

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 1035

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DATE	D-PG	OFFICIAL STATUS
02/06/2025	299	Introduction and first reading Referred to Higher Education
03/06/2025	637a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
	673	Author added Duckworth

1.1

A bill for an act

1.2

relating to higher education; modifying provisions related to campus sexual

1.3

misconduct; amending Minnesota Statutes 2024, section 135A.15, subdivisions

1.4

1a, 2a.

1.5

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 1. Minnesota Statutes 2024, section 135A.15, subdivision 1a, is amended to read:

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Subd. 1a. **Definitions.** (a) For the purposes of this section, the following terms have the

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meanings given.

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(b) "Advisor" means a person who is selected by a responding or reporting party to serve

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as a support during a campus investigation and disciplinary process. This person may be

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an attorney. An advisor serves as a support to a party by offering comfort or attending

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meetings.

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(c) "Domestic violence" has the meaning given in section 518B.01, subdivision 2.

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(d) "Incident" means one report of sexual misconduct to a postsecondary institution,

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regardless of the number of complainants included in the report, the number of respondents

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included in the report, and whether or not the identity of any party is known by the reporting

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postsecondary institution. Incident encompasses all nonconsensual events included within

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one report if multiple events have been identified.

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(e) "Intimate partner violence" means any physical or sexual harm or a pattern of any

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other coercive behavior committed, enabled, or solicited to gain or maintain power and

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control over a victim, including verbal, psychological, economic, or technological abuse

that may or may not constitute criminal behavior against an individual, that may be classified as a sexual misconduct, dating violence, or domestic violence caused by:

(1) a current or former spouse of the individual; or

(2) a person in a sexual or romantic relationship with the individual.

(f) "Nonconsensual dissemination of sexual images" has the meaning given in section 617.261.

(g) "Reporting party" means the party in a disciplinary proceeding who has reported being subjected to conduct or communication that could constitute sexual misconduct.

(h) "Responding party" means the party in a disciplinary proceeding who has been reported to be the perpetrator of conduct or communication that could constitute sexual misconduct.

(i) "Retaliation" means intimidation, threats, coercion, or discrimination against a reporting party, responding party, or witness for the purpose of interfering with any right or privilege or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this section, including in nondisciplinary restorative justice services.

(j) "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.

~~(j)~~ (k) "Sexual extortion" has the meaning given in section 609.3458.

~~(k)~~ (l) "Sex trafficking" has the meaning given in section 609.321, subdivision 7a.

~~(l)~~ (m) "Sexual harassment" has the meaning given in section 363A.03, subdivision 43.

~~(m)~~ (n) "Sexual misconduct" means an incident of sexual violence, intimate partner violence, domestic violence, sexual assault, sexual harassment, nonconsensual distribution of sexual images, sexual extortion, nonconsensual dissemination of a deepfake depicting intimate parts or sexual acts, sex trafficking, or stalking.

~~(n)~~ (o) "Stalking" has the meaning given in section 609.749.

Sec. 2. Minnesota Statutes 2024, section 135A.15, subdivision 2a, is amended to read:

Subd. 2a. ~~Campus investigation and disciplinary hearing procedures~~ sexual misconduct grievance process. (a) A postsecondary institution must establish a sexual

misconduct grievance process as outlined in this section. The postsecondary institution must provide a reporting party an opportunity for an impartial, timely, and thorough investigation of a report of sexual misconduct ~~against a student~~. If an investigation reveals that sexual misconduct has occurred, the postsecondary institution must take prompt and effective steps reasonably calculated to end the sexual misconduct, prevent its recurrence, and, as appropriate, remedy its effects. Remedial action may include any or all of the following:

(1) disciplinary action against the responding party;

(2) with the consent of the parties, alternative resolution options; and

(3) academic or residential supportive measures, as requested by the victim.

(b) Throughout any investigation or disciplinary proceeding, a postsecondary institution must treat the reporting parties, responding parties, witnesses, and other participants in the proceeding with dignity and respect.

~~(c) If a postsecondary institution conducts a hearing, an advisor may provide opening and closing remarks on behalf of a party or assist with formulating questions to the other party or witnesses about related evidence or credibility.~~ A postsecondary institution must provide due process protections before imposing disciplinary action against a responding party who is a student. The responding party must be informed in writing of the allegations with sufficient details related to the allegations, including the alleged misconduct; the reporting party; and to the extent possible, the date, time, and location of the alleged sexual misconduct. The responding party must be provided with the campus code of conduct guidelines listing possible sanctions. If the responding party is an employee, the postsecondary institution must provide the employee grievance process if different from the student grievance process for sexual misconduct allegations.

(d) A postsecondary institution must offer and coordinate, as needed, academic and residential supportive measures equitably to both reporting and responding parties participating in a campus sexual misconduct grievance process. Supportive measures must be determined on a case-by-case basis and may include, but are not limited to, exam or assignment extensions, excused class absence, change in on-campus residence, or schedule changes.

(e) A postsecondary institution must allow the reporting and responding parties to present and review relevant testimony by parties and witnesses, and relevant evidence compiled in an investigative report.

4.1 (f) A hearing or other proceeding related to disciplinary action under this section is
4.2 subject to the following requirements:

4.3 (1) the reporting and responding party must be given equal opportunity to:

4.4 (i) present relevant evidence and witnesses;

4.5 (ii) retain an advisor, who may be an attorney, to serve as support to a reporting or
4.6 responding party, in any meeting, interview, investigative, or disciplinary process, and any
4.7 restriction of an advisor's role must be applied equally to the reporting and responding
4.8 parties;

4.9 (iii) inspect, review, and respond to relevant evidence and testimony provided by either
4.10 party and witnesses collected through an investigative report written by the postsecondary
4.11 institution or designee; and

4.12 (iv) discuss the investigation and disciplinary proceedings with their advisor and parents
4.13 or guardians;

4.14 (2) the postsecondary institution must:

4.15 (i) allow for the opportunity for both parties to question the credibility of the other party
4.16 and witnesses through written remarks or by cross-examination if a postsecondary institution
4.17 conducts a live hearing;

4.18 (ii) appoint a decision maker or a panel of decision makers who is not the investigator
4.19 to assess credibility of the parties and witnesses;

4.20 (iii) allow an advisor to assist with formulating questions to the other party or witnesses
4.21 about related evidence or credibility, if a postsecondary institution conducts a hearing;

4.22 (iv) if a postsecondary institution conducts a hearing, provide the reporting and responding
4.23 parties with the equal opportunity to provide testimony without encountering the other party
4.24 in person, and to review testimony provided by the other party in a similar manner. This
4.25 may be done through video conference or closed-circuit television;

4.26 (v) proceed with the campus sexual misconduct grievance process, if requested by the
4.27 reporting party, concurrently with a criminal investigation, except that a postsecondary
4.28 institution may temporarily delay a campus proceeding if requested by law enforcement
4.29 and if the campus proceeding may impede a criminal investigation; and

4.30 (vi) deliver the outcome of the grievance process simultaneously to the reporting and
4.31 responding party;

(3) if a postsecondary institution allows for cross-examination of witnesses and parties, neither the reporting party nor responding party may be permitted to personally cross-examine one another or other witnesses. Any cross-examination must be performed by:

(i) an advisor; or

(ii) an adjudicator of the campus disciplinary proceeding;

(4) information related to character, including character witnesses, questions or evidence about the sexual behavior or sexual preferences of the reporting party, or mental health records must not be considered, except:

(i) information related to the sexual behavior of the reporting party may be considered if it substantiates that the misconduct may have occurred, and is deemed relevant by the decision maker;

(ii) mental health and medical information of the reporting party may be considered if a release is signed by the reporting party and nonrelevant information is redacted;

(iii) if a responding party is found responsible, a postsecondary institution may consider medical and mental health information to determine sanctions; and

(iv) questions and evidence regarding the sexual preferences or past sexual behavior of the reporting party may be considered if such evidence is offered to prove that someone other than the responding party committed the conduct alleged by the reporting party, or the evidence concerns specific incidents of the reporting party's prior sexual behavior with respect to the responding party and is offered to prove consent;

(5) if applicable, the postsecondary institution must:

(i) inform parties no later than 24 hours before a decision is rendered, and provide the timeline of the outcome's release;

(ii) offer community mental health resources and, if applicable, on-campus resources with the notice of outcome equitably to parties; and

(iii) not deliver the decision to the parties at the end of the day or during a weekend or holiday to ensure parties have the opportunity to arrange supportive services;

(6) in any grievance process arising from an alleged incident of sexual misconduct against a student, a postsecondary institution must apply a preponderance of the evidence standard of proof; and

(7) a postsecondary institution must have a policy on retaliation, including what constitutes retaliation and possible actions for students and employees if retaliation is found

- 6.1 to have occurred against a reporting party, responding party, or witness due to a person's
- 6.2 participation in a campus sexual misconduct process.