

CP 2-7 Relationship Violence, Stalking, Bystander, Harassment

COLLEGE POLICY: CP 2-7

APPROVED: August 28, 2001

EFFECTIVE: August 28, 2001

REVISED: February, 2021 **REFERENCES:** BP 2-7

Dawson Community College commits to a learning and working environment that emphasizes the dignity and worth of every member of its community. DCC prohibits unlawful discrimination in employment and all education programs and activities on the basis of race, color, national origin, age, physical or mental disability, marital status, sex, gender identity, gender expression, sexual orientation, creed, religion, and political beliefs. An inclusive environment is necessary to have a healthy and productive College community. The College will take appropriate action to prevent, resolve, and remediate protected-class harm.

As a category of unlawful discrimination, Title IX of the Education Amendments of 1972 requires DCC to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. DCC also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the College. Federal and state law and regulations regard sexual harassment as an unlawful discriminatory practice. Specifically, sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination which are prohibited under Title IX and by this policy. Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities, and/or benefits of any member of the DCC community on the basis of sex/gender, gender identity, gender expression, and sexual orientation is in violation of this policy.

Dawson Community College is committed to maintaining an environment for employees and students free of unwanted objectionable and disrespectful conduct and communication of a sexual nature, especially when such conduct adversely affects a staff member's employment and a student's learning experience.

This Policy governs the conduct of all students, employees, volunteers, guests, and third parties whose actions impact the College's educational and working environment. This Policy applies to all locations of the College, College-sponsored programs, services, and activities, and incidents occurring off-campus which affect the College environment or mission.

Dawson Community College complies with the 2020 U.S. Department of Education's Office of Civil Rights (OCR) Title IX Regulations, which prohibit discrimination on the basis of sex in any educational programs or activities by recipients of federal financial assistance, including DCC. Inquiries concerning Title IX may be directed to the Title IX Coordinator or to the U.S. Department of Education, Office of Civil Rights.

DCC encourages prompt reporting of conduct that may violate this policy.

Definitions

DCC adopts the following definitions, and, in doing so, intends to incorporate by reference the definitions contained in state and federal law and regulations.

Bystander intervention

Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. The College may provide training for individuals in bystander intervention and will assist and provide supportive and protective measures to individuals who attempt to intervene as bystanders in preventing or responding to prohibited conduct. The college wants all bystanders to be sure that they take their safety into account before responding.

Below is a list of some ways to be an active bystander. If you or someone else is in immediate danger, dial 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 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 for support in health, counseling, or with legal assistance.²

Consent

“Consent” means knowingly and voluntarily, by freely giving clear permission by word or overt action, to have sexual intercourse or sexual contact. If coercion, intimidation, threats, or physical force are used, expressed, or implied, or there is duress or deception, there is no consent. 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 or being asleep or unconscious. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing or future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent. Consent can also be withdrawn once given as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease immediately. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent

for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Dating Violence, Domestic Violence, Sexual assault, and Stalking as those offenses are defined in the Clery Act, 20 U.S.C. § 12291(a) and Montana Code Annotated 45-5-501 through 511:

- a. ***Dating Violence***: Violence, on the basis of sex, committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant;
 - The existence of such a relationship shall be 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 dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

- b. ***Domestic Violence***: A Felony or misdemeanor crime 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 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 in which the crime of violence occurred.

- c. ***Sexual Assault***: Sexual acts directed against another person (Complainant) without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - 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.
 - Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim.
 - Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

- d. **Stalking:** Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition:
- 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.
 - Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Discrimination

Discrimination is conduct based upon an individual's race, color, religion, national origin, creed, sex, gender, gender expression, gender identity, sexual orientation, age, political beliefs, marital or family status, pregnancy, physical or mental disability, genetic information ("protected classes") that:

1. Adversely affects a term or condition of an individual's education, employment, living environment, or participation in a College activity; or
2. Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a College activity; or
3. Constitutes harassment, as defined below, by unreasonably interfering with an individual's employment, educational performance, on-campus living environment, or participation in a College program or activity.

Discrimination includes failing to provide reasonable accommodation to persons with disabilities as defined by the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act of 1973.

The College incorporates by reference state and federal laws and regulations, and the interpretations of those laws and regulations by the courts and administrative agencies.

Force and Coercion

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g. "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.") Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in sexual

activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Threats, whether or not a person has the intention of carrying out a threat, are a serious matter with possible criminal implications.

Harassment

The College prohibits two forms of harassment as defined below: (1) Discriminatory Harassment, and (2) Sexual Harassment.

1. Discriminatory Harassment: Unwanted conduct that is based on an individual's protected class status that has the purpose or effect of unreasonably interfering with a reasonable person's participation in a College Program or Activity. In determining the severity, pervasiveness, and objective offensiveness of the conduct, the following factors will be considered:
 - a. The identity of the parties, the nature of the parties' relationship, and the influence of that relationship on the complainant's employment or education;
 - b. The nature, scope, frequency, and duration of the conduct; and
 - c. The degree to which the conduct affected the Complainant's education or employment.

2. Sexual Harassment: Unwanted conduct that affects a student or employee that is based on/motivated by sex, gender identity, gender expression, or sexual orientation, and meets the elements of quid pro quo conduct, hostile environment sexual harassment, sexual assault, domestic violence, dating violence, stalking, or sexual exploitation, as defined herein.

Hostile Environment Sexual Harassment

Unwelcome conduct determined by a reasonable person to be so severe and pervasive and objectively offensive that it effectively denies a person to DCC's programs, services, and activities.

Prevention Programs

Programs the College may offer and provide that are calculated to prevent sexual harassment, dating violence, domestic violence, sexual assault, and stalking include comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end such conduct. Programs to prevent dating violence, domestic violence, sexual assault, stalking, and sexual harassment include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees. Such programs endeavor to:

A. Be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and

B. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

Quid pro quo Sexual Harassment

A DCC employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct.

Retaliation means any adverse action (including efforts to intimidate, threaten, coerce, or discriminate, and any adverse employment or educational action) that would discourage a reasonable person from engaging in activity protected under this policy, against any individual for the purpose of interfering with any right or privilege secured by this policy, or because the individual has served as an intervening bystander, made a report or complaint, responded to a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and accompanying Discrimination Grievance Procedure.

Sexual Exploitation is any instance in which a person takes non-consensual or abusive sexual advantage of another for any person's benefit other than the person being exploited. Sexual exploitation is conduct that falls within other categories of sexual harassment but is identified separately for clarity. Examples of behavior that could constitute sexual exploitation include but are not limited to:

- i. Prostituting another person;
- ii. Non-consensual visual (video, photograph, snap chat) or audio-recording or sexual activity;
- iii. Non-consensual distribution of photos, images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
- iv. Going beyond the bounds of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- v. Inducing incapacitation for sexual purposes
- vi. Engaging in non-consensual voyeurism;
- vii. Knowingly transmitting an STI, such as HIV, to another without disclosing your STI status;
- viii. Exposing one's genitals in non-consensual circumstances, or inducing another to expose their genitals; or
- ix. Possessing, distributing, viewing, or forcing others to view illegal pornography.

Prohibited Conduct

The following conduct is prohibited:

- Discrimination
- Discriminatory Harassment
- Sexual Harassment, which includes quid pro quo harassment, hostile environment harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation.
- Retaliation

Complaint Advice, Reporting, and Grievance Process

DCC encourages prompt reporting of conduct that may violate this policy. Employees or students seeking advice or wishing to file a report of prohibited conduct or a grievance related to or arising out of prohibited conduct are to contact the Title IX Coordinator.¹

Reports and Inquiries may be made to:

Title IX Coordinator/Equal Employment Officer
Leslie Weldon
Vice President of Human Resources
300 College Drive
Glendive, MT 59330
lweldon@dawson.edu
(406) 377-9412.

Any individual (student, third party) may report prohibited conduct to the Title IX Coordinator. Upon receipt of a report of prohibited conduct, the Title IX Coordinator will promptly reach out to the identified Complainant to offer supportive and protective measures, consider the Complainant's wishes with respect to those measures, inform the Complainant of the availability of supportive or protective measures with or without the filing of a Formal Complaint, and meet to assess jurisdiction and discuss potential resolution options, including the process for filing a Formal Complaint. A report of prohibited conduct does not automatically trigger a grievance procedure, informal resolution process, or formal complaint process. The Title IX Coordinator determines whether there is jurisdiction to adjudicate a report. Individuals should not avoid reporting prohibited conduct on jurisdictional grounds or wait to report ongoing conduct until it becomes sufficiently serious to constitute a policy violation. The Title IX Coordinator may be able to provide advice, take non-punitive preventive measures, and creatively address conflict in the interest of maintaining a safe and equitable campus environment.

Mandatory Reporting: All College employees must, within 24 hours of receiving the information, report to the Title IX Coordinator information they have about discrimination

¹ A report of prohibited conduct by or against the Title IX Coordinator should be filed with the President of the College.

based on sex and sexual harassment involving students or employees. Employees cannot conduct their own investigations or engage in fact-finding. Counselors, ministers, and health care providers are exempt from this mandatory reporting requirement and must follow their own ethical and legal requirements for addressing such information.

Dawson Community College has an accompanying Discrimination Grievance Procedure which will be followed in addressing and resolving complaints and reports. It also describes possible sanctions and corrective actions that can be imposed.

Some forms of conduct contemplated by this policy may also constitute crimes and the College strongly encourages individuals to make reports to law enforcement. The Title IX Coordinator can assist in reporting to law enforcement.

Particular conduct reported under this policy may trigger the obligation of the College to make a timely warning notification in accordance with the Clery Act. Specifically, the College must issue timely warnings for incidents reported that pose a serious or continuing threat of bodily harm or danger to members of the campus community. The College will undertake efforts to ensure that names and other personally identifiable information is not released, while providing sufficient information to members of the campus community to make informed decisions consistent with the circumstances.

Supportive and Protective Measures

Supportive and protective measures are non-disciplinary, non-punitive individualized services and tools offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent before, during, or after the filing of a formal complaint or report. These measures are designed to restore or preserve equal access to the College's programs and activities without unreasonably burdening the other party, and includes measures designed to protect the safety of all parties, the College's campus environment, or prevent or deter potential prohibited conduct.

Supportive and protective measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, safety planning, referrals to on and off-campus services, trainings, mutual restrictions on contact, and other similar measures.

Supportive and protective measures may also be provided to bystanders who intervened in preventing prohibited conduct.

Discipline

Disciplinary action will be taken when instances of sexual harassment are identified and confirmed and result in a finding of probable cause. Retaliation against persons who file

complaints is a violation of laws prohibiting discrimination and a violation of this policy and will result in disciplinary action against offenders. Possible sanctions are described in the accompanying Discrimination Grievance Procedure.

If the College determines that a student poses an immediate threat to the physical health or safety of any student or other individual, it may remove such student from the College in accordance with the student code of conduct. The College may also place employees on leave or suspension in accordance with collective bargaining agreements and other policies and handbooks during the pendency of any investigation and/or grievance proceeding.

Miscellaneous

DCC students and employees are required to be aware of this policy and abide by it.

If laws or regulations change or court decisions alter the requirements of this Policy, this policy will be construed to comply with the most recent laws, regulations, and holdings. This policy does not create legally enforceable protections beyond the protection of the state and federal laws which frame this policy.

Inquiries may be made externally to:

Office for Civil Rights, Seattle Office
U.S. Department of Education
915 Second Ave., Room 3310
Seattle, WA 98174-1099
Tel: (206)607-1600
Fax: (206)607-1647
TDD: (206)607-1647
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

SCOPE These procedures apply to Dawson Community College.

PROCEDURES	The College President shall promulgate such procedures as may be needed to implement this policy.
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History: