

**Mitchell Hamline School of Law
Human Resource Policies**

Policy: Sexual Misconduct Policy for Employees and Third Parties¹
Policy Number: K.1
Scope: Employees of Mitchell Hamline School of Law and Third Parties
Effective Date: September 2018

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¹ This Policy applies to full-time employees of the School who are also taking classes at the School.

I. PURPOSE AND NOTICE OF NON-DISCRIMINATION

It is the policy of Mitchell Hamline School of Law (“School”) to maintain an environment free from the physical and emotional threat of Sexual Misconduct, including but not limited to Sexual Harassment,² Sexual Intimidation, Sexual Exploitation, Domestic Violence, Sexual Assault, Stalking, Dating Violence, and all other forms of Sexual Violence, including but not limited to when these crimes are based on actual or perceived race, color, creed, religion, national origin, sex, gender, gender identity, marital status, familial (or parental) status, disability, status with regard to public assistance, sexual orientation, age, family care leave status or veteran status, membership or activity in a local human or civil rights commission, or any other protected class defined by law. The School prohibits all forms of Sexual Misconduct against Employees and Students. For Complaints regarding any forms of harassment or Discrimination besides Sexual Harassment and Sexual Misconduct, please see the School’s Non-Discrimination and Non-Harassment Policy.

The School is committed to investigating, resolving, and preventing all Complaints of Sexual Misconduct—whether formal or informal, verbal, or written—including when those acts are based on an Employee’s actual or perceived protected class status, and the School will discipline or take appropriate action against any Employee, Student, or—when applicable—Third-Party who violates this policy. The School will investigate and, when appropriate, will conduct prompt, fair, and impartial investigation proceedings for complaints of all Sexual Misconduct, including but not limited to Dating Violence, Domestic Violence, Sexual Assault, and Stalking.

If a School investigation reveals that Sexual Harassment created a hostile employment or educational environment, the School will take prompt and effective steps to end the harassment, eliminate the hostile environment, prevent the harassment from recurring and, when appropriate, remedy the effects of the hostile environment.

Any Employee who needs a reasonable accommodation to be able to make or respond to a complaint, or engage in any other activity detailed in this policy, may contact the Title IX Coordinator or a Deputy Title IX Coordinator to request an accommodation. Any Employee who is found to have violated this policy is subject to disciplinary or corrective action, up to and including termination.³ For further information about potential sanctions imposed on Employees, please see the School’s Employee Handbook.

Retaliation against a person who makes a report or Complaint under this Policy or who participates in or supports the investigation of a report or a Complaint is prohibited and will not be tolerated. Retaliation should be reported promptly to the Director of Human Resources or Title IX Coordinator and will, when appropriate, be investigated.

² Title IX of the Educational Amendments of 1972, as well as other state and federal laws, require that the School not discriminate on the basis of sex in employment, as well as in education programs and activities. Inquiries regarding the application of Title IX or reports of Title IX violations may be made as outlined in this policy.

³ Allegations relating to violations of conduct prohibited in this policy and committed by Students are governed by the [Sexual Misconduct Policy for Students](#).

II. SCOPE AND APPLICABILITY

This policy applies to the conduct of all non-student Employees⁴—*i.e.*, all faculty, staff, administrators, and adjuncts (referred to herein collectively as “Employees”), as well as certain third-party affiliates, including volunteers, vendors, visitors, and independent contractors (collectively, “Third Parties”).

This policy applies to the conduct of Employees and Third Parties (including Employee conduct against Students) that takes place in the working environment or during the academic and nonacademic (extracurricular) programs of the School and will be enforced on School property, owned or leased, including the School’s hosted social functions, or events sponsored by the School but held at other locations, including School-sponsored programs abroad. Therefore, although the School only has one physical location, enforcement of this policy is not limited to only on-campus conduct.

This policy also applies to any off-campus conduct by Employees or Third Parties that causes or threatens to cause a substantial and material disruption at the School, or interferes with the rights of School Employees and Students to be free from a hostile working or educational environment taking into consideration the totality of the circumstances on and off Campus.

Generally, the specific procedures for investigating and responding to a Complaint differ based on the nature of the parties’ relationship to the School. Please review the table below to determine which procedures apply in various hypothetical situations.

Complainant	Respondent	Applicable Investigation Procedures
Student	Student	Sexual Misconduct Policy for Students
Employee/Third Party	Student	Sexual Misconduct Policy for Students
Employee/Third Party	Employee/Third Party	Sexual Misconduct Policy for Employees and Third Parties
Student	Employee/Third Party	Sexual Misconduct Policy for Employees and Third Parties

If either the Complainant or Respondent is a Student, then the procedure for appeals set forth in the School’s Sexual Misconduct Policy for Students applies. If neither the Complainant or Respondent is a Student, there is no right to appeal for either party.

If the Respondent is both a Student and a Student Employee, the procedures for responding to a Complaint of Sexual Misconduct are outlined in the School’s Sexual Misconduct Policy For Students (except for full-time Employees who are also taking classes at the School and who should consult this policy).⁵ A Respondent that is both a Student and a Student Employee may be subject to any of the sanctions applicable to Students or Employees.

⁴ This Policy applies to full-time employees of the School who are also taking classes at the School. The Title IX Coordinator will determine whether the Employee or Student policies apply to employees who are Students.

⁵ If there is a question regarding the predominant role of a party, the School’s Title IX Coordinator will determine which of the above procedures applies based on the facts and circumstances (such as which role predominates in the context of Sexual Misconduct).

This policy is distributed annually to all Employees of the School and is posted in the following locations:

- [The Summit](#)

In addition, this policy is provided to any Employee or Third Party who reports to the School that they have been a Victim of Sexual Misconduct. Please note that the School's ability to take appropriate corrective action against a Third Party may be limited due to the nature of the School's relationship with the Third Party.

III. DEFINITIONS

Definitions of Prohibited Conduct

All violations detailed in this Policy can occur between individuals of the same or different genders.

A. Sexual Misconduct includes a variety of prohibited behaviors, including Sexual Harassment, Sexual Exploitation, Dating Violence, voyeurism, Domestic Violence, sex Discrimination, Stalking, Sexual Assault, and any other nonconsensual conduct of a sexual nature. Some occurrences of Sexual Misconduct, including in certain forms of Dating Violence, Domestic Violence, and Stalking are not sexual in nature. Regardless, the term "Sexual Misconduct" applies to these non-sexual instances, as well. Similarly, Sexual Exploitation constitutes Sexual Misconduct and may apply to situations where the sexual conduct itself was consensual, but a related conduct—which was not on its own sexual—nonetheless constitutes Sexual Exploitation (e.g., videotaping or allowing friends to watch a consensual sexual activity without the Consent of the other person).

B. Sexual Assault is actual or attempted nonconsensual criminal sexual conduct in the first, second, third, or fourth degrees, as well as Incest, as defined by Minnesota Statutes §§ 609.342, 609.343, 609.344, 609.345, or 609.365.

Criminal sexual conduct is a sexual act directed against another person, without the Consent of the Victim, including instances where the Victim is incapable of giving Consent. Some examples of Sexual Assault include, but are not limited to:

- **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.
- **Forcible Fondling**: The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the Victim.
- **Incest**: Sexual intercourse between family members whose familial relationship is such that marriage between them is prohibited by law.
- **Statutory Rape**: Sexual intercourse with someone who is younger than the statutory age of Consent. In Minnesota, the statutory age of Consent is 16.

C. Sexual Contact includes, but is not limited to, the non-consensual intentional touching of someone's intimate parts, including the touching of clothing covering someone's intimate parts and the touching with seminal fluid or sperm on a person or a person's clothing. See Minn. Stat. § 609.341, subd. 11.

D. Sexual Exploitation is taking non-consensual sexual advantage of another person. For example, Sexual Exploitation includes taking non-consensual video and/or audio recordings, photographs, or images of an individual while that individual is engaged in

intimate or sexual utterances, sounds, or activities; voyeurism; possession of child pornography; prostituting another person; exposing one's genitals in non-consensual circumstances; distributing intimate or sexual information about a person without their Consent; or knowingly transmitting a sexually transmitted disease to another person.

E. Sexual Harassment is unwelcome sexual advances, requests for sexual favors, offensive comments, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment or educational opportunities or academic results (quid pro quo Sexual Harassment), or
- Submission to or rejection of such conduct is used as a basis for employment or academic decisions affecting the individual (quid pro quo Sexual Harassment), or
- Such conduct unreasonably interferes with an individual's work or academic performance, or creates an intimidating, hostile, or offensive working environment (hostile workplace Sexual Harassment) or academic environment.

Some examples of conduct that may constitute Sexual Harassment include the following:

- Repeated and unwelcome suggestions regarding, or invitations to, social engagements or social events; or
- Any indication, express or implied, that any aspect of employment or educational conditions or outcomes or personal safety depends or may depend on the granting of sexual favors or on a willingness to accept or tolerate conduct or communication of a sexual nature; or
- Unwelcome or coerced physical proximity or physical contact which is of a sexual nature or sexually motivated; or
- The deliberate use of offensive or demeaning terms which have a sexual connotation; or
- The deliberate creation of an intimidating, hostile or offensive employment or educational atmosphere, through conduct or communication of a sexual nature; or
- Inappropriate remarks of a sexual nature.

Determining whether Sexual Harassment has taken place requires an analysis of all available facts, the situation, and the context.

F. Sexual Intimidation involves threatening another person that the perpetrator will commit a sex act against him or her; engaging in indecent exposure; or Stalking another person who reasonably perceives the stalker is pursuing a romantic and/or sexual relationship. Stalking is further defined below.

G. Sexual Violence is defined as a violation of Minnesota Criminal Sexual Conduct Statutes and may include a range of sexual conduct, including but not limited to acquaintance Rape, or other forcible or non-forcible sex offenses. In general, Sexual Violence means Sexual Contact achieved without Consent or with the use of physical force, coercion, deception, threat, and/or the Victim is mentally incapacitated or impaired, physically impaired (due to the influence of drugs or alcohol), or asleep or unconscious.

H. Stalking means to engage in a *course of conduct* which the actor knows or has reason to know would cause a *reasonable person* under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the Victim regardless of the relationship between the actor and Victim. See Minn.

Stat. § 609.749. Under Minnesota law, Stalking crimes include, but are not limited to, when a person:

- directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;
- follows, monitors, or pursues another, whether in person or through any available technological or other means;
- returns to the property of another if the actor is without claim of right to the property or Consent of one with authority to Consent;
- repeatedly makes telephone calls, sends text messages, or induces a Victim to make telephone calls to the actor, whether or not conversation ensues;
- makes or causes the telephone of another repeatedly or continuously to ring;
- repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for people with vision impairments or hearing loss, or any communication made through any available technologies or other objects;
- knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties; or
- uses another's personal information, without Consent, to invite, encourage, or solicit a Third Party to engage in a sexual act with the person.

When determining whether Stalking has occurred, a course of conduct means two or more acts, including acts in which the stalker directly, indirectly, or through others follows monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. A reasonable person is a person under similar circumstances and with similar identities to the Victim.

I. Dating Violence means violence or threats of violence committed by a person

- Who is or has been in a social relationship of a romantic or intimate nature with the Victim; and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship, and
 - The frequency of interaction between the persons involved in the partnership.

Dating Violence is prohibited by Minnesota law. See Minn. Stat. § 518B.01, *et seq.*

J. Discrimination occurs when an individual is treated adversely or differently because of that person's race, ethnicity, color, creed, religion, sex, gender, age, national origin, disability, marital status, familial (or parental) status, sexual orientation, gender identity, status with regard to public assistance, membership or activity in a local commission, family care leave status, or veteran status or any other protected class status defined by applicable law. Harassment is a type of discrimination that includes conduct that denigrates or shows hostility or aversion toward an individual because of his or her actual or perceived protected class status as defined by law and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive employment or educational environment; or
- Has the purpose or effect of unreasonably interfering with an individual's job or academic performance; or
- Otherwise adversely affects an individual's employment or educational opportunities.

Some examples of conduct that may constitute Discrimination or harassment include the following:

- Failure or refusal to hire, train, or promote an individual because of that individual's protected class status;
- Limiting salary increases because of an individual's protected class status;
- Disciplining or terminating an individual because of that individual's protected class status;
- Treating an individual adversely in any other respect because of that individual's protected class status;
- Using epithets, slurs, threatening or intimidating acts, including written or graphic material directed to an individual because of protected class status; or
- Written, verbal or physical acts directed to an individual because of protected class status that purport to be jokes or pranks.

Sex Discrimination occurs when an individual is treated adversely because of that person's sex, gender, sexual orientation, or gender identity, or is subject to any other form of Sexual Harassment.

In the event an Employee believes that he or she is the Victim of Sex Discrimination or Sexual Harassment, he or she may file a Complaint regarding that conduct pursuant to this policy, or as provided by law; including, but not limited to, the Minnesota Human Rights Act and Title VII. For all other forms of Discrimination, the Employee may pursue a Complaint (if he or she so chooses) pursuant to the School's Non-Discrimination and Non-Harassment Policy or as provided by law; including, but not limited to, the Minnesota Human Rights Act and Title VII.⁶

K. Domestic Violence is a felony or misdemeanor crime of violence committed by:

- Spouses and former spouses of the Victim;
- Parents and children;
- Persons related by blood;
- Persons who are presently residing together or who have resided together in the past;
- Persons who have a child in common regardless of whether they have been married or have lived together at any time;
- A man and a woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
- Persons involved in a significant romantic or sexual relationship.

Domestic Violence crimes include, but are not limited to:

⁶ Add link to [Non-Discrimination and Non-Harassment](#) Policy.

- Physical harm, bodily injury, or assault;
- The infliction of fear of imminent physical harm, bodily injury, or assault; or
- Terroristic threats, criminal sexual conduct, or interference with an emergency call, as defined by Minnesota law.

Domestic Violence is prohibited by Minnesota law. See Minn. Stat. 518B.01, *et seq.*

L. Retaliation means an adverse action taken against a Complainant, or a person who files a Complaint, and/or otherwise participates in an investigation or proceeding under this policy, including Victims and third-parties. Retaliation includes, but is not limited to, intimidation, threats, coercion, reprisal, or harassment.

Other Important Definitions

M. Victim means a person who is alleged to have been subject to conduct that violates this policy.

N. Complainant is the person alleged to have been a Victim of conduct prohibited by this policy. The Complainant is also referred to herein as the Victim. The Complainant may not always be the person who files a Complaint under this policy.

O. Complaint means any report of conduct that is in violation of this policy

P. Accused means the person who has been Accused of conduct prohibited by this policy. Once an investigation begins, this person may be referred to as a Respondent.

Q. Employee, for the purposes of this policy, means all non-Student Employees of the School,⁷ including faculty, staff, adjuncts, and administrators.

R. Third Party, for the purposes of this policy, includes certain third-party affiliates, including volunteers, vendors, visitors, and independent contractors.

S. Student, for the purposes of this policy, means all Students at the School, except for full-time Employees of the School who are also taking classes at the school (for the purposes of this policy, those individuals are considered Employees of the School). The term "Student" otherwise includes all individuals taking classes at the school, including all degree and non-degree Students.

T. Campus means the entire physical grounds of the School, remote locations such as the Mobile Law Office, and facilities away from the main Campus where School-sponsored programs (i.e., Student abroad programs) are held.

U. Campus Authorities means the security department at the School, as well as the Dean of Students, the Title IX Coordinator, the Deputy Title IX Coordinators, the Associate Dean of Academic Affairs, and the Dean and President of the School.

V. Consent means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor.

⁷ The definition of "Employees" includes full-time employees of the School who are also taking classes at the School. Those individuals, as well as all other Employees, should refer to the School's Sexual Misconduct Policy for Employees and Third Parties, as well as the School's Non-Discrimination and Non-Harassment Policy, for the applicable procedures of filing a report or Complaint.

Consent does not mean the existence of a prior or current social relationship between the actor and the Victim or that the Victim failed to resist a particular sexual act. Instead, Consent means a freely given “yes,” not failure to resist, silence, or the absence of a “no.”

Consent can be withdrawn at any time.

A person who is mentally incapacitated or physically helpless cannot Consent to a sexual act. Mentally incapacitated means a person under the influence of alcohol, a narcotic, anesthetic, or any other substance that was administered to that person without the person's agreement, or that results in an inability to give a reasoned Consent to Sexual Contact or sexual penetration. With respect to incapacitation due to drugs or alcohol, incapacitation requires more than simply being under the influence of drugs or alcohol—a person is not incapacitated simply because he or she has used drugs or alcohol.⁸ Instead, facts surrounding the situation will be considered to determine (1) if the individual could understand the circumstances, (2) if the individual was able to communicate Consent (or lack thereof), and (3) whether the Accused/respondent was aware of the situation.

Consent can only be given by someone of legal age—in Minnesota, the statutory age of Consent is 16 years old.

Consent cannot be obtained via threats, force, coercion, or other forms of intimidation.

Corroboration of the Victim's testimony is not required to show lack of Consent.

W. Title IX Coordinator means the person who is primarily responsible for addressing issues of gender-based Discrimination and/or Sexual Misconduct, including implementing and monitoring Title IX compliance on behalf of the School. This includes coordination of training, education, communications, and administration of the complaint procedures for the handling of suspected or alleged violations of this Policy. The School's Title IX Coordinator is Christine Szaj and her telephone number is 651-290-6362, and her email is christine.szaj@mitchellhamline.edu.

X. Deputy Title IX Coordinators means the persons, in addition to the Title IX Coordinator, responsible for Student-related complaints (i.e., complaints regarding conduct that occurred against a Student, regardless of the perpetrator of that conduct). The School's Deputy Title IX Coordinators include Lynn LeMoine (651-290-7668) and Kelly Von Ruden (651-290-6367). In cases where the Respondent is a School Employee, Andrea Bien (651-290-6322) may be the Deputy Title IX Coordinator.

⁸ The School strongly encourages Students to report potential instances of Sexual Misconduct, as well as to participate in related investigations and proceedings. Thus, a Student who makes a good-faith effort to report Sexual Misconduct and/or who participates in an investigation and proceeding will not be disciplined by the School for any violation of the Schools' drug and alcohol policies that they may have engaged in connection with the report. More information can be found in the School's [Sexual Misconduct Policy for School Students](#).

IV. CONSENSUAL RELATIONSHIP POLICY

The School does not prohibit relationships between Employees and Students, faculty and staff, or supervisors and Employees. That said, Employees must recognize that, in many of these types of relationships, there inherently exists a power differential that cannot be ignored and that may lend itself to various forms of Sexual Harassment or Sexual Misconduct. For more information, please consult the School's Problematic Consensual Romantic Relationships Policy, which can be accessed at [The Summit](#).

V. REPORTING PROCEDURES FOR INCIDENTS OF SEXUAL MISCONDUCT, SEXUAL HARASSMENT, AND/OR SEX DISCRIMINATION **(Please see Section VI for reporting Sexual Violence)**

Employee Complaints of Sexual Misconduct, Sexual Harassment, or Sex Discrimination Discrimination When They are the Victim

If an Employee believes that he or she has been subject to Sexual Misconduct, Sexual Harassment, or Sex Discrimination by another Student, Employee, or any person whom the Employees encounter in the course of employment, he or she may report the conduct to the School as set out below.⁹ Complaints should be made to the Director of Human Resources Andrea Bien at 651-290-6322, andrea.bien@mitchellhamline.edu. The Employee may also choose to submit a complaint to the School's Title IX Coordinator, Christine Szaj, at 651-290-6362, christine.szaj@mitchellhamline.edu.

The Employee also retains the right to notify—or decline to notify—the law enforcement authorities.¹⁰

Any Complaints involving conduct of the President and Dean should immediately be reported to an Officer of the [Board of Trustees](#), whose contact information can be found <https://mitchellhamline.edu/about/board-of-trustees/>.

If Complaints are made to anyone else, the Complainant risks the possibility that it will not come to the attention of the appropriate management, and therefore not be acted upon.

Employee Complaints of Sexual Misconduct, Sexual Harassment, or Sex Discrimination Against Another Employee or a Student

If an Employee observes Sexual Misconduct, Sexual Harassment, or Sex Discrimination by an Employee against another Employee or a Student, he or she must immediately report the conduct to the Director of Human Resources, Andrea Bien, at 651-290-6322, andrea.bien@mitchellhamline.edu.

Likewise, any Employee who receives a complaint of Sexual Misconduct, Sexual Harassment, or Sex Discrimination by an Employee or a Student should immediately report the incident to the

⁹If Employees believe that they are the Victim of a sex offense, including Dating Violence, Domestic Violence, Sexual Assault or Stalking, they should, if desired, report the incident to the School as outlined in Section V and/or to local police agencies.

¹⁰An individual does not need to report Sexual Misconduct to law enforcement in order to receive assistance from the School, nor does an individual need to report Sexual Misconduct to the School in order to receive assistance from law enforcement.

Director of Human Resources, Andrea Bien, at 651-290-6322, andrea.bien@mitchellhamline.edu.

If the Employee is reporting an incident relating to a Student Victim, they should also make a report to the Title IX Coordinator, Christine Szaj, at 651-290-6362, or the Deputy Title IX Coordinator Lynn LeMoine, at 651-290-7668, lynn.lemoine@mitchellhamline.edu.

Complaints involving conduct of the President and Dean should immediately be reported to an Officer of the Board of Trustees, whose contact information can be found at <https://mitchellhamline.edu/about/board-of-trustees/>.

Properly reporting Complaints is of vital importance. If Complaints are improperly reported—*i.e.*, reported to the wrong individual, the Complainant risks the possibility that the complaint will not come to the attention of the appropriate management, and therefore not be acted upon.

As necessary, the School reserves the right to initiate a Complaint, to serve as Complainant, and to initiate conduct proceedings without a formal Complaint by the Victim or Complainant.

Confidential Reporting

While Employees are encouraged to report when they are Victims of conduct covered under this policy, the School understands that making such reports can be difficult. In addition, while the School will attempt to maintain the confidentiality of facts relating to complaints, such confidentiality cannot be guaranteed. Employees who wish to obtain confidential assistance from outside the School may also consider contacting:

- Employee Assistance Program (Vital WorkLife) (800-383-1908)
- [SOS](http://www.sosramsey.org) Sexual Violence Services (651-266-1000) www.sosramsey.org

Online Reporting

Reports can be made [online](https://mitchellhamline.edu/students/title-ix/sexual-misconduct-reporting-form) (<https://mitchellhamline.edu/students/title-ix/sexual-misconduct-reporting-form>). Reports may be made anonymously, however, the reporter is encouraged to provide as much information as possible when making an anonymous report. Because of the nature of anonymous reports, the School may be limited in its ability to investigate and respond to an anonymous report.

Recurrence

If the Sexual Misconduct, Sexual Harassment, or sex discrimination reoccurs, the recurrence should immediately be reported according to the Reporting Procedure above.

Retaliation

The School does not tolerate any Retaliation or intimidation directed toward anyone who makes a Complaint or report in good faith or who participates in good faith in the investigation of a Complaint.

The Reporting Procedure described above should also be used if an Employee believes that he or she has been subjected to prohibited Retaliation or intimidation. See *also* section – of this policy for further discussion on Retaliation.

Employee Reports of Crimes Due to Protected Status

If an Employee believes that he or she has been a Victim of a crime, including larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and/or any other crime involving bodily injury to any person, in which the Victim believes he or she was selected because of his or her actual or perceived gender, sexual orientation, or gender identity,

he or she should, if desired, report the incident to the School security authorities or local police agencies.

Prohibition Against False Reports

The willful filing of a false report is a violation of this policy.

Statement on Confidentiality

Although confidentiality cannot be assured, investigations will be conducted with sensitivity to confidential issues and investigative information will be communicated as appropriate to those with a need to know, pursuant to applicable law and the need to conduct an investigation and take any needed action.

VI. REPORTING PROCEDURES FOR INCIDENTS OF SEXUAL VIOLENCE

Making a Report

The School encourages Victims of Sexual Misconduct to seek immediate medical and emotional assistance, including treatment for injuries and preventative treatment for sexually transmitted diseases. Assistance is available by calling 911, the Saint Paul Police (651-291-1111), School Security (651-290-6330 or 651-224-8763), and/or Regions Hospital (651-254-5000).¹¹ Medical treatment, including rape kits, may help Victims preserve evidence of Sexual Violence and Sexual Misconduct. Campus Authorities responding to an incident of Sexual Violence will inform the Victim of his or her options to notify law enforcement authorities and seek medical assistance. Campus Authorities will assist the Victim with these contacts if the Victim requests such assistance. Campus Authorities will also notify the Title IX Coordinator, the Dean of Students, or the Director of Human Resources who will inform the Victim of the School's reporting process as soon as possible.

It is important for Victims to preserve any evidence resulting from Sexual Violence which would be needed for investigation or criminal prosecution. Campus Authorities will provide assistance in preserving materials considered relevant to the internal complaint process and, when requested by the police, will provide assistance in obtaining, securing, and maintaining evidence needed for criminal prosecution.

Victims of Sexual Violence have the right to complete and prompt assistance of School authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a Sexual Assault incident.

The Victim may report to the police, to the School, neither, or both. The School recognizes that the decision to report Sexual Violence to the police is the right of the Victim. However, the School strongly encourages the immediate reporting of Sexual Violence to any of the following:

- Christine Szaj, Title IX Coordinator; Vice President of Community Relations and Operations
(651)290-6362
christine.szaj@mitchellhamline.edu

¹¹ An individual does not need to report Sexual Misconduct to law enforcement in order to receive assistance from the School, nor does an individual need to report Sexual Misconduct to the School in order to receive assistance from law enforcement.

- Andrea Bien, Deputy Title IX Coordinator; Director, Human Resources
(651)290-6322
andrea.bien@mitchellhamline.edu
- Peter Knapp, Associate Dean for Academic Affairs
(651) 290-6423
peter.knapp@mitchellhamline.edu
- Mark Gordon, President and Dean
(651) 290-6310
mark.gordon@mitchellhamline.edu

Any Employee who receives a report or witnesses conduct involving Sexual Misconduct, Sexual Harassment, or Sex Discrimination regarding a Student is required to immediately report it to the Title IX Coordinator.

Online Reporting: Students or Employees who wish to [report](#) an incident of Sexual Misconduct including Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Harassment may do so at <https://mitchellhamline.edu/students/title-ix/reporting-sexual-misconduct/> . Reports may be made anonymously; however, such reports may not lead to an investigation, or if an investigation is commenced, it will be based on information reported and may limit action taken. All reports will be forwarded to the Title IX Coordinator.

If an Employee reports to the School that the Employee has been a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, whether the offense occurred on or off Campus, the School will provide that individual with a written explanation of the Employee's right and options.

When applicable, the School will notify the Victim of his or her rights and the School's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court. (see Resources and Contact Information section below).

Although confidentiality cannot be assured, investigations will be conducted with sensitivity to confidential issues and investigative information will be communicated as appropriate to those with a need to know.

If the act(s) of Sexual Violence reoccur(s), it should immediately be reported to any of the individuals listed above. The Reporting Procedure described above should also be used if an Employee believes he or she has been subjected to prohibited Retaliation or intimidation.

In some cases, unless prohibited by law, an individual may pursue criminal action and a School internal complaint concurrently. In certain circumstances, the School is prohibited from waiting for a criminal case to conclude before proceeding in its own internal investigation.

Resources and Contact Information

Victims may wish to utilize the following services:

School Resources

<p>Title IX Coordinator Christine Szaj Room 339 875 Summit Avenue St Paul, MN 55105 651-290-6362 Chris.szaj@mitchellhamline.edu</p>	<p>Director of Human Resources Andrea Bien LEC Room 274 875 Summit Avenue St. Paul, MN 55105 651-290-6322 Andrea.bien@mitchellhamline.edu</p>
<p>Campus Security: 651-290-6330 or 651-224-8763</p>	<p>Online Reports: https://mitchellhamline.edu/students/title-ix/sexual-misconduct-reporting-form/</p>
<p>Mitchell Hamline School of Law Employee Assistance Program (benefits-eligible Employees) 24 hours a day, seven days a week 1-888-293-6948 TDD 1-800-327-1833 Workhelathlife/com/Standard3</p>	

Community/External Resources

<p>St Paul Police Emergency 4911 (on Campus) and 911 (off Campus) Non-Emergency Number: 651-291-1111</p>	<p>Casa de Esperanza St. Paul, MN 651-772-1611 24-hour Bilingual (English and Spanish) helpline</p>	<p>Day One Services 1-866-223-1111 Crisis Support, information on shelters, safety planning, and orders for protection</p>
<p>Ramsey County Sexual Offense Services: 651-643-3006 Please Note: This is a 24-hour crisis line</p>	<p>Lawyers Concerned for Lawyers 651-646-5590 or 1-866-525-6466</p>	<p>St Paul/Ramsey County Domestic Abuse Intervention Project Office and 24-hour crisis line)</p>
<p>Minnesota Coalition Against Sexual Assault (MNCASA) 651-209-9993</p>	<p>National Domestic Violence Hotline: (800) 799-SAFE (7233)</p>	<p>OutFront Minnesota (24-hour anti-violence crisis support line for LGBT Victims) 1-800-800-0350 (Option 3)</p>

<u>Rape, Assault, and Incest National Network (RAINN)</u> 1-800-656-6673 24-hour hotline; free and confidential Online chat available.	Ramsey County Domestic Abuse and Harassment Office: 651-266-5130	Regions Hospital Emergency Room 651-254-3306 640 Jackson Street St. Paul, MN 55101
United Hospital Emergency Room 333 North Smith Avenue St. Paul, MN 55102 651-241-8755 (direct connection to the Emergency Room)	<u>Sexual Assault Support and Help for Americans Abroad (SASHAA)</u> Outside the United States 24-hour toll-free hotline: In US dial 1-866-879-6636 See SASHAA website for other country specific direct access codes or to use live chat option	<u>Sexual Offense Services of Ramsey County</u> 24-hour hotline; free and confidential 555 Cedar Street St. Paul, MN 55101 651-266-1000

VII. INVESTIGATION

Upon receipt of a Complaint, the School will notify and, when appropriate, obtain Consent from the Complainant to promptly undertake or authorize a fair and impartial investigation. If the allegation is one of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, the investigation and disciplinary proceeding will be conducted by an official who receives annual training on the issues related to those crimes. This training also includes information about interacting with Victims of Sexual Assault, including how to reduce the emotional distress resulting from the reporting, investigatory, and disciplinary process. No matter the type of Sexual Misconduct reported, the investigation will be conducted by someone who has been trained on how to conduct a prompt, fair, and impartial investigation; how to provide safety to the Victim; and how to promote accountability.

The investigation will generally be completed within 60 calendar days from receipt of the Complaint. Complainants and responding parties may choose to participate or decline to participate in the Investigation. That said, participation of these parties is not mandatory for the Investigation to proceed. If the investigation proceeding will be delayed beyond the 60-day goal, the School will provide the participants with written notice of the delay and the reason for the delay.

In the meantime, the School may implement interim actions, including but not limited to changing a Complainant's work or class schedule; issuing a timely warning if there exists an ongoing threat of danger to the community; providing information about legal options, including but not limited to orders for protection and harassment restraining orders; and notifying appropriate School administration or management personnel.

The investigation may, as appropriate, consist of personal interviews with the Complainant, the Reporter (if someone other than the Complainant), the Respondent, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and review of documents deemed pertinent by the Investigator.

In determining whether alleged conduct constitutes a violation of this policy, the School may consider, among other things, the facts and surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances using a preponderance of the evidence standard to evaluate Complaints.

The School, at its discretion, may take immediate steps, based on the severity of the allegations, to protect the parties involved in the complaint process pending completion of an investigation.

To ensure the School can gather the information necessary to uphold School policies, each Employee or Student who is requested to participate in a fact finding investigation is required to fully cooperate with the investigator. Unless otherwise directed by the investigator, faculty, Students, or staff will be expected to limit their discussion of the matter under investigation to those who need to know the information for the purposes of assisting in the resolution of the complaint. Failure to follow these requirements and other directions provided by the investigator may result in corrective action as stated below. Nothing in this paragraph is intended to limit or restrict a Complainant from contacting the police or governmental agencies responsible for the enforcement of any applicable laws.

VIII. ACTIONS BY THE SCHOOL

Upon completion of the investigation, the investigator(s) will make a finding of facts report to the President and Dean. If the complaint involves the President and Dean, the report shall be made directly to the Chair of the Board of Trustees.

Upon completion of the investigation, the President and Dean or his or her designee will inform the Complainant and Respondent of the results of the investigation. If the investigation was the result of an allegation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, the report will be made in writing and the sanctions, if any, will be detailed and the rationale for the decision will be given.

If a Complaint is substantiated, the School will take appropriate and effective action depending on the circumstances. Such action may include, but is not limited to, training, counseling, suspension or termination of employment, or other appropriate action. If necessary and if the matter is related to the faculty, a matter may be referred to the appropriate disciplinary authority as required by School policy, the Revised Tenure Code, and any existing faculty agreement.

In appropriate situations, the School will provide written notifications to Victims about options for, and available assistance in, changing academic, living, transportation, or working situations, if so requested by the Victim and if such accommodations are reasonably available, regardless of whether the Victim chooses to report the crime to School security or local law enforcement.

Pursuant to applicable law, the School will make timely reports to the Campus community on certain crimes considered to be a threat to other Students and Employees, including forcible and nonforcible sex offenses, that are reported to School security or local law police agencies. School security, not police. These reports will be provided to Students and Employees in a timely manner, will withhold the name(s) of the Victim(s) as confidential, and will aid in the prevention of similar occurrences.

In accordance with applicable law, the School retains the right to issue possible sanctions against individuals who violate this policy, or engage in protective measures following a final determination of a school disciplinary procedure, including in all cases involving Rape,

acquaintance Rape, Domestic Violence, Dating Violence, Sexual Assault, or Stalking. The School reserves the right to issue, among others that may be appropriate, any of the following sanctions in any order in these circumstances depending on the facts:

- No-contact directive
- Restriction of privileges
- Probation
- Written Warning
- Suspension
- Termination¹²
- Discontinuation of relationship or association (in the case of a Third Party)

IX. SCHOOL REPORTING OBLIGATIONS

Under the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), the School has a legal duty to track and publish information about certain types of Sexual Misconduct. The School will collect, prepare, publish, and distribute, through appropriate publications or mailings, to all current Students and Employees, and to any applicant for enrollment or employment upon request, an annual security report containing, among other things, information relating to the Campus crime statistics of the School and statistics concerning the occurrence on Campus, in or on non-campus buildings or property, and on public property, all criminal offenses reported to Campus security authorities related, among other things, to forcible or non-forcible sex offenses, Dating Violence, Domestic Violence, Sexual Assault, and Stalking. The School will not disclose the Victim’s name or other personally identifiable information in its report.

In addition to its reporting obligations under the Clery Act, under Minnesota Law, the School has a legal duty to track and report similar information about Sexual Assault on its website and to the Minnesota Office of Higher Education.

The School also must issue timely warnings to Students and Employees for certain types of incidents reported to them that pose a substantial threat of bodily harm or danger to members of the School community. The School will make every effort to ensure that a Victim’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

X. COOPERATION WITH LAW ENFORCEMENT

The School will comply with law enforcement’s request for cooperation and such cooperation may require the School to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency gathers evidence. The School will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten calendar days, although the delay in the School’s investigation could be longer in certain instances.

The School will implement appropriate interim steps during the law enforcement agency’s investigation period to provide for the safety of the Victim(s) and the Campus community and the avoidance of Retaliation.

When appropriate or legally obligated, the School may share investigative information with the law enforcement.

¹² Sanctions for Student Respondents, which include but are not limited to expulsion and suspension, are detailed in the School’s [Sexual Misconduct Policy for Students](#).

XI. ATTEMPTED VIOLATIONS

In most circumstances, the School will treat attempts to commit any of the violations listed in this policy as if those attempts had been completed.

XII. NO RETALIATION

There will be no Retaliation against any good faith Complainant or reporter of Sexual Misconduct, Sexual Harassment, Sex Discrimination, or Sexual Violence under this policy, nor against any person who participates in an investigation. The School will investigate Complaints and take appropriate action against any school Student or Employee who retaliates against any person who makes a good-faith report; who testifies, assists or participates in an investigation; or who testifies, assists or participates in a process relating to the report. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Appropriate action may include disciplinary or corrective action, up to and including termination.

In addition, neither the School, nor any officer, Employee, or agent of the School may retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights to avail themselves of the Complainant procedures under this policy.

XIII. CONFLICT OF INTEREST

If there is a conflict of interest with respect to any party affected by this policy, appropriate accommodations will be made, such as, but not limited to, appointing or contracting with a Consultant to conduct the investigation, or recusing the person from the process for whom a conflict or potential conflict of interest exists.

XIV. ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include, but is not limited to, filing a charge with the United States Department of Education Office for Civil Rights (OCR).

The OCR office for Minnesota is located at:
U.S. Department of Education Office for Civil Rights Citigroup Center
Office for Civil Rights
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago IL 60661-4544
Tel: 312.730.1560
TDD: 877.521.2172
Email: OCR.Chicago@ed.gov

XV. PROGRAMS DESIGNED TO PREVENT DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Pursuant to the Clery Act, the School has designed and implemented programs meant to prevent Domestic Violence, Dating Violence, Sexual Assault, and Stalking. Notably, the School has created education programs to promote the awareness of Rape, acquaintance Rape,

Domestic Violence, Dating Violence, Sexual Assault, and Stalking. These education programs include primary prevention and awareness programs for all incoming Students and new faculty, adjunct faculty, and staff. In these programs, participants will:

1. Be provided a statement that the School prohibits the offenses of Domestic Violence, Dating Violence, Sexual Assault, and Stalking;
2. Receive documentation with the definitions of Domestic Violence, Dating Violence, Sexual Assault, Stalking, and Consent;
3. Learn safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of Domestic Violence, Dating Violence, Sexual Assault, or Stalking against a person other than such individual to encourage bystanders to intervene and to overcome any barriers to intervening;
4. Receive information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
5. Learn the possible sanctions or protective measures that the School may impose following a final determination of a School disciplinary procedure regarding Rape, acquaintance Rape, Domestic Violence, Dating Violence, Sexual Assault, or Stalking;
6. Be informed regarding the procedures Victims should follow if a sex offense, Domestic Violence, Dating Violence, Sexual Assault, or Stalking has occurred, including receiving information in writing about:
 - The importance of preserving evidence as may be necessary to the proof of criminal Domestic Violence, Dating Violence, Sexual Assault, or Stalking, or in obtaining a protection order;
 - To whom the alleged offense should be reported;
 - Options regarding law enforcement and Campus Authorities, including notification of the Victim's option to notify proper law enforcement authorities, including on-campus officials and local police; be assisted by Campus Authorities in notifying law enforcement authorities if the Victim so chooses; and decline to notify such authorities;
7. Be notified that, when applicable, Victims have rights and the School has responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
8. Learn procedures for School disciplinary action in cases of alleged Domestic Violence, Dating Violence, Sexual Assault, or Stalking, which shall include a clear statement that the proceedings will provide a prompt, fair, and impartial investigation and resolution; and will be conducted by officials who receive annual training on the issues related to these crimes and how to conduct an investigation and hearing process that protects the safety of Victims and promotes accountability;
9. Be notified of the fact that the Complainant and Respondent are entitled to the same opportunities to have others present during a School disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice;
10. Be notified that both the Complainant and Respondent shall be simultaneously informed, in writing, of – the outcome of any School disciplinary proceeding that arises from an allegation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking; the School's procedures for the Accused and the Victim to appeal the results of the School disciplinary proceeding; of any

change to the results that occurs prior to the time that such results become final; and when such results become final;

11. Obtain information about how the School will protect the confidentiality of Complainants, including how publicly available recordkeeping will be accomplished without the inclusion of identifying information about the Complainant, to the extent permissible by law;

12. Receive written notification about existing counseling, health, mental health, Victim advocacy, legal assistance, and other services available for Victims both on-campus and in the community; and

13. Receive written notification of Complainants' options for, and available assistance in, changing academic, transportation, and working situations, if so requested by the Complainant and if such accommodations are reasonably available, regardless of whether the Complainant chooses to report the crime to Campus officials or local law enforcement.

14. The School will also offer ongoing prevention and awareness campaigns for Students and faculty, adjunct faculty, and staff and will provide attendees with, at minimum, the same information listed above. These campaign programs will occur on a regular basis and no less frequently than once per year.

XVI. QUESTIONS

Please direct any questions to:

Andrea Bien, Director, of Human Resources; Deputy Title IX Coordinator
(andrea.bien@mitchellhamline.edu.); Christine Szaj, Title IX Coordinator
(christine.szaj@mitchellhamline.edu.);

STATEMENT OF THE RIGHTS OF THE ALLEGED VICTIM

- The right to choose to report an incident to School officials and the option to notify local law enforcement, including the right to file criminal charges with local law enforcement officials in Sexual Assault cases. This also includes the right to request that Campus Authorities promptly assist the Victim in notifying the appropriate law enforcement officials of a Sexual Assault incident. This also includes the right not to report, if this is the Victim's desire;
- The right to be treated with dignity by Campus Authorities, including the right to be free from Campus Authorities suggesting that the Victim is at fault for the crimes or violations that occurred or that the Victim should have acted in a different manner to avoid the crime;
- The right to complete and prompt assistance of Campus Authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a Sexual Assault incident. This right includes the right to the assistance of Campus Authorities in preserving for a Sexual Assault Complainant or Victim materials relevant to a Campus proceeding under this policy or any other policy;
- The right to decide when to repeat a description of the incident of Sexual Assault;
- The right to a prompt, fair, and impartial investigation and appropriate resolution of all credible complaints of Sexual Misconduct made in good faith to School administrators;
- The right to be notified of the timeframes for all major stages of the investigation;
- The right to present witnesses and evidence;
- In instances of reports of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, the right to have another person, including an attorney, present (in a support role) during all phases of the investigation, including at any meeting with Campus officials concerning the Victim's complaint or Campus disciplinary proceeding concerning a Sexual Assault complaint;
- The right to be notified of available counseling, health, mental health, Victim advocacy, legal assistance, visa and immigration assistance, or services for Victims of Sexual Assault, both on Campus and in the community;
- When appropriate, the right to make changes to academic, transportation, and/or working arrangements;
- When applicable, the right to notification of his or her rights and the School's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar orders issued by a criminal, civil, or tribal court.
- During and after the process of investigating a complaint and conducting a Campus disciplinary procedure, the notification of and options for, and available assistance in, shielding a Victim from unwanted contact with the alleged assailant after an alleged Sexual Assault incident, if so requested by the Victim and if such changes are reasonably available and feasible. This right includes the right to the assistance of School personnel, in cooperation with the appropriate law enforcement authorities, in implementing the requested changes;
- The right to a Campus no-contact order against a member of the School who has engaged in or threatens to engage in Stalking, threatening, harassing or other improper behavior;
- The right to a written notice of the outcome and, when applicable, resulting sanction of the investigation, generally within 24 hours of the decision. After a disciplinary proceeding

involving an allegation of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, this right includes the right to be informed of the outcome in writing, including a summary of any sanctions and the rationale for the decision.

- The right to preservation of privacy, to the extent required by law.
- See also <https://dps.mn.gov/divisions/ojp/help-for-crime-Victims/Pages/crime-victims-rights.aspx>, which is the Crime Victim Rights in Minnesota.

- **STATEMENT OF THE RIGHTS OF THE ACCUSED (WHEN THE ACCUSED IS AN EMPLOYEE OF THE SCHOOL)**¹³

- The right to a prompt, fair, and impartial investigation and appropriate resolution of all credible complaints of Sexual Misconduct made in good faith to School administrators against the Accused individual;
- The right to be notified of the timeframes for all major stages of the investigation;
- The right to present witnesses and evidence;
- In instances of reports of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, the right to have another person present (in a support or advisory role) during all phases of the investigation;
- The right to be informed of and have access to Campus resources for counseling and advisory services;
- The right to a decision based solely on evidence presented during the investigative process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to a written notice of the outcome and, when applicable, resulting sanction of the investigation, generally within 24 hours of the decision. After a disciplinary proceeding involving an allegation of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, this right includes the right to be informed of the outcome in writing, including a summary of any sanctions and the rationale for the decision; and
- The right to preservation of privacy, to the extent as required by law.
- See also <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx>, which is the Crime Victim Rights in Minnesota.

¹³ If the Accused is a Student, please refer to the Statement of Rights of the Accused found in the School's [Sexual Misconduct Policy for Students](#).