
Sexual Assault Data Reporting Manual

for 2020 Institutional Reports

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Sexual Assault Data Reporting Contacts

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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 more than \$207 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.

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>.

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.

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.

Data Privacy

The 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. 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 website:

- 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 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 each of 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 the Office of Higher Education's annual 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 2020 legislature.¹ The definition of sexual assault in Minn. Stat. § 135A.15, Subd. 1a is now:

“Sexual assault definition.

- (a) For the purposes of this section, the following terms have the meanings given.
- (b) "Incident" means one report of sexual assault to a postsecondary institution, regardless of the number of complainants included in the report, the number of respondents included in the report, and whether or not the identity of any party is known by the reporting postsecondary institution. Incident encompasses all nonconsensual events included within one report if multiple events have been identified.
- (c) "Sexual assault" means 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 the terms delineated in 1c:

“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.”²

Please note that incest is now included in the definition of sexual assault for purposes of institutions’ data submission to the Office of Higher Education. Only incidents of sexual assault according to the above definitions of rape and sex offenses should be included in institutions’ data submission to the Office of Higher Education.

¹ 2020 Minnesota Session Laws, Chapter 109, Article 1, Section 2. Retrieved from <https://www.revisor.mn.gov/laws/2020/0/109/laws.1.2.0#laws.1.2.0>.

² 34 C.F.R. § 668, Subpart D, Appendix A. (2014). Retrieved from <https://www.govinfo.gov/content/pkg/CFR-2018-title34-vol3/xml/CFR-2018-title34-vol3-part668.xml>.

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.

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 of the following year.

Note that the **report of the incident** must have occurred between these dates, not the incident itself. Additionally, although the report of an incident must have occurred within the 2019 calendar year, 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 September 2020, which is the beginning of the new data submission window.

Incidents reported to the institution:

Between January 1, 2019 – December 31, 2019

Data submitted to the Office of Higher Education:

September 2020, due October 1, 2020

Office of Higher Education will release the statewide report online:

Anticipated by December 31, 2020

Instructions for Submitting Data

The Office of Higher Education will provide each institution with a unique survey link to an online interface to upload the institution's or the system's data. The Office of Higher Education requires use of this data submission method, as this interface supports encryption security and ensures data privacy and safety.

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;
- 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 data to the Office of Higher Education for the 12 data categories outlined below. Note that **each category is based on the number of incidents**.

If a single incident involves more than one respondent, the incident may be reported in more than one category, if the respondents have different outcomes in the institution's disciplinary process. For example, an incident with two respondents could be counted as "1" in Categories #1, #2, #3 and—because the two respondents may be at different places in the disciplinary process—that incident could also be counted as "1" in #5 and #6.

Required sexual assault data elements:

- 1. The total number of incidents of sexual assault reported to the institution during the prior calendar year, within the scope of incidents as defined on page 6.**
 - Noting the added definition of "Incident" to [2020 Session Law](#), incident means: "one report of sexual assault to a postsecondary institution, regardless of the number of complainants included in the report, the number of respondents included in the report, and whether or not the identity of any party is known by the reporting postsecondary institution. Incident encompasses all nonconsensual events included within one report if multiple events have been identified."
 - Include incidents that were reported as sexual assault but were later found not to be sexual assault, or where the report was unfounded.
 - Include incidents reported by the alleged victim as well as incidents reported by other named parties.
 - Exclude anonymous reports and aggregate deidentified data provided to the institution from confidential resources.

- 2. Of those incidents in #1, the number that were investigated by the institution to determine whether the institution's policy was violated.**
 - "Investigated" can mean a formal investigation, an informal investigation, and/or an institutional inquiry.
 - Incidents may be reported to the institution but not investigated (as defined above) because:
 - The alleged 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;
 - The respondent was no longer enrolled or employed at the time of the report (but the actual incident occurred at an earlier time);
 - The respondent was not a member of the campus community; or,
 - A respondent was not identified in the report.
- 3. Of those incidents in #2, the number that were referred for a disciplinary process at the institution.**
 - I.e. the number of incidents that moved beyond an informal investigation or informal institutional inquiry.
 - 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.**
 - Include incident reports made to any local or state law enforcement agency, not just those within Minnesota.
- 5. The number of incidents for which a campus disciplinary process is pending, but has not reached a final resolution as of September 2020.**
 - I.e. the incident was reported to the institution by December 31, 2019, but the case was still pending on September 2020.
 - "Pending" cases include those where:
 - The case is still under investigation;
 - The case is still under adjudication;
 - A final determination has not been made;
 - Case hearings have not yet reached their conclusion;
 - The case is under appeal; or,
 - The appeal period has not yet expired.
- 6. The number of incidents in which the respondent(s) was/were found responsible for sexual assault, through the disciplinary process at the institution.**
 - Include only final (and not initial) determinations of responsibility.

- 7. The number of incidents that resulted in any action by the institution greater than a warning being 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:
 - Requiring counseling;
 - Requiring education or training;
 - Placing a hold on the students' record/transcript;
 - Issuing or enforcing a no-contact order;
 - Issuing or enforcing a no-trespass order;
 - Issuing or enforcing a partial no-trespass order that significantly limits campus access;
 - Removing a party from campus housing; or,
 - Issuing a disciplinary probation, suspension, or expulsion.
- 8. The number of investigations that resulted in a disciplinary process (as defined in category #3) at the institution, but eventually closed without resolution.**
- I.e. a disciplinary process is initiated by the institution, but then forced to close **prior to** a determination being reached, therefore closing without resolution.
 - This situation could occur when:
 - The alleged victim withdraws from the institution;
 - The respondent withdraws from the institution (see category #9); or,
 - The alleged victim initially agrees to participate in an investigation, but later chooses not to participate in the remainder of the disciplinary process (see category #10).
- 9. Of those in #8, the number of investigations that resulted in a disciplinary process at the institution, but eventually closed without resolution – because the respondent withdrew from the institution.**
- This number cannot be greater than the number reported in Category #8.
- 10. Of those in #8, the number of investigations that resulted in a disciplinary process at the institution, but eventually closed without resolution – because the alleged victim chose not to participate in the remainder of the process.**
- I.e. a disciplinary process is initiated by the institution but does not reach the stage of adjudication or determination, because the alleged victim declines to participate in the remainder of the disciplinary process.
 - Include situations where the alleged victim chooses not to participate in the institution's disciplinary process **after** the disciplinary process has already begun.
 - If the alleged victim chooses not to participate in the disciplinary process **prior to** the initiation of the disciplinary process, please include that in Category #11 rather than Category #10.
 - This number cannot be greater than the number reported in Category #8.

- 11. The number of incidents in which the alleged victim chose not to participate in the institution's investigation or disciplinary process prior to a disciplinary process beginning.**
 - Include incidents where the alleged victim reports the incident but does not want the institution to move forward with an investigation or disciplinary process.
 - Include incidents reported to the institution by a third party, where 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.**

Please contact the Office of Higher Education with any questions about how to report specific incidents, or with any other reporting questions you may have. You can find contact information on Page 1.

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 that process. Institutions that reported one or more pending case(s) in their prior year's report will have an additional page on their online reporting form for entering updates to their prior year's 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. Institutions will report data in the following categories **only** for incidents that were previously reported as pending.

- 1. The number of incidents in which the respondent(s) was/were found responsible for sexual assault, through the disciplinary process at the institution.**
 - Include only final (and not initial) determinations of responsibility.
- 2. The number of incidents that resulted in any action by the institution greater than a warning being 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:
 - Requiring counseling;
 - Requiring education or training;
 - Placing a hold on the students' record/transcript;
 - Issuing or enforcing a no-contact order;
 - Issuing or enforcing a no-trespass order;
 - Issuing or enforcing a partial no-trespass order that significantly limits campus access;
 - Removing a party from campus housing; or,

- Issuing a disciplinary probation, suspension, or expulsion.

3. The number of investigations that resulted in a disciplinary process at the institution, but eventually closed without resolution.

- I.e. a disciplinary process is initiated by the institution, but then forced to close **prior to** a determination being reached, therefore closing without resolution.
- This situation could occur when:
 - The alleged victim withdraws from the institution;
 - The respondent withdraws from the institution; or,
 - The alleged victim initially agrees to participate in an investigation, but later chooses not to participate in the remainder of the disciplinary process.

4. Of those in #3, the number of investigations that resulted in a disciplinary process at the institution, but eventually closed without resolution – because the respondent withdrew from the institution.

- This number cannot be greater than the number reported in Category #3.

5. Of those in #3, the number of investigations that resulted in a disciplinary process at the institution, but eventually closed without resolution – because the alleged victim chose not to participate in the remainder of the process.

- This number cannot be greater than the number reported in Category #3.