



*Figure 1 Southwest Minnesota State University Logo*

*A member of the Minnesota State system*

# Annual Security and Fire Safety Report Fall 2023



*Figure 2 Aerial image of Southwest Minnesota State University in the Fall*

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# University Annual Security Report, Security Department and Relationship with Local Law Enforcement

This document is provided in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (Clery Act) and the Higher Education Opportunity Act (HEOA). These two acts along with periodic updates and reauthorizations mandate that institutions of higher education provide specific information. The information in this report includes University policies, crime statistics, fire statistics, safety tips, emergency phone numbers and an overview of some of the programs offered by the University. The annual statistics are prepared by collecting crime data from SMSU Public Safety records, the Office of Student Affairs and other Campus Security Authorities. In addition to information provided by on-campus reporters, the SMSU Public Safety Department also requests crime statistics for specified geographic locations from other local law enforcement agencies. After the crime statistics are compiled, they are included in this Annual Security and Fire Report and submitted to the Department of Education. An electronic copy of this report is available at <http://www.smsu.edu/resources/webspaces/campuslife/publicsafety/AnnualSecurityReport.pdf>

## Annual Security Report

Pursuant to the Student Right to Know and Campus Security Act, SMSU monitors criminal activity, publishes this report, and maintains a three-year statistical history for the main campus and at off campus property or facilities owned or leased by SMSU.

The annual report includes reported crimes alleged to have occurred on the campus, at facilities owned or leased by SMSU and/or the immediately adjacent surrounding public areas. The Director of SMSU Public Safety serves as the primary liaison between the campus and all law enforcement agencies, in order to accurately report crimes alleged to have occurred on campus and public areas immediately adjacent to the campus, the annual report includes the following reports of crime: Murder and non-negligent manslaughter negligent manslaughter, sex offenses, forcible, non-forcible robbery aggravated assault, burglary, arson, motor vehicle theft, domestic violence, dating violence and stalking. The report also includes arrests or persons referred for campus disciplinary action for liquor law violations, drug abuse violations and weapons possession.

In addition to the crimes described above, other reported crimes involving bodily injury to any person, and reported crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property in which the victim is intentionally selected because of the actual or perceived race, gender, gender identity, religion, sexual orientation, ethnicity, national origin or disability of the victim, must be reported as hate crime statistics, and are recorded as such in this report.

SMSU will notify employees, current students and prospective students of the availability of this report and will provide a copy of the report upon request. Copies of the report may be obtained at SMSU's Public Safety Department located in the first floor of Founders Hall or by calling 507-537-7252.

### **Daily Crime and Fire Log**

During normal business hours, the daily crime and fire log for the most recent 60-day period is available for the public to view at the SMSU Department of Public Safety Office located in the basement of Founders Hall. Portions of the log that are older than 60 days are available within two business days.

SMSU Public Safety Department University Security officers are employees of Southwest Minnesota State University; they are not certified or sworn peace officers. University Security is not police department and personnel do not possess law enforcement (arrest) authority. However, personnel do utilize private person arrest authority pursuant to Minnesota State statute 629.37 when appropriate. University Public Safety patrol jurisdiction includes the contiguous SMSU campus, and has jurisdiction to enforce policies at all SMSU owned and controlled properties.

SMSU Public Safety serves the SMSU community 24 hours a day, 365 days a year. The Department consists of 5 professional staff and approximately 30 student security officers who are responsible for safety and security of the University community. They are trained in basic law enforcement practices including, defensive tactics, conflict resolution, crisis intervention, CPR and cultural sensitivity. All criminal incidents on Southwest Minnesota State University's campus are investigated by University Public Safety and/or in conjunction with the Marshall Police Department. Violators of state and federal law are reported to local law enforcement, while violations of university policies are administered under Southwest Minnesota State University's statement of student responsibility or in conformance with employee bargaining unit agreements. All community members are encouraged to immediately report crimes that occur on campus or University property to University Public Safety at 507-537-7252 or immediately by dialing 911.

### **Relationship with Local Law Enforcement**

SMSU Public Safety maintains a close working relationship with local law enforcement agencies. Southwest Minnesota State University cooperates fully with federal, state and local law enforcement agencies in cases involving on-campus and off-campus jurisdiction or when the resources of another agency can be used to facilitate the resolution of an investigation. SMSU Public Safety and the City of Marshall do have a memorandum of understanding, which formalizes the relationship for sharing patrol, criminal investigations and any other law enforcement related activities. The Marshall Police Department regularly communicates crimes occurring around SMSU's campus through email and quarterly meetings between MPD's Chief of Police and SMSU's Director of Public Safety.

Monitoring & Recording Criminal Activity of Off-Campus Student Organizations SMSU does not have any officially recognized off-campus student organizations.

# Crime and Reporting Procedures

## Steps to Ensure Prompt and Accurate Crime Reporting If you are a victim of a crime or witness a crime:

Call University Public Safety (507-537-7252) and 911 for any emergency including medical assistance, fires, suspicious people or activities, crime reports, traffic accidents, or illegal activities.

When reporting a crime or other incident in progress be sure to provide the dispatcher with the following information:

1. The nature of the criminal activity or incident.
2. The location of the criminal activity or incident.
3. The number of persons involved.
  - A description of the offender(s), including; Gender Expression, Approximate Age Race Height/Weight, Hair
  - Color -Style -Facial Hair,
  - Attire -Color -Style -Distinguishing logos
  - Other distinguishing physical features- such as scars and tattoos
  - Vehicle Description, Year, Make and Model, License Plate Number and State
  - Note the direction of travel of offenders or vehicles and report those to Campus Public Safety and 911

Anyone involved in an emergency situation, is the victim of a crime or witnesses any criminal activity, is urged to notify SMSU Public Safety as soon as possible by dialing 507-537-7252 or by dialing 911 to reach the Marshall Police Department. Upon receiving a report of a crime, SMSU Public Safety will make contact with the reportee and gather the facts of the incident. Once the facts are documented, an investigation will begin. On-campus crimes may be reported to the Marshall Police Department. While criminal activity and emergencies may be reported directly to law enforcement officials, all faculty, staff and students shall also report this information to university Public Safety for the purpose of making timely warning reports and annual statistical disclosures.

## Confidential Reporting

SMSU encourage accurate and prompt reporting of all crimes to University Public Safety and the appropriate law enforcement agencies. Because some reports are public record under state law, SMSU Public Safety cannot grantee the confidentiality of reports. However, victims and witnesses can make voluntary confidential reports for the purpose of inclusion in the annual

disclosure of crime statistics can generally be made to other SMSU Campus Security Authorities, as listed in Fig.1, or by submitting an online Silent Witness Report

<http://www.smsu.edu/campuslife/publicsafety/forms/form87.html> and omitting contact or other identifiable information.

Reports made in this manner can be made anonymously and do not have to include the reporting party's information. While we cannot guarantee confidentiality, we will make every effort possible to maintain it to the extent allowable by law. The purpose of reports made in this manner helps the public safety department more accurately assess and track the nature of crime in the area of the campus.

You will never be required to file a police report. Confidential reports are included in the annual disclosure of crime.

#### Pastoral and Professional Counselors

The University does not have procedures that encourage pastoral and professional counselors, at their discretion, to inform those they counsel to report crimes on a voluntary, confidential manner for the purposes of collecting crime statistics.

#### Reporting to Other Campus Security Authorities

While the University prefers that community members promptly report all crimes and other emergencies directly to University Public Safety at 507-537-7252, we also recognize that some may prefer to report to other individuals or University offices. The Clery Act recognizes certain University officials and offices as Campus Security Authorities.

The Act defines these individuals as an official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take-action or respond to particular issues on behalf of the institution.

While the University has numerous CSAs at the University, we have officially designated the following offices as places where campus community members should report crimes. While the following list is not comprehensive, these are some of the identified CSAs at Southwest Minnesota State University.

#### CSA

#### Contact Number

#### Student Affairs

Associate Vice President for Student Affairs and Dean of Students	507-357-6844
Deputy Title IX Coordinator for Students	507-537-6470
Judicial Affairs Coordinator	507-537-6470
Title IX Coordinator	507-537-6657
West Area Coordinator	507-537-6023
East Area Coordinator	507-537-6136
Director of Health Services	507-537-7202
Director of Diversity & Inclusion	537-537-7285
Director of Disability Services	507-537-7672

### **Human Resources**

Director of Human Resources	507-537-6544
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### **Athletics**

Athletic Director	507-537-7984
Assistant Athletic Director/Academics	507-537-7984

### **University Public Safety**

Director of Public Safety	507-537-7252
Director of University Health & Safety Officer	507-537-6470

# Timely Warnings

## Timely Warning

Timely Warnings are usually distributed for the following Uniformed Crime Reporting classifications:

Major incidents of arson, murder/non-negligent manslaughter, and robbery. Cases of aggravated assault and sex offenses are considered on a case-by-case basis, depending on the facts of the case and the information known by SMSU Public Safety. For example, if an assault occurs between two students who have a disagreement, there may be no on-going threat to other Southwest Minnesota State community members and a Timely Warning would not be distributed.

In cases involving sexual assault, they are often reported long after the incident occurred, thus there is no ability to distribute a “timely” warning notice to the community. Sex offenses will be considered on a case-by-case basis depending on when and where the incident occurred, when it was reported, and the amount information known by University Public Safety. Cases involving property crimes will be assessed on a case-by-case basis and alerts will typically be sent if there is a discernible pattern of crime. The University Public Safety Director or designee reviews all reports to determine if there is an on-going threat to the community and if the distribution of a Timely Warning is warranted. Timely Warnings may also be posted for other crime classifications and locations, as deemed necessary.

Timely Warnings will be provided to students and employees in a manner that is timely, that withholds the names of victims as confidential, and that will aid in the prevention of similar occurrences. Timely Warning messages are typically created, authorized, and sent by University Public Safety and the University Emergency Response Team. The Director of Public Safety (or the Director’s designee) determines if there is a continuing threat to the University community. In such cases, warnings may be published through campus bulletins, email, personal safety hotline, residence hall bulletins, and the University Public Safety website.



# Emergency Evacuation Procedures and Policies

Southwest Minnesota State University, upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health and safety of students or employees occurring on campus will:

1. A Southwest Minnesota State University official will verify that a legitimate emergency or dangerous situation exists, even if all of the pertinent details are not known or are available at the time and immediately notify the campus community.
2. Southwest Minnesota State University officials, in coordination with and at the advice of local first responders, will determine the appropriate segment(s) of the campus community to receive notification.
3. Southwest Minnesota State University will, without delay, and taking into account the safety of the community, determine the content of the notification, unless issuing a notification will, in the professional judgement of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.
4. Typically, the University Public Safety Director and the University Emergency Response Team will create, authorize and send the message. SMSU Public Safety will, without delay and considering the safety of the community, determine the content of the notification and initiate the notification, and provide timely updates. Timely updates may be released via the University website, University email, or SMSU Alert. Members of the greater community who are interested in receiving information about emergencies on campus may monitor the University website or sign up for emergency communications via SMSU Alert. Instructions on how to sign up for SMSU Alert messages are available at:

<http://www.smsu.edu/campuslife/publicsafety/smsu-alert-signup.html>

Southwest Minnesota State University after ensuring that local first responders are notified, will activate the active messaging system to provide emergency notification to the campus community. An immediate SMSU Alert containing pertinent emergency notification and information will be disseminated. Other passive and individual messaging will provide redundant and detailed emergency information as soon as reasonably possible.

Southwest Minnesota State University tests its emergency response and evacuation procedures annually in accordance with this policy and applicable state and federal regulations. Tests may be announced or unannounced and emergency response and evacuation procedures are publicized in conjunction with at least one test per calendar year. Results of each test will be documented and include a description of the exercise, the date, time, and whether it was announced or unannounced.

In the event of a crisis situation, SMSU will communicate vital information to the larger community as quickly and efficiently as possible in order to provide the greatest safety for our students, faculty and staff. One or more of the following communication tools will be used to notify students, faculty and staff:

- Web site: Notice posted on the SMSU Home Page
- E-mail: Broadcast message to campus e-mail addresses
- Telephone: Broadcast voice mail to campus extensions
- Text Messaging: Messages will be sent out from the SMSU Department of Public Safety to all subscribers enrolled in the SMSU Alert System.
- Social Media (Facebook, Twitter, etc.)
- Newsletter (paper copy created and hand distributed)

Additionally, a follow-up message will be disseminated using one or more of the listed communication methods. In the event of a campus emergency, SMSU will utilize any or all the following communication tools to disseminate information to the larger community:

- Press Release to media (print and broadcast)
- SMSU Alert System
- Text
- Email
- Telephone
- Web site updates
- Social Media (Facebook, Twitter, etc.)

All faculty, staff and students should learn the evacuation routes and stairwell

locations for all campus buildings they frequently occupy. Evacuation maps and information are posted throughout the campus. Special instructions for evacuation of students with disabilities who are known to need assistance with evacuation (i.e., students registered with the Office for Students with Disabilities) are available through the Public Safety Department.

The University conducts emergency response exercises each year, such as fire drills, functional exercises, and tests of the emergency notification systems on campus.

SMSU's emergency response exercises may be announced or unannounced and are designed to assess and evaluate the emergency plans and capabilities of the University. Information about the emergency response and evacuation procedures for SMSU are publicized annually, and the information is available on the SMSU Public Safety website at:

<http://www.smsu.edu/campuslife/publicsafety>

In all cases, University emergency responses shall place primary emphasis on the protection of human life, and all reasonable efforts shall be made to protect and preserve University property. The President through Communication and Marketing office will make announcements about whether the University will reduce or suspend operations because of emergency conditions for release to the media.

The University employs Blackboard Connect, SMSU Alert to notify the campus community of emergencies and threats to physical safety. The SMSU Alert System can be utilized in the event of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus. Emergencies may include threats to physical safety in situations such as tornados/severe weather, violence, hazardous materials incidents, fires, etc.

Participation in the SMSU Alert System is not mandatory, but it is encouraged. There is no fee to subscribe; however, users will still have to pay regular text messaging rates through their cellular providers.

The SMSU Alert System is a service that allows anyone in the SMSU community to receive alerts, news, or other emergency information via text message on their mobile phones. In order to receive emergency text messages on your mobile device, individuals have to choose to be included in the system by providing their cell phone information through SMSU Alert. The SMSU Alert system allows University administrators to send recorded messages to any phone, text messaging to cell phones and/or e-mail messages to email addresses of SMSU students, faculty and staff. To sign up, please follow the provided link:

<http://www.smsu.edu/campuslife/publicsafety/smsu-alert-signup.html>

## **Fire Evacuation Procedures**

Emergency sirens will sound in the event of a fire. Calmly exit the building via the nearest exit. Do not use elevators! University officials will provide direction and assistance.

Evacuate to a safe distance and remain outside until the all- clear message is given.

## **Severe Weather Shelter Procedures**

In the event of severe weather requiring campus occupants to seek shelter an SMSU Alert will be sent advising the campus to proceed to the nearest Severe Weather Shelter area. Calmly proceed to the designated severe weather shelter area in your building.

Remain in the Severe Weather Shelter area until the all-clear message is delivered.

## **Campus Evacuate/ Lockdown Procedure**

In the event of an emergency with implications of immediate harm to the campus community, the Public Safety Department may issue a directive to Run-Hide-Fight, lockdown or evacuate. The Public Safety Department will engage SMSU's Alert System and other communication methods in an attempt to notify community members. Depending on your location and threat of immediate danger, the first choice maybe to evacuate if safe to do so. If unable to evacuate proceed to the nearest classroom or enclosed area and secure yourself inside. Shut off all sources of light (i.e., lights, computer monitors, television screens, etc.) Stay away from windows and doors remain calm and quiet and wait for instructions from law enforcement or SMSU Public Safety. Please review the attached Run, Hide and Fight video:

<http://www.smsu.edu/campuslife/publicsafety/run-hide-fight-video.html>

## Sheltering in Place

Because sheltering in place may be the protective action recommendation for several emergencies with differing risks, and because sometimes the initial recommendation is to shelter in place followed by relocation, there is no single set of shelter in place procedures. Based on the type of emergency, such as tornado, hostile intruder, or hazardous material release outside, you should consult each relevant section for guidance.

*Emergencies change as they progress. The questions to ask yourself are: Am I safer inside or outside? Where am I safest inside? Where am I safest outside?*

# Security, Access, and Maintenance of Campus Facilities

With the exception of events that are open to the general public and advertised as such, the University's facilities and programs are generally reserved for accomplishing the objectives and programs of the University. Generally, academic and administrative buildings are open Monday-Friday 7:00 am-11:00 pm, Saturday and Sunday for scheduled events. Hours are expanded or reduced for events, holidays and interim periods as it is seen fit by university administrators. After open access hours, University Public Safety secures all University buildings. Visitors and non-university affiliated groups seeking to utilize University facilities are expected to make prior arrangements with the appropriate University office. Authorization to use the SMSU facilities is determined by the University Scheduling Office.

## ACCESS TO UNIVERSITY FACILITIES

The University's campus administrative buildings are open as follows:

Building	Monday-Friday	Saturday	Sunday	Campus Holiday
BA,CH,IL,SS,SM,ST	7am-11pm	8am-6pm	1pm-11pm	8am-5pm
Fine Arts	7am-11pm	8am-5pm	12pm-11pm	8am-5pm
Founders Hall	7am-11pm	12pm-10pm	12pm-10pm	8am-5pm
PE	7am-11pm	8am-5pm	1pm-11pm	8am-5pm
R/A*	8am-11pm	Closed except for special events	7pm-11pm	Closed except for special events
SC/CC	*Opened & secured by SC managers 7am-11pm	*Opened & secured by SC managers 7am-11pm	*Opened & secured by SC managers 7am-11pm	*Opened & secured by SC managers 7am-10pm

Access to individual classrooms and laboratories are limited to those enrolled in the courses meeting there. Likewise, access to most programs are limited to those that are enrolled in the program or otherwise authorized to access.

Many cultural and athletic events held in university facilities are open to the public. Other facilities such as the bookstore and library are likewise open to the public during open hours. Only authorized University employees are issued keys to University buildings.

Physical Plant is responsible for the development and operation of campus buildings and grounds. They keep the buildings, classrooms and grounds clean, comfortable and manage the physical development of the campus. SMSU Public Safety staff regularly patrol the campus and report any repair needs (malfunctioning lights or other unsafe conditions) to SMSU Physical Plant. All members of the university community are encouraged to directly report to SMSU Physical Plant problems with facilities or grounds.

## **Security and Maintenance of Residence Halls**

Security is the shared responsibility of each resident and staff member. Residents are responsible for locking their rooms and assisting with maintaining a secure facility. All exterior doors are locked 24 hours a day. Exterior doors are accessed through SMSU's key system. Guests will need to use the outside phone by the main entrance to call a resident in order to gain entrance. Non-residents will not be permitted to enter the hall unless accompanied by a resident.

Jeopardizing residence hall security in any way (e.g., propping outside doors open) is a violation of residence hall policies. Lights out in stairwells should be reported. Residents are advised to carry their identification cards at all times and be prepared to show them in residence facilities and dining centers when asked by staff. Each resident is responsible for the room key issued to him/her.

The primary purpose of the key policy is greater security for the building, residents and their possessions. The Physical Plant and Residence Life are responsible for maintaining the residential facilities. Maintenance problems such as lights out in stairwells, doors not securing properly, should be reported immediately in order for repairs to be completed.

## **Education Programs- Awareness & Crime Prevention Programs**

The University engages security awareness programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others. To prevent domestic violence, dating/relationship violence, sexual assault and stalking, SMSU's presents ongoing primary prevention and awareness programs for all incoming students and new employees that:

1. Identifies domestic violence, dating/relationship violence, sexual assault and stalking as prohibited conduct;
2. Defines what behavior constitutes domestic violence, dating/relationship violence, sexual assault, and stalking;
3. Defines what behavior and actions constitute consent to sexual activity in the state of Minnesota and at Southwest Minnesota State University;
4. Provides safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating/relationship violence, sexual assault, or stalking against a person other than the bystander;
5. Provides information on risk reduction so that students and employees may recognize warning signs of abusive behavior and how to avoid potential attacks.
6. Provides an overview of information contained in the Annual Security Report in compliance with the Clery Act.

Southwest Minnesota State University has developed an annual educational campaign consisting of presentations that include distribution of educational materials to new students and new employees; participating in the fall new faculty orientation program; presenting programs throughout the year, including sessions such as: skits, clothes line projects, a residence community training program, an annual poster series and web-based training programs related to the 1B.3 Sexual Violence Policy.

## **Southwest Minnesota State University offered the following primary and ongoing prevention and awareness programs in 2023**

SMSU conducts a number of programs aimed at preventing dating violence, domestic violence, stalking and sexual assault and making the SMSU community aware of the potential of such crimes. These training opportunities are culturally relevant and inclusive of diverse communities. Training also considers environmental risk and protective factors as they occur on the individual, relationship, institution, community, and societal levels.

These programs include nightly security patrols of the campus, providing escorts, inspecting the campus for potentially dangerous areas, and implementing programs to inspect campus lighting and shrubbery.

Residence Hall staff, University Public Safety, Health Center, Counseling Offices, WoMens Rural Advocacy Program, Western Mental Health, and New Horizons Crisis Center provides educational programs concerning sexual assault, domestic violence, stalking and dating violence awareness.

University Public Safety provides on-line training to Campus Security Authorities related to their requirements under the Clery Act. Additional training includes:

Name of Program	Dates Held	Location Held	Which Prohibited Behavior Covered
Freshmen Seminar	3/3/2022	SMSU	Sexual Assault, General Violence, Domestic Assault, Sexual Violence, Intimate Partner Violence
Advocate Panel	8/5/2022	SMSU	Domestic Assault
Res Life Training	8/11/2022	SMSU	Sexual violence, Stalking, Harassment
Gold Rush Days	8/20/2022	SMSU	Sexual Assault, Domestic Violence, General Crime
LGBTQIA+	10/06/2022	SMSU	Sexual Violence
Athletic Panel	10/18/2022	SMSU	Sexual Assault, Intimate Partner Violence
Consent Presentation	12/05/2022	SMSU	Intimate Partner Violence
Public Safety	12/15/2022	SMSU	Sexual Assault, Intimate Partner Violence
Sexual Assault Awareness Month Presentation and Panel	4/05/2023	SMSU	Intimate Partner Violence
Sexual Assault Awareness Month Film Screening and Discussion	4/18/2023	SMSU	Sexual Assault, Sexual Violence, Intimate Partner Violence

## Safety Escort Services

The Department of Public Safety offers safety escorts to the SMSU community 24 hours per day. Anyone needing an escort, who is in fear or has safety concerns, may request an escort from any University building or Residence Hall on campus. Escorts may come in the form of walking, bicycle or by vehicle from members of SMSU Public Safety.

To request an escort, call 507-537-7252.

## Lighting

SMSU Public Safety conducts campus lighting surveys quarterly. These surveys are designed to determine which areas require lighting repairs and which areas may need additional illumination.

# Alcohol, Drugs, Missing Students, and Firearm Policies

## ALCOHOL POLICY

Southwest Minnesota State University complies with laws of the State of Minnesota, which regulate the possession, use and sale of alcohol and enforces underage drinking laws. All community members, including students, are responsible for following state laws and University policies and rules. This policy applies to student conduct that occurs on university property, at university-sponsored events, or in conjunction with university activities and to student conduct off-campus that adversely affects the University community and/or the pursuit of its objectives.

Alcohol and drug abuse poses a threat to the health and safety of university faculty, staff, students, and visitors and interferes with the ability of the University to achieve its mission. It is the policy of Southwest Minnesota State University to provide a drug-free workplace and learning environment and, more specifically, to maintain alcohol and drug prevention programs including policy enforcement, education programs, and treatment services.

Southwest Minnesota State University complies with the federal Drug Free School and Communities Act of 1989. Each year, the University distributes information to all employees and students.

It is the policy of the Southwest Minnesota State University to provide a drug-free workplace and learning environment. Alcohol and drug abuse pose a threat to the health and safety of university faculty, staff, students, and visitors. In compliance with the Drug-Free Workplace Act, SMSU is committed to the elimination of drug and alcohol abuse in the workplace. In compliance with the provisions of the Drug Free Schools and Communities Act Amendments of 1989, alcohol and drug prevention programs include policy enforcement, education programs, and treatment services.

Southwest Minnesota State University prohibits the unlawful possession, consumption (use), sale, or distribution of alcohol by all students and employees and enforces all applicable drinking/liquor laws and policies on campus, including Federal law, Minnesota State law, (Local Jurisdiction) Ordinances and institution policy.

The possession or consumption of alcohol is prohibited in all Southwest Minnesota State University campus buildings, and applies regardless of age. Consuming alcohol and loitering with an open container of alcohol is a violation of the law in accordance with Law Enforcement. The only exception is for special events authorized by the Minnesota State Colleges and Universities Board of Trustees.

Students are subject to the student code of conduct while participating in school sponsored activities at off campus locations- any violations of the student code of conduct while participating in any such activities will be investigated by Southwest Minnesota State University Public Safety Security and the Office of Student Conduct.



Students who are found to be in possession of an open container or consuming alcohol while on campus will be subject to disciplinary action for violating the Student Code of Conduct. If students are not cooperative the Marshall Police may be called to assist, and the student may be subject to citation or arrest. Employees who are found to be in possession of an open container or consuming alcohol while on campus will be subject to disciplinary action. Non-students/ non-employees who are found to be in possession of an open container or consuming alcohol while on campus may be asked to leave campus, may be prohibited from returning for one year, if uncooperative the (Local Law Enforcement) may be called to assist, and the individual may be subject to citation or arrest.

The state of being under the influence of alcohol is prohibited in all Southwest Minnesota State University campus buildings.

Employees who are believed to be under the influence of alcohol will be subject to disciplinary action. Non-students/ non-employees who are believed to be under the influence of alcohol may be asked to leave campus, may be prohibited from returning for one year, and if uncooperative the (Local Law Enforcement) may be called to assist, and the individual may be subject to citation or arrest.

-NEVER DRINK AND DRIVE-

## **Drug Policy**

Illegality of Drugs on Campus and the Enforcement of Federal and State Drug Laws Southwest Minnesota State University enforces Federal, State, and local drug laws regarding the use, possession, and sale of illegal drugs and drug paraphernalia. Southwest Minnesota State University forbids the possession, use, or distribution of illegal drugs on campus. This includes but is not limited to possession, sale, use, growing, manufacturing and making of narcotic drugs. Exceptions would be drugs prescribed by a doctor's order. The state of being under the influence of a controlled substance is prohibited in all Southwest Minnesota State University campus buildings.

Students who are believed to be under the influence of a controlled substance will be subject to disciplinary action for violating the Student Code of Conduct. Employees who are believed to be under the influence of a controlled substance will be subject to disciplinary action. Non-students/ non-employees who are believed to be under the influence of a controlled substance may be asked to leave campus, may be prohibited from returning for one year, and if uncooperative the (Local Law Enforcement) may be called to assist, and the individual may be subject to citation or arrest.

For petty misdemeanor crimes, such as possession of marijuana, the following actions will be taken:

Students who are found to be in violation of the law will be subject to disciplinary action for violating the Student Code of Conduct. If students are not cooperative the local law enforcement may be called to assist, and the student may be subject to citation or arrest. Employees who are found to be in violation of the law while on campus will be subject to disciplinary action. Non-students/ non-employees who are found to be in violation of the law while on campus may be asked to leave campus, may be prohibited from returning for one year, if uncooperative the local

law enforcement may be called to assist, and the individual may be subject to citation or arrest for misdemeanor and felony level drug crimes.

#### Drug and Alcohol Abuse Education Programs

Southwest Minnesota State University recognizes the reality of chemical dependency and is aware of its occasional presence in the higher education community. Southwest Minnesota State University encourages and provides reasonable assistance to any student, faculty or staff member who seeks information on chemical dependency or treatment for chemical dependency. Various offices, including Counseling and Human Resources, provide information and referral to prevention programs for those seeking help with substance abuse.

## Missing Student Policy

If at any time a student, faculty or staff member becomes aware or suspects a student is missing for 24 hours, report immediately to the Southwest Minnesota State University Public Safety Department. Any missing student report by any other Campus Security Authority, will be referred immediately to the Public Safety Department and/or the Local Police Department(s) having jurisdiction for the campus.

Students have the option of identifying and designating a contact person or persons whom Southwest Minnesota State University shall notify within 24 hours of the determination that the student is missing, as determined by Southwest Minnesota State University Public Safety or local law enforcement agency. Students are advised that their contact information will be registered confidentially and will only be accessible to authorized campus officials. Information may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation. Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, University Security will inform the local law enforcement agency that has jurisdiction in the area that the student is missing within 24 hours.

If students are under 18 years of age and not emancipated, Southwest Minnesota State University MUST notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student. Southwest Minnesota State University will notify local law enforcement within 24 hours of the determination that the student is missing, unless law enforcement was the agency that made the determination that the student is missing.

## Weapons Policy

Possession of any weapon, firearm or fireworks within facilities or on land owned, leased or under the control of Southwest Minnesota State University is prohibited except as allowed by Minnesota Law, MnSCU Board of Trustees Policy [www.mnscu.edu/board/policy/521.html](http://www.mnscu.edu/board/policy/521.html) or University Policy. This prohibition extends to any University sanctioned events on or off campus. Students, as well as employees that are acting within the scope and course of their employment, are prohibited from carrying firearms on university grounds or in any University building.

Licensed law enforcement officers and visitors with a valid permit to carry may possess pistols (handguns) on university grounds and in university buildings. All other firearms are prohibited.

Lawful possession of firearms is permitted in university parking lots by Minnesota State Statute 624.714, subd. 18(c). Firearms in vehicles must be stored according to the provisions of Minnesota State Statute 97B.045.

Suspected violations of this University policy must be reported to University Public Safety.

#### Definitions.

**Employee.** "Employee" means any individual employed by Minnesota State Colleges and Universities, its colleges and universities and the system office, including student employees.

**Firearm.** "Firearm" means a gun, whether loaded or unloaded, that discharges shot or a projectile by means of an explosive, a gas or compressed air.

**"Pistol"** means a weapon as defined in Minnesota Statutes section 624.712, subd. 2

**Student.** "Student" means an individual who is:

1. registered to take or is taking one or more courses, classes, or seminars, credit or noncredit, at any system college or university; or
2. between terms of a continuing course of study at the college or university, such as summer break between spring and fall academic terms; or
3. expelled or suspended from enrollment as a student at the college or university, during the pendency of any adjudication of the student disciplinary action.

**Campus property.** "Campus property" means the facilities and land owned, leased, or under the primary control of Minnesota State Colleges and Universities, its Board of Trustees, and system office.

**Visitor.** "Visitor" means any person who is on campus property, but does not include (1) an employee of the Minnesota State Colleges and Universities acting in the course and scope of their employment; or (2) a student, when that student is on campus property.

No person is permitted to carry or possess a firearm on campus property except as provided in this policy.

#### Employees.

1. **Prohibition.** Employees are prohibited from possessing or carrying a firearm while acting in the course and scope of their employment, either on or off campus property, regardless of whether the employee has a permit to carry a firearm, except as otherwise provided in this policy.
2. **Employee reporting responsibility.** An employee with a reasonable basis for believing an individual is in possession of or carrying a firearm in violation of this policy has a responsibility to report the suspected act in a timely manner, unless doing so would subject the employee or others to physical harm. Reports should be made to the official designated in the applicable policy included in this report. This policy shall not prohibit prompt notification to appropriate law enforcement authorities when an immediate threat

to personal safety exists. Employees shall not make reports of a suspected violation knowing they are false or in reckless disregard of the truth.

Students. Students are prohibited from possessing or carrying a firearm while on campus property, regardless of whether the student has a permit to carry a firearm, except as otherwise provided in this policy.

Exceptions.

Parking areas. This policy does not prohibit the lawful possession or carry of firearms in a parking area or parking facility.

Authorized uses. This policy does not prohibit:

1. Lawful possession or carry related to an academic use or use at a campus shooting range, such as law enforcement programs, approved in writing by the college or university president; or
2. Transport of an unloaded firearm directly between a parking area or parking facility and the location authorized for its use, or transport of an unloaded firearm directly between a parking area or parking facility and a storage facility provided by the college or university.
3. Possession or carry of a pistol by a visitor who has a lawful permit to carry a pistol pursuant to Minnesota Statutes section 624.714, subd. 1a.
4. Possession or carry of a firearm by a licensed peace officer under Minnesota Statutes section 626.84, subd. 1(c) or by a qualified law enforcement officer pursuant to 18 United States Code section 926B, when possession or carry is otherwise authorized by law.

Violations. Violations of this policy by students or employees are misconduct subject to discipline, up to and including expulsion or termination. Southwest Minnesota State University may refer suspected violations of law to appropriate law enforcement authorities, and provide access to investigative or other data as permitted by law.

## **Sexual Assault Policies and Procedures**

## **Procedures for Reporting a Complaint if you are a Victim of Domestic Violence, Intimate Partner Violence, Sexual Assault, or Stalking:**

1. Go to a safe place.
2. If you are on campus, contact Southwest Minnesota State University (507-537-7252), Marshall Police Department (911) or the Title IX Coordinator at (507-537-6544).
3. If you have been the victim of a sexual assault, you should seek medical attention as soon as possible (Ideally within 120 hours), regardless of whether you report the matter to the police, for evidence collection and prophylaxis and treatment against STIs. Do not bathe, douche, use the toilet, change clothes, eat or drink. Victims can seek medical attention at Avera Regional Medical Center or the University's Health Services.
4. Timely and prompt reporting of a sexual assault within 72 hours is critical in preserving evidence important in proving a criminal case against the assailant.
5. You have the option to file both a campus report or a police report with the appropriate law enforcement agency. Although, SMSU encourages all community members to report crime victims may decline notification of both University and law enforcement authorities.
6. If you would like assistance in filing a police report Southwest Minnesota State University Public Safety staff will assist you.
7. Southwest Minnesota State University has counselors available in Bellows Academic Building, phone number 507-537-7150. The Director of Public Safety for Southwest Minnesota State University – located in Founders Hall (507-537-7858) can also provide information on additional resources.
8. In order to reduce contact between the victim and the alleged assailant, Southwest Minnesota State University will, at the request of the survivor, attempt to provide a change in classes, academic schedules, residence hall rooms, transportation or working arrangements as applicable and take other appropriate remedial measures. Southwest Minnesota State University will provide written notice to victims of these options. Victims will receive written notification of the above regardless of whether they chose to report the crime to law enforcement or campus authorities.
9. You have the right to petition for an Order for Protection (OFP) or a harassment Restraining Order (HRO), the Marshall Police Department has information available on how to file for and request an OFP or HRO. Southwest Minnesota State University may take actions it deems necessary or appropriate in response to all protection, restraining or no contact orders.
10. You may contact the Minnesota Crime Victims Reimbursement Board at 651- 201-7300. The Crime Victims Reimbursement Board provides financial help to victims and their families for losses incurred as a result of a violence crime. You may also visit <https://dps.mn.gov> for additional information.

11. Southwest Minnesota State University will provide written notification to both the victim and respondent of his or her rights and options under Southwest Minnesota State University's Sexual Violence Policy.

## **Sexual Assault, Domestic Violence, Dating Violence, and Stalking**

Southwest Minnesota University prohibits the offenses of domestic violence, intimate partner violence also referred to as dating/relationship violence, sexual assault and stalking and reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the University community.

For a complete copy of Southwest Minnesota State University's 1B.3 Sexual Violence Policy governing sexual misconduct, visit <http://www.minnstate.edu/board/policy/1b03.html>.

There are numerous terms used by Southwest Minnesota State University in our policy and procedures.

**Consent:** is defined in the state of Minnesota's state statute code 609.341 as words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act. A person who is mentally incapacitated or physically helpless as defined by this

statute cannot consent to a sexual act. Corroboration of the victim's testimony is not required to show lack of consent.

Consent is also defined at Southwest Minnesota State University under the 1B.3 Sexual Violence Policy. Consent is informed, freely given and mutually understood. If coercion, intimidation, threats, and/or physical force are used, there is no consent. If the complainant is mentally or physically incapacitated or impaired so that the complainant cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious. Silence does not necessarily constitute consent, and past consent of sexual activities does not imply ongoing future consent.

Whether the respondent has taken advantage of a position of influence over the complainant may be a factor in determining consent.

**Sexual Assault:** Means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation and an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent."

- Rape is defined as the penetration, no matter how slight, of the vagina or anus with anybody part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

- Fondling is defined as the touching of the private parts of another person for the purposes 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.
- Incest is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape is defined as sexual intercourse with a person who is under the statutory age of consent.

Under MnSCU & Southwest Minnesota State University's 1B.3 Sexual Violence Policy, Subpart B., "Sexual Assault" means an actual, attempted, or threatened sexual act with another person without that person's consent. Sexual assault is often a criminal act that can be prosecuted under Minnesota law, as well as form the basis for discipline under Minnesota State Colleges and Universities (MnSCU) student conduct codes and employee disciplinary standards. Sexual assault includes but is not limited to:

1. Involvement without consent in any sexual act in which there is force, expressed or implied, or use of duress or deception upon the victim. Forced sexual intercourse is included in this definition, as are the acts commonly referred to as "date rape" or "acquaintance rape." This definition also includes the coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another.
2. Involvement in any sexual act when the victim is unable to give consent.
3. Intentional and unwelcome touching, or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as primary genital area, groin, inner thigh, buttocks, or breast).
4. Offensive sexual behavior that is directed at another such as indecent exposure or voyeurism.

In Minnesota state statutes, the phrase sexual assault is not specifically used, but would generally fall within the Criminal Sexual Conduct statutes (609.342-609.3451) of the Minnesota Criminal Code.

#### Procedures the University Will Follow When a Crime of Domestic Violence, Dating Violence, Sexual Assault and Stalking is Reported

Southwest Minnesota State University has procedures in place that serve to be sensitive to those who report sexual assault, domestic violence, dating/relationship violence, and stalking, including informing individuals about their right to file criminal charges as well as the availability of medical, counseling and support services, and additional remedies to prevent contact between a complainant and respondent, such as housing, academic, transportation and working accommodations, if reasonably available. Students and employees should contact the Office of Equal Opportunity and Title IX at 537-6544.

If a report of domestic violence, dating/relationship violence, sexual assault or stalking is reported to the University, the University will follow the procedures and standard of evidence as noted below:

Types of Disciplinary Proceedings Utilized in Cases of Alleged Domestic Violence, Dating Violence, Sexual Assault and Stalking

Southwest Minnesota State University shall use the Report/Complaint of Discrimination/Harassment Investigations and Resolution procedures when investigating complaints involving employees, Board Procedure 1B1.1 that can be found at [www.minnstate.edu/board/procedure/1b01p1.html](http://www.minnstate.edu/board/procedure/1b01p1.html). Complaints involving students will use the Title IX procedure immediately following. Procedures are designed to avoid requiring complainants to follow any plan of action and to prevent the possibility of re-victimization. Southwest Minnesota State University investigation and disciplinary procedures concerning allegations against employees or students shall:

1. Respect the needs and rights of individuals involved,
2. Proceed as promptly as possible,
3. Assure Employees have the right to representation consistent with the appropriate collective bargaining agreement or personnel plan,
4. Proceed in accordance with applicable due process standards and privacy laws,
5. Use a 'preponderance of evidence' standard, meaning that it is more likely than not that the policy or code has been violated.

## **Southwest Minnesota State University's Response to:**

Sexual Assault

1. Depending on when reported (immediate vs delayed report), University will provide complainant with access/referral to medical care.
2. University will assess immediate safety needs of complainant.
3. University will assist complainant with contacting local police if complainant requests and provide complainant with contact information for local police department.
4. University will provide complainant with referrals to on and off campus mental health providers.
5. University will assess need to implement interim or long-term protective measures, such as housing changes, change in class schedule, "No Contact" directive between both parties.
6. University will provide a "No trespass" directive to respondent if deemed appropriate.
7. University will provide complainant with referrals on how to apply for Protective Order or Harassment Restraining Order.
8. University will provide a copy of the 1B.3 Sexual Violence Policy to complainant and inform the complainant of timelines for inquiry, investigation and resolution.
9. University will inform the complainant and respondent of the outcome of the investigation and resolution, whether or not the respondent will be administratively charged.



10. University will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for assisting in the investigation.

Sexual assault cases are referred to the Title IX Coordinator and are determined by the University's 1B.3 Sexual Violence Policy using the preponderance of the evidence standard.

#### Stalking

1. University will assess immediate safety needs of complainant.
2. University will assist complainant with contacting local police if complainant requests and provide complainant with contact information for local police.
3. University will provide complainant with referrals on how to apply for Protective Order or Harassment Restraining Order.
4. University will provide complainant with referrals to on and off campus confidential sources and mental health providers.
5. University will provide written information to complainant on how to preserve evidence.
6. University will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate.
7. University will provide a "No trespass" directive to the respondent if deemed appropriate.
8. University will provide a copy of the 1B.3 Sexual Violence Policy to complainant and respondent and inform both of the timelines for inquiry, investigation and resolution
9. University will inform the complainant and respondent of the outcome of the investigation and resolution.
10. University will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for participating in the investigation.

Stalking cases are referred to the Title IX Coordinator and determined under the University's 1B.3 Sexual Violence Policy using the preponderance of the evidence standard.

#### Domestic Violence and Intimate/Dating/Relationship Violence

1. University will assess immediate safety needs of complainant.
2. University will assist complainant with contacting local police if complainant requests and provide complainant with contact information for local police department.
3. University will provide complainant with referrals on how to apply for Protective Order or Harassment Restraining Order.
4. University will provide written information to complainant on how to preserve evidence.
5. University will assess need to implement interim or long-term protective measures to protect the complainant, if appropriate.
6. University will provide a "No trespass" directive to the respondent if deemed appropriate.

7. University will provide a copy of the 1B.3 Sexual Violence Policy to complainant and respondent and inform both of the timelines for inquiry, investigation and resolution.
8. University will inform the complainant and respondent of the outcome of the investigation and resolution.
9. University will enforce the anti-retaliation policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination or for participating in the investigation.

Domestic/dating/intimate/relationship violence cases are referred to the Title IX Coordinator and determined under the University's 1B.3 Sexual Violence Policy using the preponderance of the evidence standard.

In Minnesota State Statutes, the phrase sexual assault is not specifically used, but would generally fall within the criminal sexual conduct statutes (609.342-609.3451) of the Minnesota Criminal Code:

### **609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.**

#### **§**

#### **Subdivision 1. Adult victim; crime defined.**

A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

- (a) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;
  - (b) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;
  - (c) the actor causes personal injury to the complainant, and any of the following circumstances exist:
    - (i) the actor uses coercion to accomplish the act;
    - (ii) the actor uses force, as defined in section [609.341, subdivision 3](#), clause (2); or
    - (iii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;
  - (d) the actor uses force as defined in section [609.341, subdivision 3](#), clause (1); or
  - (e) the actor is aided or abetted by one or more accomplices within the meaning of section [609.05](#), and either of the following circumstances exists:
    - (i) the actor or an accomplice uses force or coercion to cause the complainant to submit;
- or

(ii) the actor or an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit.

**Subd. 1a. Victim under the age of 18; crime defined.**

A person who engages in penetration with anyone under 18 years of age or sexual contact with a person under 14 years of age as defined in section [609.341, subdivision 11](#), paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(b) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(c) the actor causes personal injury to the complainant, and any of the following circumstances exist:

(i) the actor uses coercion to accomplish the act;

(ii) the actor uses force, as defined in section [609.341, subdivision 3](#), clause (2); or

(iii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(d) the actor is aided or abetted by one or more accomplices within the meaning of section [609.05](#), and either of the following circumstances exists:

(i) the actor or an accomplice uses force or coercion to cause the complainant to submit;  
or

(ii) the actor or an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the complainant is under 14 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the complainant is at least 14 years of age but less than 16 years of age and:

(i) the actor is more than 36 months older than the complainant; and

(ii) the actor is in a current or recent position of authority over the complainant.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the complainant was under 16 years of age at the time of the act and the actor has a significant relationship to the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the complainant was under 16 years of age at the time of the act, and the actor has a significant relationship to the complainant and any of the following circumstances exist:

- (i) the actor or an accomplice used force or coercion to accomplish the act;
- (ii) the complainant suffered personal injury; or
- (iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

- (i) the actor uses force, as defined in section [609.341, subdivision 3](#), clause (1).

### **609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.**

#### **§**

#### **Subdivision 1. Adult victim; crime defined.**

A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(b) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(c) the actor causes personal injury to the complainant, and any of the following circumstances exist:

- (i) the actor uses coercion to accomplish the sexual contact;
- (ii) the actor uses force, as defined in section [609.341, subdivision 3](#), clause (2); or
- (iii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(d) the actor uses force as defined in section [609.341, subdivision 3](#), clause (1); or

(e) the actor is aided or abetted by one or more accomplices within the meaning of section [609.05](#), and either of the following circumstances exists:

(i) the actor or an accomplice uses force or coercion to cause the complainant to submit;  
or

(ii) the actor or an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit.

**Subd. 1a. Victim under the age of 18; crime defined.**

A person who engages in sexual contact with anyone under 18 years of age is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(b) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(c) the actor causes personal injury to the complainant, and any of the following circumstances exist:

(i) the actor uses coercion to accomplish the sexual contact;

(ii) the actor uses force, as defined in section [609.341, subdivision 3](#), clause (2); or

(iii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(d) the actor is aided or abetted by one or more accomplices within the meaning of section [609.05](#), and either of the following circumstances exists:

(i) the actor or an accomplice uses force or coercion to cause the complainant to submit; or

(ii) the actor or an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the complainant is under 14 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(f) the complainant is at least 14 but less than 16 years of age and the actor is more than 36 months older than the complainant and in a current or recent position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the complainant was under 16 years of age at the time of the sexual contact and the actor has a significant relationship to the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(i) the actor uses force, as defined in section [609.341, subdivision 3](#), clause (1).

### **609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.**

#### **Subdivision 1. Adult victim; crime defined.**

A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the actor uses coercion to accomplish the penetration;

(b) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(c) the actor uses force, as defined in section [609.341, subdivision 3](#), clause (2); or

(d) at the time of the act, the actor is in a prohibited occupational relationship with the complainant.

#### **§**

#### **Subd. 1a. Victim under the age of 18; crime defined.**

A person who engages in sexual penetration with anyone under 18 years of age is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 14 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 14 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case if the actor is no more than 60 months older than the complainant, it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. Consent by the complainant is not a defense;

(c) the actor uses coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 36 months older than the complainant and in a current or recent position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

- (i) the actor or an accomplice used force or coercion to accomplish the penetration;
- (ii) the complainant suffered personal injury; or
- (iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor uses force, as defined in section [609.341](#), subdivision 3, clause (2); or

(i) at the time of the act, the actor is in a prohibited occupational relationship with the complainant.

#### **609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.**

##### **Subdivision 1. Adult victim; crime defined.**

A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

- (a) the actor uses coercion to accomplish the sexual contact;
- (b) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;
- (c) the actor uses force, as defined in section [609.341, subdivision 3](#), clause (2); or
- (d) at the time of the act, the actor is in a prohibited occupational relationship with the complainant.

#### **§**

##### **Subd. 1a. Victim under the age of 18; crime defined.**

A person who engages in sexual contact with anyone under 18 years of age is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

- (a) the complainant is under 14 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;
- (b) the complainant is at least 14 but less than 16 years of age and the actor is more than 36 months older than the complainant or in a current or recent position of authority over the complainant. Consent by the complainant to the act is not a defense.



Mistake of age is not a defense unless actor is less than 60 months older. In any such case, if the actor is no more than 60 months older than the complainant, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense;

(c) the actor uses coercion to accomplish the sexual contact;

(d) The actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 36 months older than the complainant and in a current or recent position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor uses force, as defined in section [609.341](#), subdivision 3, clause (2); or

(i) at the time of the act, the actor is in a prohibited occupational relationship with the complainant.

In Minnesota state statutes, the phrase sexual assault is not specifically used, but would generally fall within the Criminal Sexual Conduct statutes (609.342-609.3451) of the Minnesota Criminal Code.

**Dating Violence:** Means violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship will be determined based on a consideration of the following factors: (I) The length of the relationship. (II) The type of relationship. (III) The frequency of interaction between the persons involved in the relationship. For the purposes of this definition—

1. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.



## 2. Dating violence does not include acts covered under the definition of domestic violence

According to MnSCU/Southwest Minnesota State University's 1B.3 Policy, dating and relationship violence includes physical harm or abuse, and threats of physical harm or abuse, arising out of a personal intimate relationship. This violence also may be called domestic abuse or spousal/partner abuse and may be subject to criminal prosecution under Minnesota state law.

In Minnesota State Statutes, dating violence would generally fall within the Domestic Assault statute (609.2242) of the Minnesota Criminal Code. (This statute is provided on the following pages after the following Domestic Violence section.)

**Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

Domestic violence would also fall within MnSCU/Southwest Minnesota State University's 1B.3 Policy of dating and relationship violence. Dating and relationship violence includes physical harm or abuse, and threats of physical harm or abuse, arising out of a personal intimate relationship. This violence also may be called domestic abuse or spousal/partner abuse and may be subject to criminal prosecution under Minnesota state law.

In Minnesota State Statutes, domestic violence would generally fall within the Domestic Assault statute (609.2242) of the Minnesota Criminal Code.

### **609.2242 DOMESTIC ASSAULT.**

#### **Subdivision 1. Misdemeanor.**

Whoever does any of the following against a family or household member as defined in section [518B.01, subdivision 2](#), commits an assault and is guilty of a misdemeanor:

(1) commits an act with intent to cause fear in another of immediate bodily harm or death; or

(2) intentionally inflicts or attempts to inflict bodily harm upon another.

#### **Subd. 2. Gross misdemeanor.**

Whoever violates subdivision 1 within ten years of a previous qualified domestic violence-related offense conviction or an adjudication of delinquency is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

### Subd. 3. Domestic assaults; firearms.

(a) When a person is convicted of a violation of this section or section [609.221](#), [609.222](#), [609.223](#), [609.224](#), or [609.2247](#), the court shall determine and make written findings on the record as to whether:

(1) the assault was committed against a family or household member, as defined in section [518B.01, subdivision 2](#);

(2) the defendant owns or possesses a firearm; and

(3) the firearm was used in any way during the commission of the assault.

(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order that the firearm be summarily forfeited under section [609.5316, subdivision 3](#).

(c) When a person is convicted of assaulting a family or household member and is determined by the court to have used a firearm in any way during commission of the assault, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(d) Except as otherwise provided in paragraph (c), when a person is convicted of a violation of this section or section [609.224](#) and the court determines that the victim was a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a firearm for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(e) Except as otherwise provided in paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, or a firearm if a person has been convicted on or after August 1, 2014, of domestic assault under this section or assault in the fifth degree under section [609.224](#) and the assault victim was a family or household member as defined in section [518B.01, subdivision 2](#), unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section or section [609.224](#). Property rights may not be abated but access may be restricted by the courts. A person who possesses a firearm in violation of this paragraph is guilty of a gross misdemeanor.

(f) Except as otherwise provided in paragraphs (b) and (h), when a person is convicted of a violation of this section or section [609.221](#), [609.222](#), [609.223](#), [609.224](#), or [609.2247](#) and the court determines that the assault was against a family or household member, the court

shall order the defendant to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary, unless the court prohibits the person from possessing a firearm for the remainder of the person's life under paragraph (c). A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. A defendant may not transfer firearms to a third party who resides with the defendant. If a defendant makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the defendant a reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified by certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period imposed under this subdivision, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to a person shall comply with state and federal law. If a defendant permanently transfers the defendant's firearms to a law enforcement agency, the agency is not required to compensate the defendant and may charge the defendant a reasonable processing fee. A law enforcement agency is not required to accept a person's firearm under this paragraph. The court shall order that the person surrender all permits to carry and purchase firearms to the sheriff.

(g) A defendant who is ordered to transfer firearms under paragraph (f) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the defendant permanently transferred the defendant's firearms to the third party or agreeing to temporarily store the defendant's firearms until such time as the defendant is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the defendant to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section [624.7144](#) if the defendant gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the defendant. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the defendant, date of transfer, and the serial number, make, and model of all transferred firearms. The defendant shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(h) When a person is convicted of a violation of this section or section [609.221](#), [609.222](#), [609.223](#), [609.224](#), or [609.2247](#), and the court determines that the assault was against a family or household member, the court shall determine by a preponderance of the evidence if the person poses an imminent risk of causing another

person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the person's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the defendant's firearms and shall return the firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the person, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (g). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (f) and (g) as if accepting transfer from the defendant. If the law enforcement agency does not receive written notice from the defendant within three business days, the agency may charge a reasonable fee to store the defendant's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms.

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#### **Subd. 4.Felony.**

Whoever violates the provisions of this section or section [609.224, subdivision 1](#), within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

#### **518B.01 DOMESTIC ABUSE ACT. (Relevant Sections)**

##### **Subd. 2.Definitions**

(b) "Family or household members" means:

- (1) spouses and former spouses;
- (2) parents and children;
- (3) persons related by blood;
- (4) persons who are presently residing together or who have resided together in the past;
- (5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
- (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(7) persons involved in a significant romantic or sexual relationship.

**Stalking:** Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of this definition—

1. Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

3. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Under MnSCU/Southwest Minnesota State University 1B.3 Sexual Violence Policy, stalking is conduct directed at a specific person that is unwanted, unwelcome, or unreciprocated and that would cause a reasonable person to fear for her or his safety or the safety of others or to suffer substantial emotional distress.

In Minnesota State Statutes, stalking would generally fall within the Stalking statute (609.749) of the Minnesota Criminal Code.

**609.749 HARASSMENT; STALKING; PENALTIES.**

Subdivision 1.

MS 2019 Supp [Repealed, [2020 c 96 s 6](#)]

Subd. 1a.

MS 2018 [Repealed, [2020 c 96 s 6](#)]

Subd. 1b.**Venue.**

(a) When acts constituting a violation of this section are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts in violation of this section.

(b) The conduct described in subdivision 2, clauses (4) and (5), may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim

participates in the address confidentiality program established by chapter 5B. The conduct described in subdivision 2, clause (2), may be prosecuted where the actor or victim resides. The conduct described in subdivision 2, clause (6), may be prosecuted where any letter, telegram, message, package, or other object is sent or received or, in the case of wireless or electronic communication or communication made through other available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B.

#### **Subd. 1c.Arrest.**

For all violations under this section, except a violation of subdivision 2, clause (7), a peace officer may make an arrest under the provisions of section [629.34](#). A peace officer may not make a warrantless, custodial arrest of any person for a violation of subdivision 2, clause (7).

#### **Subd. 2.Harassment crimes.**

(a) As used in this subdivision, the following terms have the meanings given:

(1) "family or household members" has the meaning given in section [518B.01, subdivision 2](#), paragraph (b);

(2) "personal information" has the meaning given in section [617.261, subdivision 7](#), paragraph (f);

(3) "sexual act" has the meaning given in section [617.261, subdivision 7](#), paragraph (g); and

(4) "substantial emotional distress" means mental distress, mental suffering, or mental anguish as demonstrated by a victim's response to an act including but not limited to seeking psychotherapy as defined in section [604.20](#), losing sleep or appetite, being diagnosed with a mental-health condition, experiencing suicidal ideation, or having difficulty concentrating on tasks resulting in a loss of productivity.

(b) A person who commits any of the acts listed in paragraph (c) is guilty of a gross misdemeanor if the person, with the intent to kill, injure, harass, or intimidate another person:

(1) places the other person in reasonable fear of substantial bodily harm;

(2) places the person in reasonable fear that the person's family or household members will be subject to substantial bodily harm; or

(3) causes or would reasonably be expected to cause substantial emotional distress to the other person.

(c) A person commits harassment under this section if the person:

(1) directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) follows, monitors, or pursues another, whether in person or through any available technological or other means;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for people with vision impairments or hearing loss, or any communication made through any available technologies or other objects;

(7) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties; or

(8) uses another's personal information, without consent, to invite, encourage, or solicit a third party to engage in a sexual act with the person.

**Subd. 3. Aggravated violations.**

(a) A person who commits any of the following acts is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both:

(1) commits any offense described in subdivision 2 because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section [363A.03](#), age, or national origin;

(2) commits any offense described in subdivision 2 by falsely impersonating another;

(3) commits any offense described in subdivision 2 and a dangerous weapon was used in any way in the commission of the offense;

(4) commits any offense described in subdivision 2 with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section [609.415](#), or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(5) commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim.

(b) A person who commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony and may be sentenced to



imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

**Subd. 4. Second or subsequent violations; felony.**

(a) A person is guilty of a felony who violates any provision of subdivision 2 within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency, and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) A person is guilty of a felony who violates any provision of subdivision 2 within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency, and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

**Subd. 5. Stalking.**

(a) A person who engages in stalking with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) For purposes of this subdivision, "stalking" means two or more acts within a five-year period that violate or attempt to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, tribe, or United States territories:

- (1) this section;
- (2) sections [609.185](#) to [609.205](#) (first- to third-degree murder and first- and second-degree manslaughter);
- (3) section [609.713](#) (terroristic threats);
- (4) section [609.224](#) (fifth-degree assault);
- (5) section [609.2242](#) (domestic assault);
- (6) section [518B.01, subdivision 14](#) (violations of domestic abuse orders for protection);
- (7) section [609.748, subdivision 6](#) (violations of harassment restraining orders);
- (8) section [609.605, subdivision 1](#), paragraph (b), clauses (3), (4), and (7) (certain trespass offenses);
- (9) section [609.78, subdivision 2](#) (interference with an emergency call);
- (10) section [609.79](#) (obscene or harassing telephone calls);
- (11) section [609.795](#) (letter, telegram, or package; opening; harassment);



- (12) section [609.582](#) (burglary);
- (13) section [609.595](#) (damage to property);
- (14) section [609.765](#) (criminal defamation);
- (15) sections [609.342](#) to [609.3451](#) (first- to fifth-degree criminal sexual conduct);
- (16) section [609.3458](#) (sexual extortion); or
- (17) section [629.75, subdivision 2](#) (violations of domestic abuse no contact orders).

(c) Words set forth in parentheses after references to statutory sections in paragraph (b) are mere catchwords included solely for convenience in reference. They are not substantive and may not be used to construe or limit the meaning of the cited statutory provision.

#### **Subd. 6. Mental health assessment and treatment.**

(a) When a person is convicted of a felony offense under this section, or another felony offense arising out of a charge based on this section, the court shall order an independent professional mental health assessment of the offender's need for mental health treatment. The court may waive the assessment if an adequate assessment was conducted prior to the conviction.

(b) Notwithstanding sections [13.384](#), [13.85](#), [144.291](#) to [144.298](#), [260B.171](#), or [260C.171](#), the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

- (1) medical data under section [13.384](#);
- (2) welfare data under section [13.46](#);
- (3) corrections and detention data under section [13.85](#);
- (4) health records under sections [144.291](#) to [144.298](#); and
- (5) juvenile court records under sections [260B.171](#) and [260C.171](#).

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

(c) If the assessment indicates that the offender is in need of and amenable to mental health treatment, the court shall include in the sentence a requirement that the offender undergo treatment.

(d) The court shall order the offender to pay the costs of assessment under this subdivision unless the offender is indigent under section [563.01](#).

#### **Subd. 7. Exception.**

Conduct is not a crime under this section if it is performed under terms of a valid license, to ensure compliance with a court order, or to carry out a specific lawful commercial purpose or employment duty, is authorized or required by a valid contract, or is authorized,

required, or protected by state, federal, or tribal law or the state, federal, or tribal constitutions. Subdivision 2, clause (2), does not impair the right of any individual or group to engage in speech protected by the federal, state, or tribal constitutions, or federal, state, or tribal law, including peaceful and lawful handbilling and picketing.

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### **Subd. 8. Harassment; stalking; firearms.**

(a) When a person is convicted of harassment or stalking under this section and the court determines that the person used a firearm in any way during commission of the crime, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(b) Except as otherwise provided in paragraph (a), when a person is convicted of harassment or stalking under this section, the court shall inform the defendant that the defendant is prohibited from possessing a firearm for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of harassment or stalking under this section, or to possess a firearm if the person has been convicted on or after August 1, 2014, of harassment or stalking under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a firearm in violation of this paragraph is guilty of a gross misdemeanor.

(d) If the court determines that a person convicted of harassment or stalking under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section [609.5316](#), [subdivision 3](#).

(e) Except as otherwise provided in paragraphs (d) and (g), when a person is convicted of harassment or stalking under this section, the court shall order the defendant to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary. A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. A defendant may not transfer firearms to a third party who resides with the defendant. If

a defendant makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the defendant a reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period imposed under this subdivision, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to a defendant shall comply with state and federal law. If a defendant permanently transfers the defendant's firearms to a law enforcement agency, the agency is not required to compensate the defendant and may charge the defendant a reasonable processing fee. A law enforcement agency is not required to accept a person's firearm under this paragraph. The court shall order that the person surrender all permits to carry and purchase firearms to the sheriff.

(f) A defendant who is ordered to transfer firearms under paragraph (e) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the defendant permanently transferred the defendant's firearms to the third party or agreeing to temporarily store the defendant's firearms until such time as the defendant is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the defendant to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section [624.7144](#) if the defendant gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the defendant. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the defendant, date of transfer, and the serial number, make, and model of all transferred firearms. The defendant shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(g) When a person is convicted of harassment or stalking under this section, the court shall determine by a preponderance of the evidence if the person poses an imminent risk of causing another person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the person's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the defendant's firearms and shall return the firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the person, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the

agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (f). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (e) and (f) as if accepting transfer from the defendant. If the law enforcement agency does not receive written notice from the defendant within three business days, the agency may charge a reasonable fee to store the defendant's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms.

## **Assistance for Victims: Rights and Options**

Regardless of whether a victim elects to pursue a criminal complaint or whether the offense is alleged to have occurred on or off campus, Southwest Minnesota State University will assist victims of sexual assault, domestic violence, dating violence, and stalking and will provide each victim with a written explanation of their rights and options. In Minnesota, a victim of domestic violence, dating violence, sexual assault or stalking has the following rights:

1. Be informed of prosecutor's decision to decline prosecution or dismiss the case along with information about seeking a protective or harassment order at no fee.
2. Protection against employer retaliation for victims to take reasonable time off to attend order for protection or harassment restraining order proceedings.
3. Domestic abuse victims have the ability to terminate a lease without penalty.
4. Sexual assault victims can make a confidential request for HIV testing of a convicted offender
5. Sexual assault victims do not have to pay the cost of a sexual assault examination.
6. Sexual assault victims may not be required to undergo a polygraph examination in order for an investigation or prosecution to proceed.

Further, Southwest Minnesota State University complies with Minnesota law in recognizing Orders of Protection and Harassment Restraining Orders. Any person who obtains an order of protection from Minnesota or any reciprocal state (Under VAWA's full faith and credit provision, every state must recognize and enforce protection orders issued in other states, as if issued in the enforcing state) should provide a copy to Southwest Minnesota State University Public Safety and the Office of the Title IX Coordinator. A complainant may then

meet with Southwest Minnesota State University Public Safety to develop a Safety Action Plan, which is a plan for campus officials and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom location or allowing a student to complete assignments from home, etc.) Southwest Minnesota State University cannot apply for a legal order of protection, no contact order or restraining order for a victim from the applicable jurisdiction(s). The victim is required to apply directly for these services. Protection from abuse orders may be available through the local county court at no cost. Southwest Minnesota State University may issue an institutional no contact order if deemed appropriate or at the request of the victim or accused. To the extent of the victim's cooperation and consent, Southwest Minnesota State University will work cooperatively to ensure that the complainant's health, physical safety, work and academic status are protected, pending the outcome of a formal investigation of the complaint. If reasonably available, a complainant may be offered changes to academic, living, or working situations in addition to counseling, health services, visa and immigration assistance and assistance in notifying appropriate local law enforcement. Additionally, personal identifiable information about the victim will be treated as confidential and only shared with persons with a specific need to know who are investigating/adjudicating the complaint or delivering resources or support services to the complainant (for example, publicly available record-keeping for purposes of Clery Act reporting and disclosures will be made without inclusion of identifying information about the victim, as defined in 42 USC 1395 (a) (20).) Further, Southwest Minnesota State University will maintain as confidential, any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

Type of Order	Who Can File for One	Where to go for assistance	Criteria for Order
Order for Protection (OFP)	Spouses Former Spouses Parents and Children Persons related by blood Persons who live together or who have lived together in the past. Persons who have or had a child in common (born or in utero), regardless of whether they were	- Lyon County Courthouse - SMSU University Public Safety Office - WoMens Rural Advocacy Program - Minnesota Guide and File online	infliction of physical harm, bodily injury, or assault; infliction of fear of imminent physical harm; terroristic threats (Minn. Stat. § 609.713); acts of criminal sexual conduct (Minn. Stat. §§ 609.342, 609.343,

	living together or ever married.	- County attorney's office	609.344, 609.345, 609.3451);  interference with an emergency call (Minn. Stat. § 609.78).
Harassment Restraining Order (HRO)	Adult victims of harassment Parent or stepparent of a minor victim Guardian or conservator, includes emergency guardians Emancipated minors	-Lyon County Courthouse -University Public Safety Office -New Horizons Crisis Center -Minnesota Guide and File online -County Attorney's office	a single incident of physical or sexual assault;  a single incident of using someone's personal information, without consent, to invite, encourage, or solicit a third party to engage in a sexual act;  a single incident of sharing private sexual images of someone without permission;  repeated incidents (more than one) of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security or privacy of another (e.g., repeated phone calls, following a person, repeatedly coming to the Petitioner's

			<p>home after having been asked not to do so);</p> <p>targeted residential picketing; OR</p> <p>a pattern of attending public events after being notified that their presence is harassing to another</p>
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## Bystanders Intervention:

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it. Southwest Minnesota State University promotes a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list of some of the ways to be an active bystander. If you or someone else is in immediate danger, call 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are OK.
2. Confront people who seclude, hit on, and/or try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in the Annual Security Report or other resources for support in health, counseling, or with legal assistance.

## Risk Reduction

With no intent to victim blame and recognizing that only abusers are responsible for their abuse, the following are some strategies to reduce one’s risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, [www.rainn.org](http://www.rainn.org)).

1. Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. Try to avoid isolated areas. It is more difficult to get help if no one is around.
3. Walk with purpose. Even if you don't know where you are going, act like you do.
4. Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
5. Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
6. Make sure your cell phone is with you and charged and that you have cab money.
7. Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
8. Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
9. When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
10. Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
11. Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
12. Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
13. Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
14. If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.). Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
15. If you need to get out of an uncomfortable situation, here are some things you can do:
  1. Remember that being in this situation is not your fault. You did not do anything wrong; it is the person who is making you uncomfortable that is to blame.
  2. Be true to yourself. Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
  3. Have a code word with your friends or family so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with



knowing. Your friends or family can then come to get you or make up an excuse for you to leave.

4. Lie. If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.

16. Try to think of an escape route. How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?

17. If you and/or the other person have been drinking, you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

## **Accommodations and Protective Measures Available for Victim Survivors**

University officials will change a victim's academic, living, transportation and working situations and take protective measures after an alleged sex offense, incident of domestic/dating violence or stalking if those changes are requested by the victim and are reasonably available. The University will make such accommodations or provide such protective measures if they are reasonably available, regardless of whether the victim chooses to report the crime to University Security or local law enforcement. Examples of options for a potential change to the academic situation may be to transfer to a different section of a class, withdraw and take a class at another time if there is no option for moving to a different section, etc. Potential changes to living situations may include moving to a different room or residence hall. Possible changes to work situations may include changing working hours. Possible changes in transportation may include having the student or employee park in a different location, assisting the student or employee with an escort, assisting the student or employee with developing a safety action plan. University will provide a written notification to students about options for, Available assistance in, and how to request changes to academic, living, transpiration and working satiations or other protective measures.

To request changes to academic, living, transportation and/or working situations or protective measures, a victim should begin by contacting the Title IX Coordinator in the Office of Equal Opportunity and Title IX (Bellows Academic, 507-537-6544). The Office of Equal Opportunity and Title IX will manage requested changes to academic, living, transportation and/or working situations or protective measures by coordinating with respective University departments, such as: University Security, Academic Affairs, and/or Human Resources. If a victim wishes to receive assistance in requesting these accommodations, she or he should contact the New Horizon Crisis Center. To the extent of the victim's cooperation and consent, University offices, including Student Health Services, Counseling Center, University Security, Office of Equal Opportunity and Title IX, and Residential Life will work cooperatively to assist in protecting the complainant's health, physical safety, work and academic status are protected, pending the outcome of a formal University investigation of the complaint. Further these offices will work together to protect victim privacy and to ensure confidentiality and will assist the victim with reasonable accommodations. For example, if reasonably available, a complainant may be

offered changes to academic, living, or working situations in addition to counseling, health services and assistance in notifying appropriate local law enforcement. Victims may request that directory information on file with the University be withheld by submitting a Data Privacy Request form to the Office of the Registrar.

Regardless of whether a victim has opted-out of allowing the University to share “directory information,” personally identifiable information about the victim and other necessary parties will be treated as confidential and only shared with persons who have a specific need-to-know, i.e., those who are investigating the report or those involved in providing support services to the victim, including accommodations and protective measures. By only sharing personally identifiable information with individuals on a need-to-know basis, the institution will maintain as confidential, any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures. The University does not publish the name of crime victims nor house identifiable information regarding victims in the University Security Department’s Daily Crime Log.

## On and Off Campus Services for Victim Survivors

Upon receipt of a report of domestic violence, dating violence, sexual assault or stalking, the University will provide written notification to students and employees about existing assistance with and/or information about obtaining resources and services including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and assistance in notifying appropriate local law enforcement. These resources include the following:

### On Campus

Office	Location	Phone Number
Health Services	Bellows Academic Building	507-537-7202
SMSU Public Safety	Founders Hall 1 <sup>st</sup> Floor	507-537-7252
Title IX Coordinator	Founders Hall 2 <sup>nd</sup> Floor	507-537-6657
New Horizons Crisis Center	Founders Hall 1 <sup>st</sup> Floor	507-828-7395
Counseling & Testing Center	Bellows Academic Building	507-537-7150
Student Success Center	Individualized Learning Building	507-537-6484

### Marshall, Minnesota Area

Resource	Type	Location	Phone
Marshall Police Department	Law Enforcement	611 W. Main Street	507-537-7000
Avera Marshall Regional Med Ctr	Hospital/ER	300 S Bruce St	507-537-9300
Western Mental Health Center	Mental Health	1212 E College Dr	507-537-3236

New Horizons Crisis Center	Crime Victims Services- Sexual Violence and General Crime	349 W Main Street Suite 3	507-532-5764
WoMens Rural Advocacy Program	Crime Victims Services- Domestic Violence and Human Trafficking	700 N 7 <sup>th</sup> St	800-639-2350
Avera Marshall Outpatient	Mental Health	1521 Carlson St	507-337-2923
Avera Behavioral Health Unit (Inpatient)	Mental Health	300 S Bruce St	507-537-9318
Mid-Minnesota Legal Aid	Legal Aid		888-360-3666
United Community Action Partnership	Housing and Food Assistance	1400 S Saratoga St	507-537-1416
Southwestern Center for Independent Living	Disability Services	109 S 5 <sup>th</sup> St Suite 700	507-532-2221
The Journey Center	Mental Health	230 W Lyon St	507-335-2220

### **Regional, State and National Resources**

Minnesota Alliance on Crime: [www.mnallianceoncrime.org](http://www.mnallianceoncrime.org)

Standpoint: [www.standpointmn.org](http://www.standpointmn.org)

Violence Free Minnesota: [www.vfmn.org](http://www.vfmn.org)

Safe Harbor Shelters: [www.safeharborshelter.com](http://www.safeharborshelter.com)

Minnesota Coalition Against Sexual Assault: [www.mncasa.org](http://www.mncasa.org)

Minnesota Haven Victim Notification: <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/victim-notification/Pages/minnesota-haven.aspx>

Minnesota Vine Victim Notification: <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/victim-notification/Pages/minnesota-vine.aspx>

Rape, Abuse and Incest National Network: [www.rainn.org](http://www.rainn.org)

Safe At Home Address Confidentiality: <https://www.sos.state.mn.us/safe-at-home/about-safe-at-home/>

Crisis Text Line 24/7: Text MN to 74171

### **Culturally Specific Resources**

Asian Women Unite Minnesota: [www.awum.org](http://www.awum.org)

OutFront MN: [www.outfrontmn.org](http://www.outfrontmn.org)

Rainbow Therapy: [www.rainbowhealth.org](http://www.rainbowhealth.org)

Minnesota Indigenous Women's Sexual Assault Coalition: [www.miwsac.org](http://www.miwsac.org)

Heart- Muslim Women Support: [www.hearttogrow.org](http://www.hearttogrow.org)

## Investigation and Disciplinary Procedures

Investigations and disciplinary procedures will be conducted by Southwest Minnesota State University officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Southwest Minnesota State University officials who conduct investigations and disciplinary procedures will not have any bias or conflict of interest toward either the accuser or the accused.

During procedures used in response to a complaint of sexual violence complainants are not required to follow any plan of action, to prevent the possibility of re-victimization. The process will be respectful of the needs and rights of individuals involved and they will be treated with dignity. It is never assumed or suggested that the complainant or victim was at fault for the sexual assault or should have behaved differently to prevent the assault. All proceedings will be prompt, fair, and impartial process from the initial investigation to the final conclusion and conducted within reasonable timeframes. The process will allow for extensions of those timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay. The process will be consistent with these policies and transparent to the accuser and the accused. Timely notice for all meetings at which the accuser or accused both may be present will be provided. The accuser and accused will have equal access to any information that will be used during informal and formal disciplinary meetings and hearings. Student complainants and respondents will have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures and applicable data practices law. Employees have the right to representation consistent with the appropriate collective bargaining agreement or personnel plan. All procedures will be conducted in accordance with applicable due process standards and privacy laws. The complainant and respondent will simultaneously be informed, in writing, of the outcome in a timely manner, as permitted by applicable privacy law. Outcomes will be based on a preponderance of evidence standard, meaning that it is more likely than not that the policy, procedure, or code has been violated. The past sexual history of the complainant and respondent are deemed irrelevant except as that history may directly relate to the incident being considered. A respondent's use of any drug, including alcohol, judged to be related to an offense may be considered to be an exacerbating rather than mitigating circumstance.

Southwest Minnesota State University takes allegations of sexual violence very seriously and recognizes the consequences such allegations may have on a respondent as well as the complainant. Any individual who knowingly provides false information regarding the filing of a complaint or report of sexual violence, or who provides false information during the investigation of such a complaint or report, may be subject to discipline or, under certain circumstances, legal action. Complaints of conduct that are found not to violate policy are not assumed to be false.

If a complainant or victim no longer desires to pursue a complaint, Southwest Minnesota State University reserves the right to investigate and resolve the complaint as it deems appropriate. Southwest Minnesota State University reserves discretion whether to pursue alleged violations

of policy under appropriate circumstances, including, but not limited to, a determination that an effective investigation is not feasible because of the passage of time, or because the respondent is no longer a student or employee of Southwest Minnesota State University.

Investigations and disciplinary procedures will be conducted by Southwest Minnesota State University officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Southwest Minnesota State University officials who conduct investigations and disciplinary procedures will not have any bias or conflict of interest toward either the accuser or the accused.

#### Sanctions:

Southwest Minnesota State University may, at any time during the report/complaint process, reassign or place on administrative leave an employee alleged to have violated Board Policy 1B.3, in accordance with the procedures in System Procedure 1B.1.1. Such action must be consistent with the applicable collective bargaining agreement or personnel plan.

Southwest Minnesota State University may summarily suspend or take other temporary measures against a student alleged to have committed a violation of Board Policy 1B.3, in accordance with System Procedure 1B.1.1 or Board Policy 3.6.

Sanctions that may be imposed if a finding is made that sexual violence has occurred include, but are not limited to, suspension, or expulsion of students, or termination from employment for employees. The appropriate sanction will be determined on a case-by-case basis, taking into account the severity of the conduct, the student's or employees previous disciplinary history, and other factors as appropriate. Witnesses or victims who report in good faith an incident of sexual violence will not be sanctioned by Southwest Minnesota State University for admitting in the report to a violation of the student conduct policy on the use of alcohol or drugs.

Actions by a student or employee intended as retaliation, coercion, discrimination, reprisal, or intimidation against an individual for making a complaint or participating in any way in a report or investigation under this policy are prohibited and are subject to appropriate disciplinary action.

SMSU will upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the results of any disciplinary hearing conducted by the University against the student who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, SMSU will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

Domestic/dating/relationship violence cases are referred to the Title IX Coordinator and determined under the University's 1B.3 Sexual Violence Policy using the preponderance of the evidence standard.

#### Filing an Appeal

The complainant or the respondent may appeal the decision of the decision maker. An appeal must be filed in writing with the president or designee within ten (10) business days after notification of the decision. The appeal must state specific reasons why the complainant or respondent believes the decision was improper. In a complaint against a president or other official who reports directly to the chancellor, an appeal may be considered by the chancellor whether or not the chancellor served as the decision maker.

For employees represented by a collective bargaining agreement, an appeal under this procedure is separate and distinct from, and is not in any way related to, any contractual protections or procedures. During the pendency of the appeal disciplinary or corrective action taken as a result of the decision shall be enforced. In addition, in cases involving sanctions of suspension for ten (10) days or longer, students shall be informed of their right to a contested case hearing under Minnesota Statutes Chapter 14.

The president or designee shall review the record and determine whether to affirm or modify the decision. The president or designee may receive additional information if the president or designee believes such information would aid in the consideration of the appeal. The decision on appeal shall be made within a reasonable time and the complainant, respondent and designated officer shall be notified in writing of the decision, consistent with applicable state and federal data privacy laws. The decision on appeal exhausts the complainant's and respondent's administrative remedies under this procedure except as provided herein.

## **Crime Stats**

Southwest Minnesota State University does have a Public Safety Security Department, and therefore maintains a written daily crime log. The crime log records by date the crime was reported, any crime that occurred within the institutions designated Clery geography and that is reported to the Public Safety (Security) Department. The information in the crime log contains the nature, date, time and general location of each crime and disposition of the complaint, if known. Southwest Minnesota State University MUST make an entry or an addition to an entry to the log within two business days of the report of the information to the Public Safety (Security) Department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.

The institution may withhold information required if there is clear and convincing evidence that the release of the information would:

- 1) Jeopardize an ongoing criminal investigation or the safety of an individual,
- 2) Cause a suspect to flee or evade detection, or
- 3) Result in the destruction of evidence.

Southwest Minnesota State University may disclose any information withheld once the adverse effect described above is no longer likely to occur. The institution can withhold only that information that would cause the adverse effect.

The Public Safety Department makes the crime log for the most recent 60-day period open to public inspection during normal business hours. Southwest Minnesota State University must also make any portion of the crime log, older than 60 days available within two business days or a request for inspection.

## **Crime Definitions and Report Terminology**

The definitions listed are taken from the Federal Bureau of Investigation Uniform Crime Reporting (UCR) Handbook and National Incident Based Reporting System (NIBRS) and used to classify the criminal offenses previously listed:

**Aggravated Assault** – An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Aggravated Assault (e.g., victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness).

**Alcohol Violations** - The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; and all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

**Arson** – Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Burglary** – The unlawful entry into a structure to commit a felony or theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the above.

**Consent** - Is informed, freely given and mutually understood. If coercion, intimidation, threats, and/or physical force are used, there is no consent. If the complainant is mentally or physically incapacitated or impaired so that the complainant cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious. Silence does not necessarily constitute consent, and past consent of sexual activities does not imply ongoing future consent. Whether the respondent has taken advantage of a position of influence over the complainant may be a factor in determining consent.

**Criminal Homicide/Negligent Manslaughter**- The killing of another person through gross negligence. As a general rule, any death caused by the gross negligence of another is classified as Criminal Homicide—Manslaughter by Negligence (b).

**Dating and Relationship Violence** - Dating and relationship violence includes physical harm or abuse, and threats of physical harm or abuse, arising out of a personal intimate relationship. This violence also may be called domestic abuse or spousal/partner abuse and may be subject to criminal prosecution under Minnesota state law.

**Destruction/Damage/Vandalism of Property** - To willfully or maliciously destroy,

damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

**Domestic Violence**- Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an

adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Drug Abuse Violations** - Violation of Federal, State and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroine, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

**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.

**Hate Crime**- A criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For this document bias is performed negative opinion or attitude towards a group of persons based on their race, religion, sexual orientation, gender, gender identity, ethnicity, national origin, or disability.

**Intimidation** - To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct but without displaying a weapon or subjecting the victim to actual physical attack. Note: This offense includes stalking.

**Larceny/theft** – The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another person.

**Liquor law violations** - Arrests or referrals for the violation of laws or ordinances prohibiting the manufacture, sale, transporting, furnishing, or possessing of intoxicating liquor.

**Manslaughter by Negligence** – The killing another person through gross negligence, the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another.

**Motor Vehicle Theft** -The theft or attempted theft of a motor vehicle. Note: A motor vehicle is a self-propelled vehicle that runs on the surface of land and not on rails and that fits one of the following property descriptions:

- Automobiles - Sedans, coupes, station wagons, convertibles, taxicabs, or other similar motor vehicles that serve the primary purpose of transporting people
- Buses - Motor vehicles that are specifically designed (but not necessarily used) to transport groups of people on a commercial basis
- Recreational Vehicles - Motor vehicles that are specifically designed (but not necessarily used) to transport people and also provide them temporary lodging for recreational purposes
- Trucks - Motor vehicles that are specifically designed (but not necessarily used) to transport cargo

**Other Motor Vehicles** - any other motor vehicles, e.g., motorcycles, motor scooters, trail bikes, mopeds, snowmobiles, or golf carts

**Murder** - The willful (non-negligent) killing of one human being by another.



**Murder and Non-Negligent Manslaughter** - The willful (non-negligent) killing of one human being by another. As a general rule, any death caused by injuries received in a fight, argument, quarrel, assault, or commission of a crime is classified as Murder and Non-Negligent Manslaughter.

**Rape** – Is 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. This offense includes the rape of both males and females.

**Robbery** – The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear. Robbery is a vicious type of theft in that it is committed in the presence of the victim. The victim, who usually is the owner or person having custody of the property, is directly confronted by the perpetrator and is threatened with force or is put in fear that force will be used. Robbery involves a theft or larceny but is aggravated by the element of force or threat of force.

**Sexual Assault** – Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Sexual Assault with an object** - To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, 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 or physical incapacity.

**Sexual Offense** - Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

**Sexual Violence** - Sexual violence includes a continuum of conduct that includes sexual assault, and non-forcible sex acts, dating and relationship violence, stalking, as well as aiding acts of sexual violence.

**Forcible Sex Offenses**- Any sexual act directed against another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent.

**Reported offenses may include:**

- Forcible Rape - The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).
- Forcible Sodomy - Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- Sexual Assault with an Object - To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will where in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Note: An object or instrument is anything used by the offender other than the offender's genitalia. Examples include but are not limited to a finger, bottle, handgun, or a stick.

- Fondling - The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

Note: Fondling includes Indecent Liberties and Child Molesting. Because Forcible Fondling is an element of Forcible Rape, Forcible Sodomy, and Sexual Assault with an Object, it should be reported only if it is the sole Forcible Sex Offense committed against a victim.

### **Sex Offense, Non-forcible**

Unlawful, Non-forcible sexual intercourse.

#### **Reported offenses may include:**

- Incest - Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape - Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Note: If force was used or threatened, or if the victim was incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity, then the offense should be classified as forcible rape, not statutory rape

**Sexual Assault** - Sexual assault means an actual, attempted, or threatened sexual act with another person without that person's consent. Sexual assault is often a criminal act that can be prosecuted under Minnesota law, as well as form the basis for discipline under student conduct codes and employee disciplinary standards. Sexual assault includes but is not limited to:

1. Involvement without consent in any sexual act in which there is force, expressed or implied, or use of duress or deception upon the victim. Forced sexual intercourse is included in this definition, as are the acts commonly referred to as "date rape" or "acquaintance rape." This definition also includes the coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another.
2. Involvement in any sexual act when the victim is unable to give consent.
3. The intentional touching or coercing, forcing, or attempting to coerce or force another to touch an unwilling person's intimate parts (defined as primary genital area, groin, inner thigh, buttocks, or breast).
4. Offensive sexual behavior that is directed at another such as indecent exposure or voyeurism.

**Simple Assault** - An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

**Stalking** - Is conduct directed at a specific person that is unwanted, unwelcome, or unreciprocated and that would cause a reasonable person to fear for her or his safety or the safety of others or to suffer substantial emotional distress.

**Statutory Rape** - Sexual intercourse with a person who is under the statutory age of consent.

**Weapons Law Violations** - The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the above.

## Definitions of Geography

Pursuant to the Act, the Department of Public Safety Security Department or Clery Compliance Officer/group monitors criminal activity and publishes this report containing a three-year statistical history of select crimes or incidents that occur. The statistics are gathered from four specific geographic areas; 1) campus (including residence halls if applicable), 2) residence halls (subset of campus if applicable), 3) non-campus University property or University sanctioned buildings or property and 4) public property that is adjacent to campus, and are submitted on an annual basis to the U.S. Secretary of Education.

**On campus-** Any building or property owned or controlled by an institution within the same reasonable contiguous geographic area and used by the institution in direct support of or in a manner related to the institutions educational purpose, including residential halls; and any building or property that is owned by the institution but controlled by another person, is frequently used by the students, and supports institutional purpose.

Note: Statistics for the University housing facilities are recorded and included in both the all on-campus category and the on-campus students housing facilities category.

**Non-Campus building or Property-** Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of or in relation to the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

**Public Property** - All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus or immediately adjacent to and accessible from the campus. Southwest Minnesota State statics do not include crimes that occur in privately owned homes or businesses adjacent to the campus boundaries.

# Daily Crime and Fire Log

During normal business hours, the daily crime and fire log for the most recent 60-day period is available for the public to view at the SMSU Department of Public Safety Office located in the basement of Founders Hall Portions of the log that are older than 60 days are available within two business days.

Offense (Reported by hierarchy)	Year	On-Campus	On-Campus Student Housing Facilities	Non Campus	Public Property
Murder/Non- Negligent Manslaughter	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Manslaughter by Negligence	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Sex Offense: Rape	2022	3	3	0	0
	2021	0	0	0	0
	2020	2	2	0	0
Sex Offense: Fondling	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Sex Offense: Incest	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Sex Offense: Statutory Rape	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Robbery	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Aggravated Assault	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Burglary	2022	2	2	0	0
	2021	3	3	0	0
	2020	5	5	0	0

Motor Vehicle Theft	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Liquor Law Arrests	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Drug Arrests	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Weapons Law Arrests	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Liquor Law Violations Referred for Disciplinary Action	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Drug Law Violations Referred for Disciplinary Action	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Weapons Law Violations Referred for Disciplinary Action	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Arson	2022	0	0	0	0
	2021	0	0	0	0
	2020	0	0	0	0
Domestic Violence	2022	1	1	0	0
	2021	3	3	0	0
	2020	2	2	0	0
Dating Violence	2022	0	0	0	0
	2021	0	0	0	0

	2020	0	0	0	0
Stalking	2022	0	0	0	0
	2021	2	2	0	0
	2020	0	0	0	0

**Hate Crime Notation:**

There were (2) hate crimes reported on campus in 2022. “Destruction/Damage/vandalism of property, Sexual Orientation”

There were no hate crimes reported on campus in 2021.

There were no hate crimes reported on campus in 2020.

**Unfounded:** There were no unfounded crimes in 2020, 2021 or 2022

\*\*\*\* Disciplinary actions for liquor law referrals per guidance provided by the Minnesota Attorney General's Office, individuals cited for underage and minor consumption offenses are not considered to be in possession of alcohol and therefor are not in violation of a liquor law under the CLERY Act.

\*\*\*\*Drug law arrest per guidance provided by the Minnesota Attorney General’s Office, in that individuals cited for possession of a small amount of marijuana or possession of drug paraphernalia have not committed a crime and therefore are not in violation of a drug law under the Clery Act.

\*\*\*\*Liquor Law arrest per guidance provided by the Minnesota Attorney General's Office, individuals cited for underage and minor consumption offenses are not considered to be in possession of alcohol and therefor are not in violation of a liquor law under the Clery Act.

# Sex Offender Registry

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders to register and provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteer's services or is a student.

Information regarding sex offenders that may work or reside on campus can be found on the State Department of Corrections web site at <https://coms.doc.state.mn.us/Level3/>. or National Sex Offender Registry at <https://www.nsopw.gov>. and information regarding Level 2 offenders is available at the local police department at (507)537-7000.

In Minnesota, convicted sex offenders must register with the Minnesota Bureau of Criminal Apprehension Sex Offender Registration Unit. You can link to this information, which appears on Minnesota Bureau of Criminal Apprehension Sex Offender Registration Unit website, by accessing website at <https://por.state.mn.us/>.

## Safety Tips

### On Campus

- Don't walk/jog/run alone, especially at night. If you do not have someone with whom to walk, contact the SMSU Safety Escort.
- Choose well-lighted paths and avoid shortcuts. If you see an area light out, please report it to the Physical Plant (507-537-7854).
- Be Aware! Keep your head up and do not wear headsets that impair your ability to detect & respond to dangerous situations.
- If you believe someone is following you, occasionally look behind you. Immediately head for the nearest lighted building or group of people.
- Don't give your name or your telephone number to strangers.
- If you carry cash, don't flash it. The same goes for ATM's. Use extra caution when using an ATM by checking the surroundings for suspicious persons.

## **In the Residence Halls**

- Never loan or give your room key to anyone.
- Don't block open residence hall doors! You never know who may enter. It is dangerous to you and everyone else in the building.
- Don't leave your room or go to sleep with your door unlocked.
- If you live on the ground floor of the residence hall, lock your windows when you leave.
- If you are on an elevator with someone who makes you feel uncomfortable, exit as soon as possible. Don't take any unnecessary risks.
- Be careful when you use the bathroom or visit the lounge late at night, and always lock your doors.
- Discuss these safety tips with your roommate to establish consistent safety practices.
- Report the loss of your keys or access card immediately. SMSU Public Safety (507-537-7252) has a lost and found; the keys or other property may be here.
- If you believe safety is being compromised in your building, tell your RA or Residence Life coordinator.

## **Bikes**

- Use bike racks on campus. They are safer because they are lighted and in plain view.
- Bikes locked to trees may be impounded by the SMSU public Safety.
- Record the serial number and a physical description (make, model, and color) of the bike. Keep the sales receipt.
- Always lock up your bike. Even if it is inside a building, lock up the room that contains it. Never secure your bike to objects like a chain-link fence; they can easily be cut.



- Get a high-quality lock and use more than one lock to secure components. If you have a quick-release front tire or seat, lock it or take it with you.
- Lights, bags and cycling computers are easy to steal, so consider removing them when not in use.
- Ride smart and safely. Use signals, be aware of car doors and remember to announce yourself to pedestrians on campus and in the surrounding neighborhoods.

## **Parking Lots and Vehicle Security**

- When approaching your parked car, have your keys ready. Check the interior of your car making sure no one is inside your car before you enter.
- As soon as you are inside your car, lock all your doors.
- Anticipate when you will return to your car - if it is after dark, park beneath a light.
- NEVER DRINK AND DRIVE!
- Always Lock! If it is easy for you to get in, it will be easy for others too.
- Windows should always be rolled up completely.
- A car in well-lighted and traveled area is difficult and risky to steal.
- Mark all stereos or other car accessories with an identifying number. If they are stolen, their description and identifying number can be loaded into the National Criminal Information Computer available to police departments all over the United States.
- Don't leave valuable items in view. Put bags and boxes in the trunk and use a stereo with a removable faceplate. Don't ever leave a cell phone out!

## **Protect your dorm or apartment**

- Lock your door – even if you are only going out for a short time. It only takes 8 seconds to walk into an open room and steal your valuables.
- Always lock your door and windows when you are asleep. You are also encouraged to lock your door and windows when you are awake.
- Do not prop open locked exterior building doors. These doors are locked for your protection and protection of other residents.
- Never open exterior doors of the building for strangers or non-residents. Always escort your guests to and from the main entrance doors.
- Do not loan your keys or Student ID card swipe to anyone – even a classmate or friend. They may not be careful with them and may misplace them, giving the wrong person access.
- Do not put your name or address on key rings as they may be used to steal your property if found by the wrong person.
- Smoke detectors are provided in each housing unit for your safety. AT NO TIME SHOULD THEY BE DISCONNECTED OR REMOVED (or a fee may be imposed).

## **Cybersecurity**

- Never give your password to anyone.
- Change your password frequently.
- Do not allow others access to your email account.
- Be wary of anonymous "re-mailers."
- Never leave your computer/laptop unattended.
- Shop online only with companies that you know; check with the Better Business Bureau if unsure.
- Update your virus software regularly, or when new versions are available.
- Do not download files sent to you by strangers or click on hyperlinks from people you don't know.
- Make certain that all your personal information is deleted from your computer prior to disposing of it.

## Help Us Protect You

Watch for suspicious persons in and around college buildings and in parking lots. Do not pursue them. Call 911 first and then SMSU Public Safety.

### 1. Suspicious activity:

- (a) If you see any suspicious activity or people on or near campus, call law enforcement. Do not assume that what you observe is an innocent activity or that it has already been reported.
- (b) Do not assume the person is a visitor or college staff member that you have not seen before.

### 2. Suspicious people may be:

- (a) Loitering about at unusual hours and locations; running, especially if something of value is being carried.
- (b) Exhibiting unusual mental or physical symptoms. Person(s) could be under the influence of drugs or otherwise needing medical or psychiatric assistance.
- (c) Carrying property that might be suspicious, depending on the circumstances, going from room to room trying door handles.

Report all thefts and property loss immediately to Public Safety

# Southwest Minnesota State University

## Annual Fire Safety Report



*Figure 3 Picture of a wall mounted fire alarm*

The Higher Education Opportunity Act (HEOA) was signed into law in August 2008 and contains several crucial campus safety components. One of the main provisions of the HEOA is the Campus Fire Safety Right-to-Know Act. This provision calls for all Title IV eligible institutions that participate in Title IV programs and maintain on-campus student housing facilities to publish an annual fire safety report that outlines fire safety systems, policies, practices, and statistics. The following report discloses all information required by HEOA as it relates to Southwest Minnesota State University.

SMSU is committed to fire safety and fire protection standards. To report a fire, call SMSU Public Safety at 537-537-7252. If you have questions about fire protection requirements or wish to have an inspection made by someone, call the Environmental Health & Safety Officer at 507 -537-6470.

The State Fire Marshal's Office is the authority having jurisdiction on campus and will make periodic inspections of university buildings. The University Environmental Health & Safety Officer conducts fire and life safety inspections of all University buildings at a minimum of once annually. Correcting the conditions found in these inspections is a cooperative effort of the building occupants and the Physical Plant skilled trades unit.

All SMSU Employees and Students are given information on fire safety information and general fire safety tips annually. Students living in Residence Life facilities receive information and training on fire safety as well as information on Department of Residence Life policies and procedures. Residence Life at a minimum conduct at least 2 fire drills per academic year. Resident Assistants attend a fire and life safety training that involves fire prevention, evacuation, fire hazards, educational content for residents and fire extinguisher operation. SMSU is designated as a No Smoking campus; therefore, smoking is prohibited in all buildings (including residences).

Members of the campus community are encouraged to report all fires and fire safety hazards to at least one of the following individuals: Hall Director, Resident Assistant, Director of Housing, Director of Public Safety or the Environmental Health and Safety officer.

## **Fire Evacuation Procedures, Fire Alarms, and Fire Safety Equipment for All facilities including Student Housing**

### Fire Safety Precautions:

To ensure proper fire safety precautions, the following items are subject to immediate removal or correction by the Physical Plant personnel, Public Safety, and Residence Life staff members.

1. Any items located within a stairwell or stair enclosure.
2. Any items that restrict the width or any portion of an exit, hallways, aisle or corridor to less than 44 inches.
3. No aisle, exit access, or stairway in a place of occupancy shall be obstructed with items.
4. Any items that obstruct fire emergency equipment (fire alarm pull stations, fire extinguishers and exit signs).
5. Any items that are determined to be an immediate fire or life safety hazard.
6. Any devices that are restricting fire doors between houses/floors from operating.
7. All exit doors shall be operable.
8. Fire doors separating stairwells from hallways, or smoke partition doors are to be equipped with self-closing mechanisms or automatic release hold-open devices and must be maintained in working order. They are never to be blocked, wedged or tied open.

9. Storage or use of compressed gas cylinders.
10. Bicycles and gasoline-operated vehicles are not permitted in hallways, stairwells, or on sidewalks immediately next to exits.

#### Fire Escape Plans:

It is important that you as an individual develop your own personal fire escape plan. You can develop a fire escape plan by considering the following:

- Check out the possible exits to the building, your room/apartment unit is equipped with a floor map outlining the nearest exits.
- Walk down the corridor and find the fire exits. Remember; never use an elevator in a fire as the call buttons may take you to a floor filled with smoke or flames.
- Count the doorways and any other features between your room and the exits. If the corridor is dark and full of smoke, you will need to know your way as you crawl along the wall to the exit.
- Make sure that your smoke detector works in your room and ensure that during fire alarm testing that you can hear the fire alarm in your room.
- Students with special needs will meet with their RA/CA within the first two weeks of arrival to complete and Individual Action Plan (IAP) that addresses evacuation issues during emergencies.

#### Fire:

If you see or smell smoke or fire, pull the nearest fire alarm to alert others, evacuate the facility, dial 911 and exit. (If you can, tell an RA or other University Officials immediately that you have seen smoke or fire and its location.)

#### Fire Alarms and Possible Fires:

Fire drills, are mandated by Minnesota State System Office and State law, will be conducted each semester to insure your familiarity with the sound of the alarms and your evacuation options. Whenever the fire alarm sounds, Residence Life staff and Public Safety will ensure that the affected building(s) are evacuated in every instance. To ensure your safety, you should do the following IMMEDIATELY upon hearing an alarm signal.

1. Secure the windows and turn out the lights in the room. It is important that you close but do not lock your room door. Leaving your room unlocked.
2. Evacuate IMMEDIATELY through the nearest exit door and stand at least 50 feet away from the building. You may be required to move to the official campus evacuations points, which are usually the nearest parking lot.
3. Provide assistance to people on your floor who may need help leaving the hall and bang on doors as you pass them (do not put yourself into danger, though).
4. Assume that any evacuation is a fire situation. Make sure you wear hard-soled shoes and carry a towel to protect your hair and to provide some form of filter for your breathing.
5. Once you exit you must remain outside the building until you are told to re-enter by a Residence Life staff member or city fire official.
6. Clearance to return into the building will not be given until the building has been completely evacuated. Silencing of the alarm is NOT an all - clear sign.

*Important Note: It is unlawful to fail to evacuate during a fire alarm. Any such refusal or failure to evacuate will result in some disciplinary action. For everyone's safety, you must evacuate every time you hear an alarm as quickly as possible.*

# On-Campus Student Housing Fire Safety Systems

## Evacuation for People with Disabilities

The most important factor in emergency planning for people with disabilities is advanced planning.

If the situation is life threatening call the police/fire departments immediately (911).

- Check on people with special needs during an evacuation. A buddy system, where people with disabilities arrange for volunteers to alert them and assist them in an emergency is a good method.
- Always ask someone with a disability how you can help before attempting any rescue technique or providing assistance. Ask how he or she can best be assisted or moved and whether there are any special considerations or items that need to come with the person.
- If you are unable to evacuate a disabled person, contact law enforcement or fire personnel and be able to provide them with the person's location that needs assistance in evacuating
- Students should inform faculty members of their special needs regarding evacuation, especially prior to an emergency or disaster.

### **Response to emergencies (blindness and visual impairment)**

○ Offer to lead them out of the building to safety.

○ Give verbal instructions about the safest route or direction using compass directions, estimate distances, and directional terms.

○ Do not grasp a visually impaired person's arm. Ask if he or she would like to hold onto your arm as you exit, especially if there is debris or a crowd.

### **Response to emergencies (deafness or hearing loss)**

O Get the attention of a person with a hearing disability by touch and eye contact. Clearly state the problem. Gestures and pointing are helpful, but be prepared to write a brief statement if the person does not seem to understand.

O Offer visual instructions to advise of safest route or direction by pointing toward exits or evacuation maps.

### **Response to emergencies (mobility impairment)**

O It may be necessary to clear the exit route of debris (if possible) so that the person with a disability can move out or to a safer area. If people with mobility impairments cannot exit, they should move to a safer area for example: Most enclosed stairwells, an office with the door closed, which is a good distance from the hazard

O Notify police or fire personnel immediately about any people remaining in the building and their locations.

O Police or fire personnel will decide whether people are safe where they are and will evacuate them as necessary.

If people are in immediate danger and cannot be moved to a safer area to wait for assistance, it may be necessary to evacuate them using an evacuation chair or a carry technique.

## **In the event of a fire**

### **If you are trapped inside your room**

- Feel your room door with the palm of your hand. If the door or knob is hot do not open it. If the door is not hot, open slowly and be ready to slam it shut if necessary.
- Check the hallway. If everything is clear, walk to the nearest exist. If there is any smoke in the corridor, crawl into the hallway. Go to the nearest exits. If it is blocked, then use the alternative one. Remember, do not use an elevator.
- Walk down to the ground level. Do not panic.
- If your room door is hot or smoke is dense in the hall, open the window to vent room if here is any smoke. If you are on the first or second floor you may be able to drop to ground safely. If you are on a higher level, you are usually better off staying put.
- Let someone know you are in your room. If the phone works, call for help. Dial 911. Hang a bed sheet out the window to signal firefighters.
- If you are able to place wet towels and sheets around your door, do so immediately.
- Get fresh air by making a tent over your head with a blanket at a slightly opened window to get fresh air. If the windows do not open, you may have to break one out with a chair or drawer.
- Finally, as a last resort, if your room becomes untenable, you may be forced to make for the best exit. Remember to keep low.

### **If your clothes catch on fire**

Stop. Do Not Run. Drop to the ground or floor immediately and cover your face with your hands. Roll over back and forth to smother the flames.

### **Once you have evacuated the area**

Notify civil authorities of anyone that may not be able to physically respond to the fire alarm or use sound judgment to evacuate the area. Do not reenter the building until you are told to do so by civil authorities.

### **Fire Drills**

Fire drills are used to familiarize residents with building's alarms system, emergency exits that may not normally be used, and the procedures for contacting the fire departments. All residents must evacuate when the fire alarm is activated. Residential Life conducts fire drills twice a year and your cooperation and support are essential during all fires.

### **Fire Incident Reporting**

Students, faculty and staff are instructed to call 911 to report a fire emergency.

Non-emergency notifications (e.g., evidence that something burned) are made to University Public Safety 507-537-7252 for the purpose of including them in the annual Security and Fire Safety Report.

## **Fire Statistics**

Institutions must maintain a fire log that reflects the nature of the fire, date, time and general location of each fire in on-campus student housing facilities. Southwest Minnesota State University complies with this rule by including all fire-related incidents in the Daily Fire Log. The University Public Safety office maintains a Fire Log of all incidents reported. This log includes the incident type, date incident is reported, date and time of occurrence, general location of each reported incident type and the disposition of the incident if that information is known. University Public safety posts specific incidents in the Fire Log within two (2) business days of receiving a report of an incident and reserves the right to exclude reports from a log in certain circumstances as permitted by law. The most current (up to 60 days) of information is available in the Office of Public Safety in the basement of Founders Hall.

SMSU has adopted and developed numerous safety policies and guidelines to help promote a safe living and working environment at the University. These guidelines and other fire safety information can be accessed at <http://www.smsu.edu/campuslife/publicsafety/heoa-compliance.html>

Additional protection is provided by University Public Safety Officers who are trained for initial response to fire incidents occurring at university facilities. Officers provide assistance in building evacuation and extinguishment / confinement of small fires. In addition, laboratory safety and evacuation plans are also part of the Environmental Health and Safety (EHS) mission. EHS is dedicated to maintaining the safety of our community by conducting annual inspections, plan reviews, and ensuring evacuation plans are in all laboratories on campus.



## Statistics and Related Information Regarding Fires in the Residential Facilities

SMSU Residential Hall	Year	Total Fires Each Year	Date of Fire	Number of Injuries That Required Medical	Number of Deaths Related to Fire	Value of Property Damage Caused By Fire
HA Complex	2022	0	N/A	0	0	N/A
	2021	0	N/A	0	0	N/A
	2020	0	N/A	0	0	N/A
G Complex	2022	0	N/A	0	0	N/A
	2021	0	N/A	0	0	N/A
	2020	0	N/A	0	0	N/A
GM Complex	2022	0	N/A	0	0	N/A
	2021	0	N/A	0	0	N/A
	2020	0	N/A	0	0	N/A
HB Complex	2022	0	N/A	0	0	N/A
	2021	0	N/A	0	0	N/A
	2020	0	N/A	0	0	N/A
HC Complex	2022	0	N/A	0	0	N/A
	2021	0	N/A	0	0	N/A
	2020	0	N/A	0	0	N/A
Sweetland Hall	2022	0	N/A	0	0	N/A
	2021	0	N/A	0	0	N/A
	2020	0	N/A	0	0	N/A
Foundation Residence Apartments	2022	0	N/A	0	0	N/A
	2021	0	N/A	0	0	N/A
	2020	0	N/A	0	0	N/A

## Description of On-Campus Student Housing Fire Safety Systems Residence Halls/Apartments

Description of On-Campus Student Housing Facility Fire Safety

Southwest Minnesota State University Residential Facilities	Fire Alarm Monitoring Done on Site (by Public Safety)	Full Sprinkler System	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans & Placecards	Number of evacuations *fire) drills each calendar year

HA Complex	X		X	X	X	2
G Complex	X		X	X	X	2
GW Complex	X		X	X	X	2
GM Complex	X		X	X	X	2
HB Complex	X		X	X	X	2
HC Complex	X		X	X	X	2
Sweetland Hall	X	X	X	X	X	2
Foundation Res. Apt	X	X	X	X	X	2

\*Full sprinkler system includes common areas and individual rooms.

\*\*These halls are currently offline.

## Fire Safety Education and Training Programs for Students and Staff

The University Health and Safety officer, in coordination with Residence Life and University Public Safety, provides annual training to Resident Assistants (RA), Community Assistants and Residence Life Coordinators.

Topics addressed during this training include: Fire Prevention in the residence hall, what to do in the event of a fire and how to report a fire or other emergency.

Resident Assistants coordinate additional fire safety training and education programs for residence hall students. Other general safety and fire safety information is available to students, faculty and staff on the Emergency website at <http://www.smsu.edu/campuslife/publicsafety/emergencies.html>

### Inspections and Prohibited Items

You have the right to privacy and the security of your room. Through the possession of master and sub-master keys, residence life staff, general maintenance workers, and other authorized University officials, have access to residence hall rooms. Use of these keys may be necessary when:

1. An emergency or student's health/welfare dictate necessity, e.g., a fire alarm, unconsciousness, the smell of or sight of smoke/something burning, welfare check (student has not been heard or seen in an extended amount of time), etc.
2. Repairs in the room have been requested or are necessary (electrical, plumbing issues, etc.)

3. Semester or holiday break room checks are made to ensure that all required items have been completed prior to break (lights off, thermostat down, refrigerator off and emptied etc.)
4. A staff member has reason to believe that a university code of conduct, Federal, State or City ordinance is being violated. An intrusion search of your room may be performed without you being present. If you do not give consent your room will be sealed and a search warrant may be obtained. During this time, you will not be allowed to access your room for any reason.
5. A civil authority presents a valid search warrant.

In addition to the above 5 reasons, indicated above, authorized University staff may enter your room for health and sanitation reasons. Rooms kept in an extreme unsanitary condition constitute a health hazard. If such conditions exist, you will be given 24 hours to clean the premises or face paying the cost of professional cleaning and or removal from the residence halls.

In addition, each room will be examined for the presence of prohibited items (e.g., sources of open flames, such as candles; non- surge protected extension cords; halogen lamps; portable cooking appliances in non-kitchen areas; etc.) or prohibited activity (e.g., smoking in the room; tampering with life safety equipment; possession of pets; etc.). This inspection will also include a general assessment of food and waste storage and cleanliness of the room. Prohibited items will be immediately disabled with a locking device or confiscated and donated/discarded if found, without reimbursement.

The Higher Education Opportunity Act (HEOA) was signed into law in August 2008 and contains several crucial campus safety components. One of the main provisions of the HEOA is the Campus Fire Safety Right-to-Know Act. This provision calls for all Title IV eligible

institutions that participate in Title IV programs and maintain on-campus student housing facilities to publish an annual fire safety report that outlines fires safety systems, policies, practices, and statistics. The following report discloses all information required by HEOA as it relates to (Southwest Minnesota State University).

## **Description of On-campus Student Housing Fire Safety Systems**

### **Fire Safety Policies:**

For your own safety and the safety of others, residents are expected to maintain their rooms in an orderly manner at all times in compliance with the following fire regulations:

#### **Prohibited:**

1. Unattended cooking is not allowed in rooms or kitchens.
2. Use of open flame cooking devices or hot plates are not allowed in rooms.
3. Microwave ovens, popcorn poppers, toasters, coffee pots or other such devices should not be used under lofts and/or near flammable materials.

4. Light bulbs should be used in approved lamps or holders and be of proper wattage for the device; excessive wattage may result in a fire.
5. Light fixtures must not be tampered with in any way, and items which might serve as conductors of electricity should not be hung from them.
6. Room doors must be able to fully open and be self-closing. Room doors must be closed when the room is left unattended or the residents of the room are sleeping. Closet doors may not be removed.
7. An emergency aisle of at least 22 inches must be maintained within the room.
8. When arranging furniture, consideration must be taken so that if tipped over, items do not block the door.
9. Kitchen doors must not be propped open.
10. Use power strips/surge protectors with breakers instead of octopus plugs or extension cords. Multi plugs or extension cords are not allowed.
11. Power strips/surge protectors must be unplugged after use and should not be placed under carpet or attached to, woven through or touching metal in any manner.
12. Students are responsible for notifying a Residential Life staff immediately after identifying problems with smoke detectors.
13. Anyone caught tampering with smoke detectors or fire alarms may face criminal charges.
14. Portable heaters are prohibited in student rooms/apartments.
15. Motorbikes or other motorized vehicles may not be stored in students' rooms or in any residential community.
16. Excessive use of paper on walls is not permitted.
17. Wastebaskets are provided in students' rooms. Garbage receptacles should not be taken from other areas of the hall into students' rooms.
18. Highly combustible materials such as propane, gas, lighter fluid, helium, grills, charcoal and firewood are prohibited.

### **Candles**

Candles may not be burned in any residential areas, including student rooms, due to potential fire hazards. New/unburned candles are permitted for decorative purposes only.

### **Burning of Incense, Sage, Sweet Grass, or Cedar**

Incense, sage, sweet grass, cedar, hookahs and similar items are not allowed to be burned in residential communities. An exception for the sole purpose of religious ceremony may be granted with prior approval from your Residence Hall Director within three working days. All requests must be in writing, and student should expect a written response within one business day.

Fire Safety Education:

## **Fire Drills**

As required by state law, a fire drill is scheduled for each semester. These fire drills are unannounced to provide a realistic practice situation. Failure to evacuate during a fire drill or false alarm could result in prosecution. Failure to evacuate will also subject a student to Residential Life disciplinary procedures.

## **Fire Safety Equipment**

Fire extinguishers are located throughout each building for the protection of the residents. Misuse of fire extinguishers including breaking or smashing the fire extinguisher glass will result in disciplinary action by the Department of Residential Life and/or referral to appropriate authorities. State law requires Southwest Minnesota State University to provide smoke detectors and smoke alarms in each residence hall room/apartment. It is a misdemeanor punishable by 90 days in jail and/or \$300 to either remove the batteries or alarm from its location. While this represents a violation of state law, it also poses a threat to the safety of students living in the residential community and will be considered a violation of the Student Code of Conduct. Most rooms also have a sprinkler system that will automatically turn on in case of fire. The system will continue to operate until turned off by campus personnel or the fire department. This system can be accidentally activated when hit by an object; therefore, take proper precautions not to accidentally bump the system. There must be at least a 36-inch radius around the sprinkler, with no objects placed on or near it. Students will be held financially responsible for costs associated with damage to the sprinkler system. Vandalism/damages may result in disciplinary action including possible suspension and/or removal from the Residential Life program (as well as restitution).

### Evacuation Procedures:

Emergency evacuation routes and severe weather locations are posted in all buildings on each floor throughout campus. Residential Life staff provides fire emergency procedures in The Department of Residential Life Student Handbook.

### **If you hear an alarm:**

1. Close windows, open curtains, and turn on lights.
2. Check for heat on door and then open slowly and check for smoke.
3. If smoke is thick and/or fire is present, remain in your room with the door closed. Block air vents and door crack with towel or clothing. Call the Public Safety Security Department at 507-7252 and identify yourself and your location.
4. If smoke is absent, exit the building using the nearest exit. Close and lock your door when you leave.
5. Stand away from the building and do not re-enter until the all-clear is given by Residential Life staff, Southwest Minnesota State University Public Safety Security staff or civil authorities.

### **If you see fire:**

1. Pull alarm in hallways
2. Call 911

3. Exit the building. Evacuation procedures are posted in each building

Regardless of 911 reports, all fires that occur on Southwest Minnesota State University campus property should be reported to the Southwest Minnesota State University Public Safety Security Department.

Institutions must maintain a fire log that reflects the nature of the fire, date, time and general location of each fire in on-campus student housing facilities. Southwest Minnesota State University complies with this rule by including all fire related incidents in the Daily Fire Log. Southwest Minnesota State University Public Safety Security office maintains a Fire Log of all incidents reported.

This log includes the incident type, date incident is reported, date and time of occurrence, general location of each reported incident type and the disposition of the incident if that information is known. University Public safety posts specific incidents in the Fire Log within two 2) business days of receiving a report of an incident and reserves the right to exclude reports from a log in certain circumstances as permitted by law. The most current (up to 60 days) of information is available in the Office of Public Safety (Security) in Founders Hall.

Plans for Future Improvements in Fire Safety SMSU continues to monitor trends related to residence hall fire incidents and alarms to provide a fire safe living environment for all students. New programs and policies are developed as needed to help ensure the safety of all students, faculty and staff. There are no plans within the next year to upgrade any of the residential facilities fire safety systems or procedures.

# WELCOME TO SOUTHWEST MINNESOTA STATE UNIVERSITY



*Figure 4 Picture of the Student Center of Southwest Minnesota State University*

Campus Map

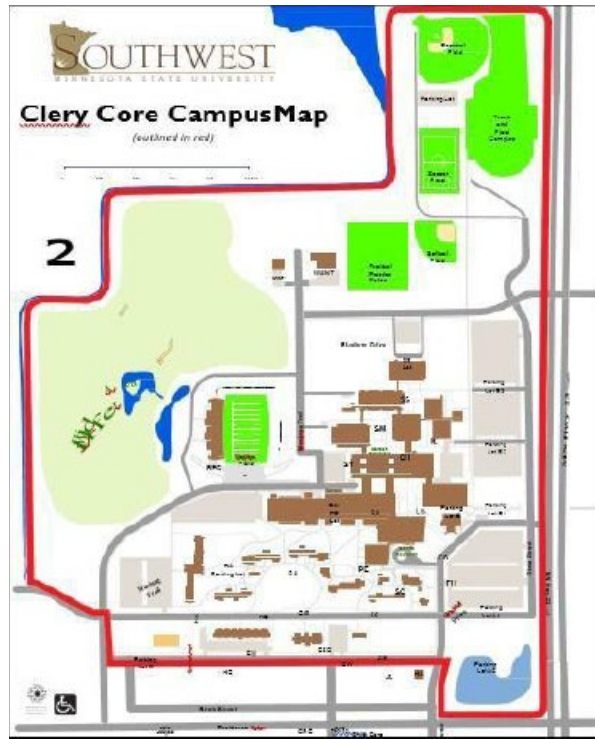


Figure 5 Clery Core Campus Map