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# **Sexual Assault Data Report Manual For Institutional Reports**

**August 2024**

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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 \$224 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, census and early college awareness programs for youth.

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## About This Manual

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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

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[Minn. Stat. § 135A.15, Subd. 6](#)<sup>1</sup> 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](#)<sup>2</sup> (privacy of sexual assault data) and [§ 626.891](#)<sup>3</sup> (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](#)<sup>4</sup>; 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](#)<sup>5</sup>, and will be consistent with federal and state laws governing access to educational data and student privacy.

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<sup>1</sup> <https://www.revisor.mn.gov/statutes/cite/135A.15>

<sup>2</sup> <https://www.revisor.mn.gov/statutes/cite/13.322>

<sup>3</sup> <https://www.revisor.mn.gov/statutes/cite/626.89>

<sup>4</sup> <https://www.revisor.mn.gov/statutes/cite/136A.103>

<sup>5</sup> <https://www.revisor.mn.gov/statutes/cite/13.02#stat.13.02.19>

## Office of Higher Education Required Public Report

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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

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The definition of sexual assault for the purpose of this report was amended by the 2020 legislature.<sup>1</sup> The definition of sexual assault in Minn. Stat. § 135A.15, Subd. 1a is now:

### Sexual Assault

- (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](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D) (<https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D>), 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."<sup>2</sup>

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.

### Manual Definitions

**Complainant** – the person who alleged to have been subjected to sexual assault as defined in Minn. Stat. §135A.15 Subd. 1a. and reported it to the institution.

**Respondent** – the person who is accused of conducting sexual assault as defined in Minn. Stat. §135A.15 Subd. 1a.

**Victim** – The person who alleged to have been subjected to sexual assault as defined in Minn. Stat. §135A.15 Subd. 1a.

## 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 state statute and 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 2023 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 2024, which is the beginning of the new data submission window.

**Incidents reported to the institution:**

Between January 1, 2023 – December 31, 2023

**Data submitted to the Office of Higher Education:**

Opens Tuesday August 20, 2024

**Final Due Date to Submit to Office of Higher Education:**

October 1, 2024

**Office of Higher Education will release the statewide report online:**

Anticipated by December 31, 2024



## Instructions for Submitting Data

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As of 2023 report cycle, the Office of Higher Education will use Qualtrics as the survey tool to collect institutional data. A survey link will be sent to each institutional contact to upload the institution's or the system's data. There are no longer unique links specific to each institution. 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 complainant or respondent was a member of the campus community (employee or student) at the time of the incident; and/or,
- The incident occurred on the institution's campus (or on property owned/rented by the institution); or,
- The incident occurred at an institutionally sponsored event.

For example, an incident reported to the institution which occurs off campus at an institutionally sponsored event between one or more campus community members (employee or student) must be counted as a reportable incident.

### 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](https://www.revisor.mn.gov/laws/2020/0/109/laws.1.2.0#laws.1.2.0) (https://www.revisor.mn.gov/laws/2020/0/109/laws.1.2.0#laws.1.2.0) 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 complainant as well as incidents reported by other named parties.

- Include incidents of sexual assault reported but were dismissed under Title IX, routed to another disciplinary process (i.e. incident occurred off campus, the incident occurred in an Education Abroad experience).
- Exclude anonymous reports and aggregate deidentified data provided to the institution from confidential resources.

**2. Of the incidents compiled in #1, the number that were investigated by the institution to determine whether an incident may rise to a policy violation.**

- “Investigated” can mean a formal investigation, an informal investigation, and/or an institutional inquiry.
  - *Formal investigation* is when the institution appoints a designee to conduct a fair, impartial and unbiased fact-finding of an alleged incident. This could be part of the institution’s Title IX or other code of conduct proceedings.
  - *Informal investigation* is defined as a gathering of information when a complainant seeks an informal campus resolution or alternative resolution with the respondent, through Title IX or another disciplinary process.
  - *Institutional inquiry* is when an institution assessed whether the alleged misconduct had reasonable cause to warrant an investigation, and/or if there is a pattern of behavior by an individual or group that may violate the institution’s policy; or if there is a safety risk to the institution’s community that would influence whether the Title IX Coordinator must sign a formal complaint.
- Incidents may be reported to the institution but not investigated (as defined above) because:
  - The complainant sought supportive measures only
  - The complainant 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 institutional inquiry.
- A “disciplinary process” includes any process by the institution following a fact-finding investigation by a trained investigator, and a decision-maker renders a decision about an allegation of sexual misconduct. This is in accordance with the institution’s own code of conduct or similar internal policy or rules.
- A report was dismissed under Title IX and referred to another disciplinary proceeding.
- An incident that moved into a disciplinary proceeding but was resolved by alternative resolution or **informal** resolution before a decision was made.

- 4. The number of total incidents (category #1) in which the 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, federal, tribal, 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 2024.**
  - i.e. the incident was reported to the institution by December 31, 2023, but the case was still pending on September 2024.
  - “Pending” cases include those where:
    - The case is still under investigation;
    - The case has moved into an alternate or informal resolution process from a campus disciplinary process with a resolution pending;
    - 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. This would be after the appeal window closed.
- 7. The number of incidents that resulted in any action by the institution greater than a warning being issued to the respondent. This includes any actions, whether through informal resolution or a formal finding of responsibility.**
  - 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 proceeding (as defined in category #3) at the institution, but eventually closed without resolution. i.e. a disciplinary proceeding is initiated by the**

**institution, but then forced to close prior to a determination being reached, therefore closing without resolution.**

- Resolution is defined as a finding based on the facts by decision-maker(s); or an informal resolution agreed upon by both parties and facilitated by the institution.
- This situation could occur when:
  - The complainant withdraws from the institution;
  - The respondent withdraws from the institution (see category #9); or,
  - The complainant 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 proceeding 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 proceeding at the institution, but eventually closed without resolution – because the complainant chose not to participate in the remainder of the proceeding.**

- i.e. a disciplinary proceeding is initiated by the institution but did not reach the decision-making stage, because the complainant declines to participate in the remainder of the disciplinary proceeding.
  - Include situations where the complainant chooses not to participate in the institution’s disciplinary proceeding after the disciplinary proceeding has already begun.
  - If the complainant chooses not to participate in the disciplinary proceeding prior to the initiation of the disciplinary proceeding, 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 complainant chose not to participate in the institution’s investigation or disciplinary proceeding prior to a disciplinary proceeding beginning.**

- Include incidents where the complainant reports the incident but does not want the institution to move forward with an investigation or disciplinary proceeding, such as seeking only supportive measures
- Include incidents reported to the institution by a third party, where the complainant 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 Proceeding Pending Update

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If an institution previously submitted a report indicating that one or more disciplinary proceedings 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 proceeding for the purpose of the Prior Year Disciplinary Proceeding 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 proceeding at the institution.**
  - Include only final (and not initial) determinations of responsibility. This is the determination after the appeal window closed.
- 2. The number of incidents that resulted in any action by the institution greater than a warning being issued to the respondent. This includes any actions, whether through informal resolution or a formal finding of responsibility.**
  - 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 proceeding at the institution, but eventually closed without resolution.**
  - i.e. a disciplinary proceeding 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 complainant withdraws from the institution;
    - The respondent withdraws from the institution; or,
    - The complainant initially agrees to participate in an investigation, but later chooses not to participate in the remainder of the disciplinary proceeding.
- 4. Of those in #3, the number of investigations that resulted in a disciplinary proceeding 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 proceeding at the institution, but eventually closed without resolution – because the complainant chose not to participate in the remainder of the proceeding.**
- This number cannot be greater than the number reported in Category #3.

## 2024 Additional Questions

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The Office of Higher Education added additional questions to the 2024 survey to gather information in order to support institutions in fulfilling MN Statute 135A.15. Answering the questions helps OHE's Sexual Violence Prevention & Response program determine how best to support Minnesota institutions. *No negative repercussions or actions by OHE will occur if the institution chooses to leave the additional questions blank.*

1. What are new trends or issues or concerns have you noticed among reports of sexual misconduct (strangulation/choking, sextortion, nonconsensual sharing of sexual images, etc.)
2. What are the most concerning aspects of implementing the 2024 Title IX Regulations?
3. What training needs, tools, resources are needed to implement new policies and procedures defined by state or federal law?