

MAINE COMMUNITY COLLEGE SYSTEM

STUDENT AFFAIRS Section 501.1

SUBJECT: STUDENT SEXUAL MISCONDUCT AND ASSAULT

PURPOSE: To define and proscribe non-consensual sexual activities between students

A. Introduction

Certain sexual activities can produce emotional and physical distress and constitute violations of criminal law. Other sexual activities can produce significant regrets or misunderstandings. The purposes of this procedure are to notify students of their responsibilities when engaging in sexual activities, and to protect students from those who do not meet these responsibilities. This procedure supplements the MCCS Student Code of Conduct (“Code”) by defining the non-consensual sexual activities that constitute violations of the Code; explaining the procedures that will apply to the handling of such alleged violations; and providing important additional information to all students. The intention is to inform students in detail of their responsibilities under the Code, and to assist the Colleges in investigating and resolving cases alleging such violations.

B. Personal Responsibilities

In addition to the responsibilities students have under the Code of Conduct and this procedure, students are strongly advised to heed numerous other personal responsibilities. In order to avoid the problems identified above, as well as problems related to unwanted pregnancies, sexually transmitted diseases and other personal difficulties, all students are advised to:

1. Pursue or permit sexual activities of any kind only with a person with whom there is an established relationship;
2. Pursue or permit sexual activities of any kind only while not under the influence of drugs or alcohol; and
3. Communicate expressly, at the time of possible sexual activities, their respective desire, comfort and clear agreement to engage in any sexual activities at such time, and communicate the specific activities to which they consent.

C. Definitions

For purposes of this procedure, the following terms have the following meanings.

1. **“Reliable Consent”** means a person’s:
 - a. Voluntary agreement;
 - b. Communicated by words;
 - c. At the time of the sexual activity;
 - d. To engage in each of the sexual activities at issue in a given case.

Such agreement must be expressly requested and, if given, expressly stated. Current agreement must not be assumed or inferred from previous instances when reliable consent was given by the Complainant. Agreement from a person who is visibly intoxicated or otherwise impaired shall not be regarded as reliable consent. Agreement to engage in one sexual activity (such as a touching) is not agreement to engage in a different sexual activity (such as an act). Agreement can be withdrawn at any time and, if so withdrawn, the sexual activity shall stop.

2. **"Acquiescence"** means a person's submission to engaging in one or more sexual activities without communicating either an express verbal agreement or an express physical or verbal objection.
3. **"Sexual misconduct"** means the following where there is no reliable consent:
 - a. **"Sexual touching,"** which means any intentional touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, and for the purpose of arousing or gratifying sexual desire; or
 - b. **"Sexual contact,"** which means any intentional touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact; or
 - c. **"Sexual act,"** which means any intentional act done for the purpose of arousing or gratifying sexual desire when that act involves direct physical contact between the:
 - 1) Genitals of one and the mouth or anus of another; or
 - 2) Genitals of one and the genitals of another; or
 - 3) Genitals or anus of one and an instrument or device manipulated by another person.
4. **"Sexual assault"** means any sexual misconduct as defined above where, at the time of the sexual activity, the Complainant:
 - a. Expressly communicated by words or physical act(s) a timely objection; or
 - b. Was visibly intoxicated or otherwise visibly impaired; or
 - c. Was unconscious, incapacitated, or otherwise unaware that sexual activity was occurring or about to occur; or
 - d. Was placed in reasonable fear of physical injury or other harm because of the Respondent's use or threatened use of physical force or other harm.
5. **"Complainant"** means a person who believes he or she experienced sexual misconduct or assault by student.
6. **"Respondent"** means a student accused of sexual misconduct or assault.

7. **"Retaliation"** means pressuring a person to drop or support a complaint or to provide false or misleading information; pressuring a person to participate or refrain from participating as a witness in a proceeding; or engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment for making a good-faith report or participating in good faith in an investigation.

D. Prohibited Conduct

It is a violation of the Student Code of Conduct for a student to intentionally engage in sexual misconduct or sexual assault, or to retaliate against a person who in good faith reports or participates in an investigation under this procedure. A student may be found responsible for retaliation even if not found responsible for the underlying alleged sexual misconduct or assault.

E. Reports to a College

1. **When to Report.** Students are advised to report allegations of sexual misconduct or sexual assault immediately or as soon as possible.
2. **Where to Report.** To ensure the most prompt response, reports should be given to the Dean of Students and/or Enrollment Services. Any other employee who receives such a report shall immediately share the report with the Dean of Student and/or Enrollment Services.
3. **What to Report.** A complaint may be made orally or in writing, and should be as specific as possible. A report should disclose the identity of the person(s) alleged to have engaged in the sexual misconduct or sexual assault, and the location(s), date(s) and description of the alleged acts. A College cannot take complaints "off the record." Once a College receives such information, it has a duty to investigate and possibly take action even if, at the time of the complaint, the Complainant does not want the College to do either. Unless the Complainant signs a written statement specifying withdrawal of the complaint, the Complainant may not be deemed to have withdrawn her or his complaint.
4. **False Reports.** It is a violation of the Code for any student to intentionally file a report of any kind with a College official when the student knows that such report, by fabrication or material embellishment, is false.

F. Information Provided to a Complainant at the Time of a Report

At the time of a report to the Dean of Student and/or Enrollment Services, the College shall provide to the Complainant a copy, or hypertext links to copies, of the Code, this Procedure and the Appendices to this Procedure. Students are hereby advised of the following:

1. **Preserving Evidence.** It is important to preserve physical evidence in order to help prove a criminal sexual assault, stalking, domestic violence, other acts of violence occurring within a dating relationship, or to help obtain a protective order;

2. **Confidentiality.** The College uses best efforts to protect the confidentiality of the identity and allegations involved in a report, including keeping all records confidential to the extent permissible by law. Information regarding sexual misconduct or assault reports, and any investigation or review of those reports, including sanctioning determinations, will be shared among College officials with a legitimate educational interest or with external individuals or entities only on a need-to-know basis and only as permitted by College policy and applicable law. A College will be required to disclose the Complainant's name, statements and allegations to the Respondent. A College may choose to comment publicly, in writing or otherwise, to the extent permitted by law, regarding the decision reached if, in the judgment of the College, the best interests of the community would be served by such a disclosure. If possible and appropriate, the anonymity of the student(s) involved will be protected;
3. **Counseling, Health and Mental Health Services.** Counseling, health and mental health support services are available either on campus or in the area. A list of such services is attached in the *Appendix* to this procedure;
4. **Law Enforcement.** The complainant has the right to contact, and file a criminal complaint with, the police. A list of such authorities is attached in the *Appendix*. The police can advise and assist with the Complainant's option to request from a court that a temporary or permanent restraining order, or other protection or no-contact order be issued against an alleged offender; and
5. **Victim Advocacy and Legal Assistance Services.** Victim advocacy and legal assistance services are also available. A list of such services is attached in the *Appendix*.

G. Investigations

The College shall use the Code of Conduct in conducting an investigation of reports or allegations of sexual misconduct or sexual assault.

H. Interim Steps While an Investigation is Conducted

A College shall consider what interim steps, if any, should be taken until the investigation and findings are complete. Such steps include, for example, changing the affected student(s) academic, living, transportation, and working situations if requested and reasonably available.

I. Participation during Proceedings

Consistent with the Code, both the Complainant and the Respondent shall have the same opportunity to have others present during internal disciplinary proceedings, including the opportunity to be accompanied to related meetings by an advisor of their choice.

J. Outcomes

At the time that the College makes its final findings, the College shall in writing notify simultaneously the Complainant and Respondent of:

1. Whether the Respondent was found to violate the Code and, if so, the provisions violated and discipline imposed; and
2. The Respondent's and Complainant's rights under the Code to appeal the findings and any discipline.

K. Discipline

A violation of this procedure shall result in discipline under the Code. Because of the wide range that can exist between cases of violent misconduct and cases of poor communication, the following guidelines shall assist Colleges in determining the appropriate discipline for each case.

1. **Sexual Assault vs. Sexual Misconduct.** Findings of sexual assault shall be regarded as more severe than findings of sexual misconduct.
2. **Types of Sexual Misconduct.** Findings of a sexual act shall be regarded as a more severe form of sexual misconduct than findings of sexual contact, and findings of sexual contact shall be regarded as a more severe form of sexual misconduct than findings of sexual touching.
3. **Cases of Acquiescence.** Findings that a student did not obtain express verbal agreement and instead relied upon mere acquiescence shall be regarded as important but less severe than cases involving sexual assault.
4. **Repeat Violators.** Findings that a student was previously found responsible for sexual misconduct or sexual assault shall be regarded as more severe than a first-offender.

L. Retaliation

The College will take appropriate steps to ensure that a person who in good faith reports or participates in an investigation under this procedure will not be subjected to retaliation by the Respondent or others. Anyone who has experienced retaliation is strongly encouraged to report that concern using the procedures in *Section C* above.

M. Protective Orders

Complainants have the right to request from a court that a temporary or permanent restraining order, or other protection or no-contact order be issued against an alleged offender. Only the police, and not College security, have the authority to enforce such an order by arresting a person who violates the order. The Complainant should, therefore, promptly inform the Dean of Student and/or Enrollment Services if such an order is obtained so that the College may be better prepared to more promptly contact the police if necessary.

N. Primary Authority and Annual Training

The Dean of Student and/or Enrollment Services at each college shall have primary responsibility for overseeing the application of this procedure. The Deans shall ensure that Disciplinary Officers, Resident Directors, Resident Assistants, Disciplinary Committee Members and other pertinent employees are annually informed about this procedure. The Deans shall

further consult with the MCCS General or Assistant Counsel on questions arising under, or recommendations to improve, this procedure.

O. Other

Nothing in this procedure shall be construed to confer a private right of action upon any person to enforce the provisions of this procedure.

P. Appendices

The Appendix of services and authorities referenced in *Section F* above is attached to this procedure.

REFERENCES: 20-A M.R.S.A. §12706(7); The Campus SaVE Act (§304 of the re-authorized Violence Against Women Act of 2013 (VAWA); 20 U.S.C. §1092(f)(8) (Clery); MCCS Policies 501 and 807; MCCS Procedure 501.2

DATE ADOPTED: June 24, 2014

DATE(S) AMENDED:

APPENDIX

SEXUAL ASSAULT SUPPORT SERVICES

Maine Coalition Against Sexual Assault (MeCASA)

24 hour statewide sexual assault crisis and support line
1-800-871-7741 (voice) 711 (Maine Relay)

The regional sexual assault crisis and support centers that comprise the Maine Coalition Against Sexual Assault are:

Sexual Assault Response Services of Southern Maine

York and Cumberland Counties
24 hour support line: 1-800-313-9900
www.sarsonline.org

Sexual Assault Support Services of Midcoast Maine

Eastern Cumberland, Lincoln, Sagadahoc, Knox and Waldo Counties
24 hour support line: 1-800-822-5999
Anywhere in Maine: 1-800-871-7742
TTY: 1-888-458-5599
www.sassmm.org

Sexual Assault Prevention & Response Team

Androscoggin, Franklin and Oxford Counties, and the Towns of Bridgton and Harrison
24 hour helpline: 1-888-458-5599
TTY: 1-888-458-5599
www.sapars.org

Sexual Assault Crisis & Support Center

Kennebec and Somerset Counties
24 hour support line: 1-800-871-7741
www.silentnomore.org

Rape Response Services

Penobscot and Piscataquis Counties
24 hour hotline: 1-800-310-0000
TDD: 1-888-458-5599
www.rrsonline.org

AMHC Sexual Assault Services

Aroostook, Hancock & Washington Counties
(207)-498-6431
www.amhc.org

United Somali Women of Maine

Androscoggin and Cumberland Counties
(207) 753-0061
www.uswofmaine.org

Other Maine-based Sexual Violence Services

Maliseet Domestic Violence and Sexual Assault Program
(207) 532-6401

Penobscot Nation, Domestic Violence and Sexual Assault Services
(207) 817-7498

Passamaquoddy Peaceful Relations
1-877-853-2613

National Resources

National Sexual Assault Hotline: 1-800-656-HOPE

National Sexual Assault Online Hotline : <https://ohl.rainn.org/online/>

For a list of resources with particular focus on the needs of LGBTQ persons,
see: <http://barcc.org/information/resources-online/glbt>

POLICE DEPARTMENTS

Central Maine Community College
Auburn Police Department
60 Court Street
Auburn, Maine 04210
(207) 333-6650

Southern Maine Community College
South Portland, Maine
30 Anthoine Street
South Portland, Maine 04106
(207) 799-5511

Eastern Maine Community College
Bangor Police Department
240 Main Street
Bangor, Maine 04401
(207) 947-7382

Washington County Community College
Calais Police Department
North Street
Calais, Maine 04619
(207) 454-2751

Kennebec Valley Community College
Fairfield Police Department
One Police Plaza
Fairfield, Maine 04937
(207) 453-9321

York County Community College
Wells Police Department
1563 Post Road
Wells, Maine 04090
(207) 646-9354

Northern Maine Community College
Presque Isle Police Department
(207) 764-4476
43 North Street, Suite 2
Presque Isle, Maine 04769

MEDICAL HOSPITALS

Blue Hill Memorial Hospital

57 Water Street, Blue Hill, Maine 04614

(207) 374-3400

<http://www.bhmh.org/>

Bridgton Hospital

10 Hospital Drive, Bridgton, Maine 04009

(207) 647-6000

<http://www.bridgtonhospital.org/>

C.A. Dean Memorial Hospital

364 Pritham Avenue, Greenville, Maine 04441

(207) 695-5200

<http://www.cadean.org/>

Calais Regional Hospital

24 Hospital Lane, Calais , Maine 04619

(207) 454-7521

<http://www.calaishospital.com/>

Cary Medical Center

163 Van Buren Road, Suite #1, Caribou, Maine

04736

(207) 498-3111

<http://www.carymedicalcenter.org/>

Central Maine Medical Center

300 Main Street, Lewiston, Maine 04240

(207) 795-0111

<http://www.cmmc.org>

Down East Community Hospital

11 Hospital Drive, Machias, Maine 04654

(207) 255-3356

<http://www.dech.org/>

Eastern Maine Medical Center

489 State St., Bangor, Maine 04402

(207) 973-7000

<http://www.emmc.org>

Franklin Memorial Hospital

111 Franklin Health Commons, Farmington,

Maine 04938

(207) 778-6031

<http://www.fchn.org/>

Houlton Regional Hospital

20 Hartford Street, Houlton, Maine 04730

(207) 532-2900

<http://www2.houltonregional.org/>

Inland Hospital

200 Kennedy Memorial Drive, Waterville,

Maine 04901

(207) 861-3000

<http://www.inlandhospital.org/>

LincolnHealth

35 Miles St., Damariscotta, Maine 04543

(207) 563-1234

<http://www.lchcare.org>

Maine Coast Memorial Hospital

50 Union Street, Ellsworth, Maine 04605

(207) 667-5311

<http://www.mainehospital.org>

MaineGeneral Medical Center

35 Medical Center Parkway, Augusta, Maine

04330

(207) 626-1000

<http://www.mainegeneral.org/>

Maine Medical Center

22 Bramhall Street, Portland, Maine 04102

(207) 662-0111

<http://www.mmc.org>

Mayo Regional Hospital

897 West Main Street, Dover-Foxcroft, Maine

04426

(207) 564-8401

<http://www.mayohospital.com>

Mercy Hospital

144 State Street, Portland, Maine 04101

(207) 879-3000

<http://www.mercyhospitalstories.org>

Mid Coast Hospital

123 Medical Center Drive, Brunswick, Maine

04011

(207) 729- 0181

<http://www.midcoasthealth.com>

Millinocket Regional Hospital
200 Somerset Street, Millinocket , Maine 04462
(207) 723-5161
<http://www.mrhme.org>

Mt. Desert Island Hospital
10 Wayman Lane, Bar Harbor, Maine 04609
(207) 288-5081
<http://mdihospital.org/site/>

Northern Maine Medical Center
194 East Main Street, Fort Kent, Maine 04743
(207) 834-3155
<http://www.nmmc.org/>

Parkview Adventist Medical Center
329 Maine Street, Brunswick, Maine 04011
(207) 373-2000
<http://www.parkviewamc.org>

Pen Bay Medical Center
6 Glen Cove Drive, Rockport, Maine 04856
(207) 596-8000
<http://www.penbayhealthcare.org/penbaymedicalcenter/>

Penobscot Valley Hospital
Box 368, Lincoln, Maine 04457
(207) 794-3321
<http://www.pvhme.org/>

Redington-Fairview General Hospital
46 Fairview Avenue, Skowhegan , Maine 04976
(207) 474-5121
<http://www.rfgh.net/>

Rumford Hospital
420 Franklin Street, Rumford, Maine 04276
(207) 369-1000
<http://www.rumfordhospital.org/>

Sebasticook Valley Health
447 North Main Street, Pittsfield, Maine 04967
(207) 487-4000
<http://www.sebasticookvalleyhealth.org/>

Southern Maine Health Care-Sanford Medical Center
25 June Street, Sanford, Maine 04073
(207) 283-7000
<http://www.smmmc.org/>

St. Joseph Hospital
PO Box 403, Bangor, Maine 04401
(207) 262-1000
<http://www.stjoeshealing.org>

St. Mary's Regional Medical Center
P.O. Box 291, Lewiston, Maine 04243
(207) 777-8100
<http://www.stmarysmaine.com/>

Stephens Memorial Hospital
181 Main Street, Norway, Maine 04268
(207) 743-5933
<http://www.wmhcc.org>

The Aroostook Medical Center
140 Academy Street, Presque Isle, Maine 04769
(207) 768-4000
<http://www.tamc.org/>

Waldo County General Hospital
PO Box 287, Belfast, Maine 04915
(207) 338-2500
<http://www.wcgh.org/index.html>

York Hospital
15 Hospital Drive, York, Maine 03909
(207) 363-4321
<http://www.yorkhospital.com/>

LEGAL SERVICES

Pine Tree Legal Services

Free legal services for low -income Maine residents
for non-criminal matters

Augusta Office

Somerset, Lincoln and Knox Counties
39 Green Street
P.O. Box 2429
Augusta, Maine 04338-2429
(207) 622-4731 or (207) 623-7777

Bangor Office

Penobscot, Piscataquis and Waldo
115 Main Street, 2nd floor
Bangor, Maine 04401
(207) 942-8241

Lewiston Office

Androscoggin, Oxford and Franklin
37 Park Street, Suite 401
Lewiston, Maine 04243-0398
(207) 784-1558

Machias Office

Washington and Hancock
13 Cooper Street
P.O. Box 278
Machias, Maine 04654
(207) 255-8656

Cumberland Legal Aid Clinic

A legal aid clinic operated by the University of Maine School of Law. Services provided to low-income individuals with legal cases in Southern Maine courts (Cumberland, parts of York, Sagadahoc and Androscoggin counties) for most types of civil, criminal, juvenile and family matters.

Greater Portland area – (207) 780-4370
Toll free: (877)-780-2522
<http://mainelaw.maine.edu/programs-centers/clac.html>

Portland Office

Cumberland, York, Sagadahoc,
Androscoggin, Oxford, Franklin, Lincoln
and Knox
88 Federal Street
P.O. Box 547
Portland, Maine 04112
(207) 774-8211

Presque Isle Office

Aroostook County
373 Main Street
Presque Isle, Maine 04769
(207) 764-4349

All Offices

TTY: 711
<http://www.ptla.org>

Maine Lawyer Referral Service

A referral service operated by the Maine State Bar Association.

1-800-860-1460
<http://www.lrs@mainebar.org>

Maine Volunteer Lawyers Project

Free legal information and pro bono legal representation for qualifying low-income individuals state-wide.

Portland: (207) 774-4348
Toll free: (800)-442-4293
<http://www.vlp.org>