



Sexual Assault Data Reporting Manual for 2017 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 contains information on the number of sexual assaults reported 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 updated electronic version of this manual can be retrieved from <http://www.ohe.state.mn.us/pdf/SexualAssaultDataRptManual.pdf>.

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 described 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.

Changes from Prior Year

Definition of Sexual Assault

The definition of sexual assault for the purpose of this report was amended by the 2017 legislature.¹ The definition of sexual assault in Minn. Stat. § 135A.15, Subd. 1a is now “rape, sex offenses - fondling, sex offenses - incest, or sex offenses - statutory rape as defined in Code of Federal Regulations, title 34, part 668, subpart D, appendix A, as amended.” Please note incest is now included in the definition of sexual assault for purposes of institutions’ data submission to OHE.

New Category & Clarification of Victim Not Participating

Based on feedback from the first year of sexual assault data reporting, a category has been added to the data collection and additional clarification of categories has been provided. Last year, there was confusion over Category 10, “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.” Some institutions over-reported that category because they wanted to represent the incident reports that did not go further through the institution’s investigation or disciplinary process because the alleged victim chose not to participate.

To address that, a new category has been added, “The number in which the alleged victim chose not to participate in the institution’s process prior to a disciplinary process beginning.” Additional clarifying information has been provided. Please review the definitions for Categories 9, 10, and 11 prior to submitting your data to OHE.

Prior Year Disciplinary Process Pending Update

If an institution previously submitted a report indicating that one or more disciplinary processes were pending, but had not reached a final resolution, that institution must submit data the following year to reflect the outcome of the process. As the second year of this data report, a Prior Year Disciplinary Process Pending Update section has been added. Institutions that reported a pending case(s) in their prior year report will have an additional page on their online reporting form for reporting updates based on how those cases resolved.

¹ 2017 Minnesota Session Laws, Chapter 89, Article 3, Section 1. Retrieved from <https://www.revisor.mn.gov/laws/?id=89&year=2017&type=0#laws.3.1.0>.

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.

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.

Instructions for Submitting Data

The Office of Higher Education will provide 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.

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.

OHE's Required Public Report

The Office of Higher Education calculates statewide numbers for each of the data items reported by institutions. The statewide numbers 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. When 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.

Sexual Assault Data Element Definitions

Sexual Assault Definition

The definition of sexual assault for the purpose of this report was amended by the 2017 legislature.² The definition of sexual assault in Minn. Stat. § 135A.15, Subd. 1a is now “rape, sex offenses - fondling, sex offenses - incest, or sex offenses - statutory rape as defined in Code of Federal Regulations, title 34, part 668, subpart D, appendix A, as amended.” Following are the definitions of those terms:

“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.

B. Incest – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

C. Statutory Rape – Sexual intercourse with a person who is under the statutory age of consent.”³

Please note incest is now 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 and sex offenses should be included in institutions’ data submission to OHE.

² 2017 Minnesota Session Laws, Chapter 89, Article 3, Section 1. Retrieved from <https://www.revisor.mn.gov/laws/?id=89&year=2017&type=0#laws.3.1.0>.

³ 34 C.F.R. § 668, Subpart D, Appendix A. (2014). Retrieved from https://www.ecfr.gov/cgi-bin/text-idx?SID=427870d23440b216b997547642ac7608&mc=true&node=pt34.3.668&rgn=div5#ap34.3.668_150.a.

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, 2016 and December 31, 2016 will be included in the data submission due to OHE by October 1, 2017.

Note that the report of the incident must have occurred between January 1, 2016 and December 31, 2016, not the incident itself. Additionally, though the report of an incident must have occurred between January 1, 2016 and December 31, 2016, 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, 2017.

Incident was reported to institution:

Between January 1, 2016 – December 31, 2016

Data submission due to OHE:

Between August 1 and October 1, 2017

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, 2017**
 - The incident was reported to the institution by December 31, 2016, but by August 1, 2017 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**
 - Cannot be greater than the number reported in Category 8
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**
 - Cannot be greater than the number reported in Category 8
 - If the alleged victim chose not to participate in the institution's process prior to the disciplinary process, please include that in Category 11 rather than Category 10
11. **The number in which the alleged victim chose not to participate in the institution's process prior to a disciplinary process beginning**
 - If the alleged victim chose not to participate in the institution's process after the disciplinary process began, please include that in Category 10 rather than Category 11
 - Includes incidents reported to the institution by the victim but the victim chose not to participate in the investigation
 - Includes incidents reported to the institution by a third party and the victim chose not to be involved in the report or investigation
12. **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.

Prior Year Disciplinary Process Pending Update

If an institution previously submitted a report indicating that one or more disciplinary processes were pending, but had not reached a final resolution, that institution must submit data the following year to reflect the outcome of the process. Institutions that reported a pending case(s) in their prior report will have an additional page on their online reporting form for reporting updates to their prior data based on how those cases resolved.

Below are the possible outcomes of the disciplinary process for the purpose of the Prior Year Disciplinary Process Pending Update. For **only** the incidents that were previously reported as pending, institutions will report data in the following category or categories as appropriate.

- 1. 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
- 2. 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.
- 3. The number that resulted in a disciplinary process at the institution that closed without resolution**
- 4. Of those in #3, the number that resulted in a disciplinary process at the institution that closed without resolution because the respondent withdrew from the institution**
 - Cannot be greater than the number reported in Category 3
- 5. Of those in #3, 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**
 - Cannot be greater than the number reported in Category 3

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