

Alpena Community College

RIGHTS AND OPTIONS

WHAT EVERY STUDENT SHOULD KNOW ABOUT SEXUAL
HARASSMENT, SEXUAL VIOLENCE, DATING VIOLENCE,
DOMESTIC VIOLENCE, AND STALKING

ALPENA

COMMUNITY COLLEGE

665 Johnson Street, Alpena, MI 49707 • 989-356-9021
5800 Skeel Ave., Oscoda, MI 48750 • 989-739-1445
1-888-468-6222 • www.alpenacc.edu

Alpena Community College is committed to creating and sustaining an educational and working environment free of sexual harassment, sexual violence, dating violence, domestic violence, and stalking, collectively called "Sexual Misconduct." The Board of Trustees Policy 7009 provides comprehensive information on rights of students, employees and others and the procedures followed by the College with regard to sexual misconduct. In addition, the brochure entitled "Prevention and Awareness of Sexual Misconduct – Know Your Rights. Protect Yourself" contains important information, tips and resources. A copy is provided with this Notice. Additional Copies are available through the Department of Human Resources, the Office of Academic and Student Affairs and the College website.

Your safety and well-being is the College's priority. This publication is intended to help you understand your rights and options, as well as provide you with information regarding support and assistance.

REPORTING OPTIONS

- If you are a victim of Sexual Misconduct, you have the right to report the incident or not report the incident. Students should report the incident to the Dean of Students or other official designated by College Policy.
- Even if you do not want to initiate a complaint, we encourage you to report the incident so you can get the support you need, and so the College can respond appropriately. If you don't make a report, the College's ability to take effective action in response to the incident may be limited.
- Sexual Violence is a crime and you have the right to report to law enforcement. If you need assistance in doing so, the College will provide it. Detailed contact information is contained in the accompanying brochure.
- As a student, if you are a witness to an act of Sexual Misconduct, you should report the incident to the Dean of Students or other official designated in the College Policy.

CONFIDENTIALITY

- The College has an obligation to respond to reports of Sexual Misconduct, even if the individual making the report requests that no action be taken. Therefore, the College cannot promise that information you provide to ACC can be kept confidential. However, the Dean of Students will provide you with information regarding available resources in the community where a student wishing to confidentially disclose information may do so.
- The College will protect the privacy of information obtained to the extent it can do so without limiting its duties or the right of others.
- Any member of the ACC staff who is employed in the capacity of a licensed counselor or pastor is considered a "confidential resource" and is not required to disclose reports made to them. Individuals who consult with confidential resources will be advised that their discussions in these

settings are not considered reports of Sexual Misconduct and that ,without additional action by the individual, the discussions will not result in any action by the College to resolve their concerns.

PRESERVING EVIDENCE

- It is important to preserve evidence following an incident of Sexual Violence in order to protect your rights. To preserve evidence: (1) do not wash your face or hands; (2) do not shower or bathe; (3) do not brush your teeth; (4) do not change clothes or straighten up the area where the assault took place; (5) do not dispose of clothes or other items that were present during the assault, or use the restroom; and (6) seek a medical exam immediately. If you already cleaned up, you can still report the crime, as well as seek medical or counseling treatment. You may consult with the Title IX Coordinator or a local sexual assault victim resource center for assistance as well.
- You should also preserve any written or digital information, such as text messages, instant messages, social networking posts, other communication, logs or copies of documents that would be useful to investigators and police.
- Take photographs to preserve a visual record of important information and locations. Maintain a log of dates, times and other information.

ACCOMMODATIONS BY THE COLLEGE

A student who has experienced Sexual Misconduct has the right to request accommodations from the College. You should make the request of the Dean of Students or the Title IX Coordinator. The College will assist in making accommodations that are reasonably available. Depending on the circumstances, examples could include:

- Campus no-contact orders, which prevent any contact from the accused or others involved in the assault, including in-person, via electronic means, or through third parties.
- Changes to living situations, either temporarily or permanently.
- Changes to academic situations, for example to avoid sharing a class with the accused.
- Changes to working situations, for example to avoid working with the accused.
- Changes to transportation situations, for example to avoid traveling with the accused.
- Help with finding existing counseling, health, mental health, or victim advocacy services, legal assistance, visa and immigration assistance, and financial aid assistance.

INTERIM MEASURES

Once you report an incident of Sexual Misconduct, the College will assist you in providing interim measures, even before the investigation is complete. The College will take action to implement those protective measures that are appropriate and reasonably available as soon as possible.

Examples of interim protective measures include, but are not limited to: an order of no-contact, housing relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved.

Violations of the interim measures may lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by the College.

PERSONAL PROTECTION ORDERS (PPOs)

A Personal Protection Order (PPO) is an order of the Circuit Court that protects victims of sexual harassment or sexual violence or stalking (identified as "petitioners") by prohibiting their assailant (identified as "respondent") from certain behaviors, such as contacting the victim, assaulting, attacking, or beating the victim, and entering a victim's residence or workplace.

There are two types of PPOs, depending on the identity of the respondent.

- *A domestic relationship PPO* is available to protect a petitioner who is in a domestic relationship from domestic abuse (including stalking). Domestic relationship includes a dating relationship.
- *A non-domestic relationship PPO* is available to restrain anyone who (1) is engaging in stalking, aggravated stalking, or cyberbullying; (2) has been convicted of sexually assaulting the petitioner or of furnishing obscene material to the petitioner; or (3) has threatened the petitioner with, or subjected him or her to, a sexual assault. No particular relationship is required for a non-domestic PPO (i.e., the respondent might be a neighbor, coworker, or stranger).

To obtain a PPO in Alpena County, contact the Alpena County Circuit Court, 720 W. Chisholm Street, Suite 2, Alpena, Michigan; phone (989) 354-9573.

To obtain a PPO in Iosco County, contact the Iosco County Circuit Court, 422 W Lake Street, Tawas City, Michigan; phone (989) 846-6200.

There is no filing fee for PPOs; however, the cost of serving a copy of the PPO on the Respondent, which is the Petitioner's responsibility, may vary depending on who serves it.

INVESTIGATION BY THE COLLEGE

- When it receives a Complaint of Sexual Violence, the College will promptly conduct an adequate, reliable and impartial investigation by a trained person.
- You have the right to be notified of the timeframes for all major stages of the investigation. You have the right to present witnesses and evidence.
- Both the victim and the accused have the right to have an advisor of their choice in all meetings, if they wish. The College will set reasonable rules for participation by such advisors, which will apply equally to the accuser and the accused.
- The College will determine the complaint using a standard called “preponderance of the evidence”. This means that it is more likely than not that a violation occurred. It is a lesser burden of proof than the “beyond a reasonable doubt” standard used in criminal cases.
- Both the accuser and the accused have the right to be notified in writing, at the same time, of the outcome of the complaint.
- A student who reports an incident of Sexual Misconduct should not be required to "work it out" with the alleged perpetrator in mediation. Mediation is not appropriate in any case involving sexual violence.

REMEDIES

- If the investigation reveals that Sexual Misconduct occurred, appropriate remedies will be employed by the College with a view toward addressing and eliminating Sexual Violence and remedying its effects.
- Appropriate remedies may include disciplinary action against the perpetrator but may also include remedies to assist the victim. These remedies are in addition to any interim remedies.
- Examples of sanctions for violations of sexual harassment or sexual violence include, but are not limited to, disciplinary probation, suspension, permanent dismissal for students, and termination of employment for employees.

INTENTIONALLY FALSE REPORTS

Individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth are subject to disciplinary action. This provision does not apply to reports made in good faith.

COLLEGE POLICY ON RETALIATION

The College's Sexual Misconduct Policy prohibits retaliation against a person who reports sexual harassment or sexual violence, assists someone with a report of sexual harassment or sexual violence, or participates in any manner in an investigation or resolution of a sexual harassment or sexual violence report. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.

ALCOHOL POLICY VIOLATIONS

The College recognizes that a student who experienced or witnessed an assault may be reluctant to report the incident if the student was engaged in a violation of the College's alcohol policy. The College considers reporting assaults to be of paramount importance. Depending on the circumstances, the College will attempt to resolve the alcohol violation through education and counseling, if possible.

FOR ADDITIONAL HELP OR INFORMATION

The contact information for the College's Title IX Coordinator and Dean of Students/Deputy Coordinator are listed below. They are available to assist you in notifying the police, if you wish, as well as help you understand your right to file a criminal complaint, the College's complaint and investigation process, and your right to receive assistance with that process, how confidentiality is handled, available resources, both on and off campus, and other related matters.

Carolyn Daoust, Director of Human Resources & Title IX Coordinator

Office: Van Lare Hall Room 102

Phone: 989-358-7211

Nancy Seguin, Dean of Students & Deputy Title IX Coordinator

Office: Van Lare Hall Room 108

Phone: 989-358-7212

HUSH Phone: 989-358-7442

DEFINITIONS

Consent —The affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Consent must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with a person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

Although the term "consent" is not defined by Michigan statute, the Michigan Court of Appeals has held that a willing, noncoerced act of sexual intercourse between persons of sufficient age who are neither mentally defective, or incapacitated nor physically helpless is not criminal sexual conduct. See *People v Jansson*, 116 Mich App 674, 682 (1982). In addition, MCL 750.520i provides that a victim need not resist the actor in prosecutions under Michigan's criminal sexual conduct statutes.

Dating Violence —The term "dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition —

- (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- (B) Dating violence does not include acts covered under the definition of domestic violence.

The term "dating violence" is not defined by Michigan law, but the Michigan Domestic and Sexual Violence Prevention and Treatment Board defines "dating violence" as a pattern of assaultive and controlling behaviors that one person uses against another in order to gain or maintain power and control in the relationship. The abuser intentionally behaves in ways that cause fear, degradation and humiliation to control the other person. Forms of abuse can be physical, sexual, emotional and psychological.

Domestic Violence —The term "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 who is cohabitating with or has cohabitated.

In Michigan, MCL 400.1501 and MCL 768.27b each define domestic violence as "the occurrence of any of the following acts by a person that is not an act of self-defense: (i) causing or attempting to cause physical or mental harm to a family or household member; (ii) placing a family or household member in fear of physical or mental harm; (iii) causing or attempting to cause a family or household member to engage in involuntary sexual

activity by force, threat of force, or duress; (iv) engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested."

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.

Incest — Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Rape — The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Sexual Assault — An offense that meets the definition of rape, fondling, incest, or statutory rape under the uniform crime reporting (UCR) system of the Federal Bureau of Investigation (FBI).

In Michigan, this type of conduct is generally punished by the detailed statutory scheme of the Criminal Sexual Conduct Act (CSC Act), MCL 750.520a *et seq.* The term "sexual assault" is defined as assault with intent to commit criminal sexual conduct. Further, "sexual assault" is also defined as an act, attempted act, or conspiracy to engage in an act of criminal conduct as defined in the CSC Act, or an offense under a law of the United States, another state, or a foreign country or tribal or military law that is substantially similar to such an offense. See MCL 600.2157a; MCL 600.2950a.

Stalking — The term "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 purposes of this definition,

- (A) *Course of conduct* means two or more acts, including, but not limited to, acts in 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.
- (B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- (C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

In Michigan, stalking is "the willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested." MCL 750.411h(1)(d).

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

Contacts and Resources

Police

- Michigan State Police – Alpena.....989-354-4101
- Alpena City Police989-354-1800
- Alpena County Sheriff s Office989-354-9830
- Oscoda Township Police.....989-739-9113
- Iosco County Sheriff s Office989-362-6164

Emergencies: Dial 911

Hospitals

Alpena Regional Medical Center

1501 West Chisholm Street, Alpena, MI

Main Switchboard.....989-356-7390

Emergency Room989-356-7252

Tawas St. Joseph Hospital

200 Hemlock Street, Tawas City, MI989-362-3411

Community Agencies

- Hope Shores Alliance of Alpena.....989-356-2560
- Hope Shores Alliance of Oscoda.....989-739-0144
- Hope Shores Alliance Toll-Free800-396-9129
- Legal Services.....989-356-9081
- Department of Human Services989-354-7200
- Community Mental Health989-356-2161

Personal Protection Orders

- Alpena County Circuit Court.....989-354-9573
- Iosco County Circuit Court.....989-846-6200

Online Resources

- Michigan Coalition to End Domestic and Sexual Violence — www.mcedsv.org
- Sexual Assault and Rape Crisis — www.swop-mi.org/swop.rape.htm

Department of Human Services Resource Directory —
www.michigan.gov/domesticviolence