or staff responsible for Federal Clery reporting. An electronic version of this manual can be retrieved from <http://www.ohe.state.mn.us/pdf/SexualAssaultDataRptManual.pdf>.

Institutions Required to Submit Data

Postsecondary institutions are required to submit sexual assault data if they:

- offer in-person courses on a campus located in Minnesota;
- are eligible institutions as defined in Minn. Stat. § 136A.103; and,
- have system-wide enrollment of 100 students or greater in the prior academic year.

Based on Fall 2015 enrollment data and the above criteria, the following institutions are expected to submit sexual assault data.

Academy College	Leech Lake Tribal College
Adler Graduate School	Macalester College
Alexandria Technical & Community College	Martin Luther College
Anoka Technical College	McNally Smith College of Music
Anoka-Ramsey Community College	Mesabi Range Community & Technical College
Argosy University/Twin Cities	Metropolitan State University
Art Institutes International Minnesota	Minneapolis Business College
Augsburg College	Minneapolis College of Art & Design
Aveda Institute Minneapolis	Minneapolis Community & Technical College
Bemidji State University	Minnesota School of Business
Bethany Lutheran College	Minnesota School of Cosmetology
Bethel Seminary	Minnesota State College-Southeast Technical
Bethel University	Minnesota State Community & Technical College
Carleton College	Minnesota State University Moorhead
Central Lakes College	Minnesota State University, Mankato
Century College	Minnesota West Community & Technical College
College of Saint Benedict	National American University
College of St. Scholastica	Normandale Community College
Concordia College	North Central University
Concordia University-St. Paul	North Hennepin Community College
Crown College	Northland Community & Technical College
Dakota County Technical College	Northwest Technical College
Duluth Business University	Northwestern Health Sciences University
Dunwoody College of Technology	Pine Technical & Community College
Fond du Lac Tribal & Community College	Presentation College (Fairmont)
Globe University (Minneapolis)	Rainy River Community College
Globe University (Woodbury)	Rasmussen College
Gustavus Adolphus College	Regency Beauty Institute
Hamline University	Ridgewater College
Hennepin Technical College	Riverland Community College
Herzing University	Rochester Community and Technical College
Hibbing Community College	Saint John's University
Institute of Production & Recording	Saint Mary's University of Minnesota
Inver Hills Community College	Saint Paul College
Itasca Community College	South Central College
ITT Technical Institute	
Lake Superior College	

Southwest Minnesota State University
St. Catherine University
St. Cloud State University
St. Cloud Technical & Community College
St. Olaf College
Summit Academy Opportunities
Industrialization Center
United Theological Seminary
University of Minnesota Crookston

University of Minnesota Duluth
University of Minnesota Morris
University of Minnesota Rochester
University of Minnesota Twin Cities
University of Northwestern - St. Paul
University of St. Thomas
Vermilion Community College
Mitchell Hamline School of Law
Winona State University

Reporting Schedule

The data collection schedule is set by Minn. Stat. § 135A.15, Subd. 6(c). Institutions' reports must be submitted to the Office of Higher Education by October 1 of each year. Each report must contain the required sexual assault data from the previous calendar year, January 1 to December 31. Data on sexual assaults that were reported during that time are due to the Office of Higher Education by October 1 the following year.

Institutions are also responsible for publishing on their own website the data elements submitted to the Office of Higher Education.

Data Privacy

The Minnesota Office of Higher Education adheres to current federal and state data privacy laws to protect the privacy of individual students. Reports and data required by Minn. Stat. § 135A.15, Subd. 6 will be prepared and published as summary data, as defined in Minn. Stat. § 13.02, Subd. 19, and will be consistent with federal and state laws governing access to educational data and student privacy.

Reporting Updates

If an institution previously submitted a report indicating that one or more disciplinary processes was pending, but had not reached a final resolution, and one or more of those disciplinary processes reached a final resolution within the previous calendar year, that institution must submit updated totals from the previous year that reflect the outcome of the process. The form for reporting these updates will be available with the Fall 2017 data collection.

Instructions for Submitting Data

The Office of Higher Education will create an online interface to upload your institution's or system's data. This site supports encryption security so it is the preferred method of submitting your data due to the safety of this reporting method.

OHE's Required Public Report

The Office of Higher Education will calculate statewide numbers for each of the data items reported by institutions. The statewide numbers will include data from postsecondary institutions that could not be published due to federal laws governing access to student records. So data that were suppressed to protect student privacy will be included in the statewide totals.

The Office of Higher Education is required to publish on its web site:

- data submitted by each postsecondary institution except where doing so would compromise student privacy according to federal laws governing access to student records, and
- calculated statewide data totals from institutions' reports, including data that was suppressed due to student data privacy.

Reports and data required by Minn. Stat. § 135A.15, Subd. 6 must be prepared and published as summary data, as defined in Minn. Stat. § 13.02, Subd. 19, and must be consistent with applicable laws governing access to educational data.

If the Office of Higher Education does not publish data because of applicable law, the publication must explain why data are not included.

The Office of Higher Education's policy for complying with federal and state laws governing access to student records is to suppress student data (other than directory information) in cells for which there are fewer than 10 students.

Institutions are also responsible for publishing on their own website the data elements submitted to the Office of Higher Education. Institutions may choose to suppress data in cells for which there are fewer than 10 students, or follow their own institutional policy for data suppression under federal and state laws governing access to student records.

Institutions will be notified when OHE's public report is published, so that institutional websites can be updated accordingly.

Disclaimer

The categories of incidents and institutional responses required by this data collection are informed by Minn. Stat. § 135A.15. The categories and descriptions provided herein should not be interpreted as implying that the below institutional actions are allowable under federal law. Institutional response to reports of sexual assault should be guided by the federal Violence Against Women Act and Title IX.

Sexual Assault Data Element Definitions

Sexual Assault Definition

The definition of sexual assault for this report is prescribed by Minn. Stat. § 135A.15, Subd. 1a as “forcible sex offenses as defined in Code of Federal Regulations, title 34, part 668, subpart D, appendix A, as amended.”

The term “forcible sex offenses” was previously defined by 34 C.F.R. pt. 668 Subpart D Appendix A (2014) as follows.

“Sex Offenses—Forcible

Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

A. *Forcible Rape*—The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).

B. *Forcible Sodomy*—Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

C. *Sexual Assault With An Object*—The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

D. *Forcible Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.”¹

However, 34 C.F.R. § 668, Subpart D, Appendix A has been amended, and the term “forcible sex offenses” is no longer defined. By attempting to match the prior definition of “forcible sex offenses” to corresponding terms currently defined in 34 C.F.R. § 668, Subpart D, Appendix A, for the purpose of this reporting, sexual assault will include rape, sex offenses – fondling, and sex offenses – statutory rape as defined below.

¹ 34 C.F.R. § 668, Subpart D, Appendix A. (2009). Retrieved from <https://www.gpo.gov/fdsys/pkg/CFR-2012-title34-vol3/pdf/CFR-2012-title34-vol3-part668-subpartD-appA.pdf>.

“Rape – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim...

Sex Offenses

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. 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.

...

C. Statutory Rape – Sexual intercourse with a person who is under the statutory age of consent.”²

Because incest was not included in the prior definition of forcible sex offences, incidents of incest are not included in the definition of sexual assault for purposes of institutions’ data submission to OHE.

Only incidents of sexual assault according to the above definitions of rape, sex offenses – fondling, and sex offenses – statutory rape should be included in institutions’ data submission to OHE.³

Timeframe

The timeframe of incidents in institutions’ reports to OHE is incidents of sexual assault reported to the institution during the prior calendar year. For the first data submission to OHE, incidents reported to the institution between January 1, 2015 and December 31, 2015 will be included in the data submission due to OHE by October 1, 2016.

Note that the report of the incident must have occurred between January 1, 2015 and December 31, 2015, not the incident itself. Additionally, though the report of an incident must have occurred between January 1, 2015 and December 31, 2015, the institutional responses and processes detailed by the categories do not have to be concluded during that timeframe. Institutional responses can include those actions taken until the beginning of the data submission window, August 1, 2016.

Incident was reported to institution:

Between January 1, 2015 – December 31, 2015

Data submission due to OHE:

Between August 1 and October 1, 2016

² 34 C.F.R. § 668, Subpart D, Appendix A. (2014). Retrieved from <http://www.ecfr.gov/cgi-bin/text-idx?SID=9832ffe8a96e645ed60060b70dd1c0c5&node=34:3.1.3.1.34.4.39.10.7&rgn=div9>.

³ OHE will request an update to the definition of sexual assault in Minn. Stat. § 135A.15, Subd. 1a in our agency’s technical changes request for the 2017 legislative session.

Scope of Incidents

The report must include, but not be limited to, the number of incidents of sexual assault reported to the institution in the previous calendar year in which:

- Either the alleged victim or respondent was a member of the campus community (employee or student) at the time of the incident; or,
- the incident occurred on the institution's campus (or on property owned/rented by the institution); or,
- the incident occurred at an institutionally-sponsored event.

Categories

Institutions must submit to the following to OHE.

- 1. The number of incidents of sexual assault reported to the institution during the prior calendar year within the scope defined above (total incidents)**
 - Include incidents that were reported as sexual assault but were later found not to be sexual assault or where the report was unfounded
 - Reports include those incidents reported by the alleged victim as well as from other parties
 - Excludes anonymous reports and aggregate deidentified data provided to the institution from confidential resources
- 2. Of those in #1, the number that were investigated by the institution to determine whether the institution's policy was violated**
 - An investigation includes a formal investigation, an informal investigation, and an institutional inquiry
 - Incidents may be reported to the institution but not investigated because:
 - The victim chose not to proceed with the investigation and the institution determined there was no overriding concern to campus safety;
 - An incident occurred but the allegation was not of sexual assault;
 - A respondent was not a member of the campus community; or,
 - A respondent was not identified.
- 3. Of those in #2, the number that were referred for a disciplinary process at the institution**
 - A disciplinary process includes any process by which the institution investigates, adjudicates, and makes a determination regarding an allegation in accordance with the institution's own code of conduct or similar internal policy or rules.
- 4. The number of total incidents (category 1) in which the alleged victim chose to report to local or state law enforcement, to the extent that the institution is aware**
 - Includes any local or state law enforcement agency, not just those within Minnesota.

5. **The number for which a campus disciplinary process is pending, but has not reached a final resolution as of August 1, 2016**
 - The incident was reported to the institution by December 31, 2015, but by August 1, 2016 the case was not finalized.
 - Pending cases include those that have been referred to an investigator but a recommendation has not been made whether there is sufficient grounds to refer the matter to an adjudicator; are still under investigation; are still under adjudication; a final determination has not been made; hearings have not reached their conclusion; appeal period has not yet expired; or the incident is under appeal.
6. **The number in which the respondent(s) was/were found responsible for sexual assault by the disciplinary process at the institution;**
 - Includes only final (not initial) determinations of responsibility
7. **The number that resulted in any action by the institution greater than a warning issued to the respondent.**
 - A warning is an issuance of an oral or written reprimand that has no adverse consequence.
 - Examples of actions greater than a warning include required counseling, required training, a no-contact order, placing a hold on the students' record/transcript, being issued a no-trespass order, being issued a partial no-trespass order that significantly limits campus access, removal from campus housing, disciplinary probation, suspension, or expulsion.
8. **The number that resulted in a disciplinary process at the institution that closed without resolution**
9. **Of those in #8, the number that resulted in a disciplinary process at the institution that closed without resolution because the respondent withdrew from the institution**
10. **Of those in #8, the number that resulted in a disciplinary process at the institution that closed without resolution because the alleged victim chose not to participate in the process**
11. **The number of reports made through the online reporting system established in Minn. Stat. § 135A.15, subd. 5, excluding reports submitted anonymously**

Note that each category is based on the number of incidents. If an incident involves more than one respondent, and the respondents have different outcomes in the institution's disciplinary process, that incident may be reported in more than one category. For example, an incident with more than one respondent could be counted as "1" in #1, #2, #3, and because the two respondents are at different places in the disciplinary process, that incident could also be counted as "1" in #5 and #6.

For questions on reporting, please contact Nichole Sorenson at nichole.sorenson@state.mn.us or 651-259-3919.