

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

COLLEGE POLICY: CP 2-7

APPROVED: August 28, 2001

EFFECTIVE: August 28, 2001

REVISED: December 11, 2020

REFERENCES: BP 2-7

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 is imposed by one on another and adversely affects a staff member's employment and a student's learning experience. Further, Dawson Community College prohibits the crimes of domestic violence, dating violence, sexual assault, and stalking as defined below.

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

Definitions

DCC has adopted the following definitions for the purposes of this policy:

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim

i. 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.

ii. 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

Domestic Violence: A Felony or misdemeanor crime of violence committed—

A. By a current or former spouse or intimate partner of the victim;

B. By a person with whom the victim shares a child in common;

C. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;

D. 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

E. 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.

Sexual Assault: 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: 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, 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 of marriage, is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

A. Fear for the person’s safety or the safety of others; or

B. Suffer substantial emotional distress.

For the purposes of this definition—

A. 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.

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.

Institutional Definition of Consent

“Consent” means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used, 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. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. 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. The institutional definition stated above reflects compliance with Montana State Law 45-5-501 Definitions.

Procedures

DCC has procedures in place that serve to be sensitive to individuals who report sexual assault, domestic violence, dating violence, and stalking. These include informing individuals about their right to file criminal charges as well as the availability of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services on and/or off campus. There are additional remedies to prevent contact between a complainant and an accused party, such as changes to housing, academic, protective orders, transportation and working situations, if reasonably available. The College will make such accommodations or protective measures, if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to the police.

If domestic violence, dating violence, sexual assault or stalking is reported to the college, the procedures below will be followed:

1. The college will contact the victim and provide a written explanation of rights and options
2. As needed, the college will aid victim in obtaining medical care
3. The college will assess immediate safety needs
4. The college will assist a victim, if requested, with contacting police and will provide the contact information for the police department
5. The college will provide information on how to preserve evidence
6. The college will provide referrals to on- and off-campus mental health providers
7. The college will assess need to implement interim or long-term protective measures or accommodations if appropriate
8. If deemed appropriate, the college will provide a campus “no contact” directive to involved parties. A “no contact” serves as a warning that any contact between parties can be grounds for a student conduct proceeding
9. If deemed appropriate, the college will provide a “no trespass” to the responding party, limiting access to campus property
10. The college will provide written instructions on how to apply for a court ordered Protective Order
11. The college will provide a copy of its Sexual Misconduct Policy and Procedures and will inform parties about timeframes for inquiry, investigation and resolution
12. If a campus formal investigation is initiated by the Title IX Coordinator, the college will inform both parties that the standard of review is the preponderance of evidence, and of the outcome of the investigation. DCC will follow their Title IX Process Overview for a Title IX Report or a Title IX Formal Complaint.
13. The college 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

Other Forms of Harassment

Threats, whether or not a person has the intention of carrying out a threat, are a serious matter with possible criminal implications. Employees or students seeking advice on or wishing to file a grievance related to alleged harassment are to contact the Title IX Coordinator.

Disciplinary action will take when instances of sexual harassment are identified and confirmed, filed and result in a finding of probable cause. Retaliation against persons who file complaints is a violation of

laws prohibiting discrimination and will result in disciplinary action against offenders. A copy of the campus policy dealing with sexual harassment is available in the Human Resources Office or upon request from the Student Services Office. DCC students and employees are required to be aware of the above expectations and responsibilities and that they will always abide by those realistic standards of achievement and citizenship that are conducive to self-growth and to the well-being of the college community.

Prevention

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.

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.”¹ We want to promote 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 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, 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

Prevention Programs

DCC offers programs to prevent dating violence, domestic violence, stalking and sexual assault. These programs are comprehensive, intentional, and integrated, including, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking. The programs:

- A. Are 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. Programs to prevent dating violence, domestic violence, sexual assault, and stalking 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.

References

¹ Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles*, 60, 779-792.

² Bystander intervention strategies adapted from Stanford University's Office of Sexual Assault & Relationship Abuse.

SCOPE These procedures apply to Dawson Community College.

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

History: