

MAINE COMMUNITY COLLEGE SYSTEM

STUDENT AFFAIRS
Section 501.1

SUBJECT: STUDENT SEXUAL MISCONDUCT AND ASSAULT, STALKING, AND RELATIONSHIP VIOLENCE

PURPOSE: To define and proscribe non-consensual sexual activities, stalking, dating violence and domestic violence not governed by Title IX

A. Introduction

This procedure governs acts by students of nonconsensual sexual conduct, dating and domestic violence and stalking that do not fall within the scope of Title IX of the Education Amendments of 1972. Such acts within the scope of Title IX are governed by MCCS Procedure 202.2. This procedure supplements the MCCS Student Code of Conduct ("Code") by defining the prohibited acts of non-consensual sexual conduct, dating and domestic violence, and stalking governed by this procedure; explaining the procedures that will apply to the handling of such alleged violations; and providing important additional information to all students. The definitions of prohibited conduct governed by this procedure reflect Maine law where applicable and may differ from the federal definitions required in Procedure 202.2.

B. Definitions

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

1. **"Reliable Consent"** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words and/or actions, as long as those words and/or actions create clear permission regarding willingness to engage in the sexual activity at the time of the activity. Mere acquiescence to the sexual activity shall not be regarded as reliable consent.

Reliable consent has been obtained when a reasonable person in the Respondent's position would understand through words and/or actions that the person has voluntarily agreed to the sexual activity, at the time of the activity. 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 Agreement can be withdrawn at any time and, if so withdrawn, the sexual activity shall stop. Agreement from a person who is visibly under the influence of alcohol or drugs or otherwise impaired shall not be regarded as reliable consent.

2. **"Acquiescence"** means a person's submission to engaging in one or more sexual activities without communicating either reliable consent 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; 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, or
 - c. **"Sexual act,"** which means any intentional act 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. **"Dating Violence"** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the following factors:
- a. the length of the relationship;
 - b. the type of relationship; and,
 - c. the frequency of interaction between the persons involved in the relationship.
6. **"Domestic Violence"** means one of the following criminal acts against a family or household member:
- a. Assault- intentionally, knowingly or recklessly causing bodily injury or offensive physical contact;
 - b. Criminal threatening - intentionally or knowingly placing a person in fear of imminent bodily injury;
 - c. Criminal terrorizing- communicating a threat of violence that places a person in fear for their safety or the safety of another;
 - d. Reckless conduct- recklessly creating a substantial risk of bodily injury to another person;
 - e. Stalking- intentionally or knowingly engaging in a course of conduct directed at or concerning a family or household member that would cause a reasonable person to; i) suffer serious inconvenience or emotional distress, ii) fear death or fear the death of a close relation, iii) fear damage or destruction to or tampering with property, or v) fear injury to or the death of an animal owned by or in the possession and control of that person; or
7. **"Stalking"** means the conduct described in subsection 6.e, but the conduct may be directed at or concerning any person.
8. **"Complainant"** means a person who believes he or she experienced sexual misconduct or assault by student.
9. **"Respondent"** means a student accused of sexual misconduct or assault.
10. **"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.

C. Prohibited Conduct

It is a violation of the Student Code of Conduct for a student to intentionally engage in sexual misconduct or sexual assault, stalking, dating violence or domestic violence 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 conduct.

D. Reports to a College

1. **When to Report.** Students are advised to report allegations of sexual misconduct or sexual assault, stalking, dating violence or domestic violence immediately or as soon as possible.
2. **Where to Report.** Reports should be given to the Title IX Coordinator. Any other employee who receives such a report shall immediately share the report with the Title IX Coordinator. The Title IX Coordinator will determine whether the conduct is governed by this procedure or by MCCS Procedure 202.2 (Title IX Sexual Harassment Procedure).
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 complained of conduct, 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.

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

At the time of a report to the Title IX Coordinator, 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. The Respondent shall receive copies or hypertext links upon notification of the allegation(s). Students are hereby advised of the following:

1. **Preserving Evidence.** It is important to preserve all evidence, including but not limited to physical evidence, text messages, social media, photographs, and security video in any way related to an allegation of sexual assault or misconduct, stalking, domestic violence, dating violence, retaliation, or request for 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 reports of alleged violations, 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 on campus and/or in the area and both the Respondent and the Complainant shall be provided with information to access available services. 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.
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*.
6. **Financial Aid and Visa and Immigration Assistance.** Information regarding student financial aid issues may be obtained from the College's Financial Aid Office. International students may obtain information regarding visa and immigration issues from the College's Designated School Official. A listing of contacts at each college are included in the *Appendix*.

F. Investigations

The College shall use the Code of Conduct in conducting an investigation of reports or allegations of conduct within the scope of this procedure.

G. 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.

H. 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.

I. 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.

J. Discipline

A violation of this procedure shall result in discipline under the Code. With regard to cases involving sexual conduct, because of the wide range of conduct that exists between cases of violent assault and cases of sexual contact resulting from 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 reliable consent 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.

K. 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 D* above.

L. 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 College if such an order is obtained so that the College may be better prepared to more promptly contact the police if necessary.

M. 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.

N. 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.

O. 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: April 2, 2020 (effective May 18, 2020); July 18, 2020

APPENDIX

COUNSELING AND MENTAL HEALTH SERVICES

Central Maine Community College

<https://www.cmcc.edu/student-life/resources/health-and-counseling/>

Student Services (207) 755-5293

Eastern Maine Community College

<https://www.emcc.edu/student-life/resources/counseling/>

(207) 974-4858

sking@emcc.edu

Kennebec Valley Community College

<https://www.kvcc.me.edu/student-services/resources/counseling-support>

(207) 453-5150

mclement@kvcc.me.edu

Northern Maine Community College

<https://www.nmcc.edu/academics/support/student-services/counseling/>

https://mynmcc.edu/ICS/Student_Support_Services/

Students may also contact:

Aroostook Mental Health Center

(207) 764-3319

Emergency Help Line 207-762-4581 or 1-800-432-7805

Southern Maine Community College

<https://www.smcme.edu/student-life/counseling/>

1-800-434-3000

Washington County Community College

WCCC refers students to:

Aroostook Mental Health Center

<https://www.amhc.org/>

(207) 498-6431

York County Community College

YCCC recommends that students contact:

York County Community Action

Nasson Health Care

<https://yccac.org/health-care/>

(207) 490-6900

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 and Relationship Violence Services

Maine Coalition to End Domestic Violence

<https://www.mcedv.org/get-help/>
Statewide Domestic Abuse Helpline
1-800-437-1220

Wabanaki Women's Coalition

<https://www.wabanakiwomenscoalition.org/connections/>

(207) 763-3478

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/glb>

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.bhmf.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.smmc.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/>

NOTE: Northern Maine Community College
has a Student Health Center

<https://www.nmcc.edu/student-health-center/>

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

Portland Office

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

Bangor Office

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

Presque Isle Office

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

Lewiston Office

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

All Offices

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

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>

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>