



Annual Security and Fire Safety Report for Calendar Year 2019

Published November 18, 2020

Table of Contents

Welcome Letter	2
Clery Act and Violence Against Women Reauthorization Act Compliance.....	2
Office of Student Life.....	3
Access to Campus and Buildings.....	4
Criminal Activity Off Campus.....	4
Emergency Response and Evacuation	5
Emergency Response Plan	5
Environmental Security Inspections	5
Evacuations.....	6
Missing Students.....	6
Registered Sex Offenders	7
Reporting a Crime	7
Timely Warning.....	12
Alcohol Policy.....	12
Drug Policy.....	14
Disciplinary Proceedings.....	17
Amnesty Policy	18
Reporting of Crime Statistics	19
Disclosures to Alleged Victims of Crimes of Violence or Non-forcible Sex Offenses.....	23
Crime Statistics	23
Hate Crimes	24
Unfounded Crimes.....	24
Crime Prevention	25
Sex and Gender-based Misconduct Policy Statement.....	25
Immediate Assistance and Resources	26
Confidential Resources	27
Non-Confidential Reporting.....	28
Sex and Gender-Based Misconduct Investigation Process	37
Fire Safety Report	60

Dear Dakota Wesleyan University Community,

Dakota Wesleyan University is committed to providing a safe learning, working and residential environment for students, faculty, staff and visitors. To that end and in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), we offer this report. This report also offers a good faith effort to comply with requirements of the Violence Against Women Reauthorization Act of 2019 (VAWA). VAWA has amended the Clery Act to require institutions to compile statistics, policies, procedures and programs for incidents of domestic violence, dating violence, sexual assault and stalking.

We urge members of the campus community to use this report as a guide for safe practices on and off campus. This report is sent via email to enrolled students and current employees on an annual basis to notify them that the report is available for view. The email includes a brief summary of the contents of this report and the web address where the report can be found online at www.dwu.edu/student-life/campus-safety. A copy of the report can also be obtained from:

Director of Student Life
Dakota Wesleyan University
1200 W University Ave.
Mitchell, SD 57301
605-995-2160

We encourage you to read this information and consider how it can help you and the DWU community to prevent and protect yourself against crime. Thank you for taking the time to review this information and for helping to make Dakota Wesleyan University a safer community.

Sincerely,

John Kippes
Director of Student Life
Title IX Coordinator
Dakota Wesleyan University
1200 W University Ave.
Mitchell, SD 57301
605-995-2160

Clery Act and Violence Against Women Reauthorization Act Compliance

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 USC 1092(f), is the landmark federal law, originally known as the Campus Security Act, that requires colleges and universities across the United States to disclose information about crimes on and around their campuses. The Violence Against Women Reauthorization Action, or VAWA (2014), has amended the Clery Act to require institutions compile statistics, policies, procedures and programs for incidents of domestic violence, dating violence, sexual assault and stalking.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statics Act requires colleges and universities to:

1. Publish an annual report by October 1 that contains three years of campus crime and fire statistics and certain campus security policy statements.
2. Disclose crime statistics for the campus, public areas immediately adjacent to or running through the campus, and certain non-campus facilities and remote classrooms. The statistics must be gathered from campus security, local law enforcement, resident assistants (RA), resident directors (RD) and other Dakota Wesleyan University faculty/staff that have “significant responsibility for student and campus activities.”
3. Provide TIMELY WARNING NOTICES of crimes that have occurred on campus or in the local community and pose an ongoing “threat to students and employees.”
4. Disclose in a public crime log “any crime that occurred on campus or within the jurisdiction of campus security department and is reported to the security department.”
5. Disclose in a fire log “that records by date reported all fires in on-campus student housing facilities.”

The Dakota Wesleyan University Annual Security Report specifically follows the required Policy Statements and elements listed below:

This Dakota Wesleyan University Annual Security and Fire Safety Report is published in compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (“Clery Act”), and *Violence Against Women Act (VAWA)*. This report includes statistics for the previous three years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by Dakota Wesleyan University; and on public property within, or immediately adjacent to and accessible from, university property. The report also includes institutional policies on campus security policies concerning alcohol and drug use, crime prevention, the reporting of crimes and other matters.

The DWU Office of Student Life is responsible for the annual security and fire safety report, timely warnings, and the crime and fire logs. The Annual Campus Security and Fire Safety Report is prepared in cooperation with local law enforcement agencies in Mitchell and the Office of Student Life. Campus crime, arrest and referral statistics include those reported to the DWU Office of Student Life, campus officials, RAs, RDs and local law enforcement agencies. The Annual Security and Safety Report is compiled and submitted by the Director of Student Life. For more information, contact the Director at 605-995-2160.

Office of Student Life

The Office of Student Life strives to provide a safe and secure learning, working and residential environment for students, staff and faculty. This office is dedicated to enhancing the quality of life for our community through policy enforcement, education and a team approach to creative problem solving. The office is also committed to honesty, integrity and professionalism. They value and treat every person with respect and compassion. They work in tandem with the members of our community to make DWU a safe and secure place for all of us to work, learn and live.

Law Enforcement Relationships and Jurisdiction

The Mitchell Police Department serves as the law enforcement for Dakota Wesleyan University. DWU residence life staff will work with the MPD and individuals reporting a crime or policy violation to obtain information and evidence, identify potential witnesses and conduct a thorough investigation in an effort to identify the responsible party. When appropriate, suspects may be adjudicated through the student conduct system or criminal justice system. DWU is not required to keep and post a daily crime log, as there is no campus police force. The Mitchell Police Department has a record of all crimes, and records can be requested from them through the Freedom of Information Act.

An escort service is provided by DWU safety staff and residential life on-call staff for the safety of anyone walking on campus. By calling 605-770-1593, an escort can be summoned to the location.

Safety Staff Responsibilities:

- Monitoring and securing all campus-owned buildings, parking areas and walkways
- General safety escort service when requested
- Campus crime deterrence through random walk-throughs of University property
- Enforcement of University policies
- Documentation of policy violation
- Cooperation with Residence Life staff in promoting a safe and secure environment
- Parking regulation

Safety staff work evenings during the school year, and MPD officers patrol the DWU community as part of their duty coverage. During business hours, the director of student life addresses safety and security concerns. During patrols of the campus grounds, safety staff will secure all buildings and other structures to prevent theft, loss and vandalism. Safety staff also enforce DWU's administrative policies and rules, violations of the Student Handbook and other University policies. Although the above listed rules and administrative regulations include offenses that also violate local, state and federal laws, DWU safety officers have no authority to enforce such laws and have no powers of arrest.

Members of the Office of Public Safety team have an excellent working relationship with the local, county and state law enforcement offices. Whenever needed on campus, local law enforcement officers have been quick to respond and have handled situations in a professional and understanding manner.

Officers document all their activities and patrols in a Daily Patrol Log. Officers are also required to report any incidents on an Incident Report to be submitted to the Director of Public Safety. These incidents range from injury to vandalism, weather, traffic, lost and found items, criminal violations and other matters. Incident Reports are to be submitted before the end of the officer's shift, unless there are extenuating circumstances.

Access to Campus and Buildings

Access to campus buildings and grounds is a privilege extended to students, faculty, staff and authorized guests. DWU encourages an open environment with limited constraints to ensure a reasonable flow with the local community. Except for residence halls, most campus facilities are open during weekday business hours during the school year. Access to some areas within the campus facilities and after-hours access to many of the academic and administrative facilities is by key and/or a fob access control system. Individuals who wish to access buildings during non-business hours or for special events should contact the appropriate department head, DWU Office of Student Life or DWU Physical Plant.

Dakota Wesleyan University residence halls are designed to promote a safe and secure living environment for all residents. Residence halls are secured on a full-time basis and all exterior doors are kept in a locked position. Resident students are issued an exterior door key and/or another access control device. These are issued individually and are all uniquely numbered. Each resident is also issued an individual door key to their specific residence hall room. There are Resident Assistants on every floor of all the residence halls.

Resident Assistants are a valuable and energetic part of our residence hall supervision and security. Resident Assistants patrol the halls and at least one RA is on duty every night. Cameras are also utilized as part of the overall security system. Cameras are located at every entrance and exit within the residence halls. These are monitored by members of the DWU Residence Life team. See the University's Security Camera Policy for additional information.

The Physical Plant office maintains the University's academic, administrative and residential buildings and the grounds with a concern for safety and security.

Roof Access

Students and non-authorized employees are strictly prohibited from going onto the roofs of residence halls or any other University building; objects (bikes, chairs, etc.) may not be put on roofs. Students who allow others to access the roof from their room will also be held accountable. The University assumes no financial or legal responsibility for injury due to this prohibited act.

Criminal Activity Off Campus

When a Dakota Wesleyan University student is involved in an off-campus offense, Residence Life staff may assist with the investigation in cooperation with local, state or federal law enforcement. Local law enforcement routinely work and communicate with DWU on any serious incidents occurring on campus or in the immediate neighborhood and business areas surrounding campus. DWU enjoys a close working relationship with local law enforcement when violations of federal, state or local laws surface. This cooperative team approach addresses criminal situations as they arise, as well as future concerns.

Emergency Response and Evacuation

Reporting Emergencies

Any individual on the Dakota Wesleyan University campus who feels unsafe, threatened, afraid or stalked should immediately call 911, which will link them directly to the Mitchell Police Department. If the situation allows, and danger is not imminent, individuals should call the MPD's non-emergency number at 605-995-8400 or the residence life on-call line at 605-770-1593.

Emergency Notifications

Dakota Wesleyan University has always recognized the need to be prepared for critical incidents and emergency situations. These situations can come in many forms ranging from weather emergencies to epidemics and acts of violence. The University works continuously to strengthen its capacity to prevent, prepare for, respond to and recover from emergency type situations.

Notifications are made through a variety of different means including, but not limited to, phone, email, text, word of mouth, mass notification system, the University website, social media and regional media outlets.

The President (or her designee), along with members of the President's Council, will determine how, when and whether an emergency notification needs to be made. A determination will also be made as to whom the notification will be sent. Once a determination has been made, a notification will be sent without delay.

Any major evacuation plan that would involve moving large groups of the campus community around on campus (or, if necessary, off campus) would be a decision made by the President (or her designee) and members of the President's Council in accordance with the University's Emergency Response Plan.

Notifications are also posted on the University website and social media accounts. Messages will be urgent and of emergency nature only.

Emergency Response Plan

The Clery Act requires the College to have and disclose emergency response and evacuation procedures in place in case of significant emergencies or dangerous situations involving an immediate threat to the health or safety of students, employees or visitors occurring on its campus. The University's Emergency Response Plan provides important information in the event of an emergency or the occurrence of a natural disaster within the general area of the campus that impacts academic or other operations. The basic emergency procedures contained in the Emergency Response Plan are designed to protect lives and property through effective use of University and community resources.

At the beginning of each academic year, the Office of the President sends students, faculty and staff an email reminding them to review the Emergency Response Plan.

Environmental Security Inspections

Dakota Wesleyan University strives to maintain a safe and secure working and learning environment. Ongoing checks are made by Public Safety officers, as well as select employees from Student Life and the Physical Plant, and other concerned areas to routinely examine select campus areas for safety and security issues.

Evacuations

Before an emergency, determine the nearest exit at your location, the safest route to follow, and alternate exits. Evacuation routes are posted in campus buildings. Leave the immediate area, but remain available to emergency or security personnel. If time permits during an evacuation, secure your workplace and take personal items such as your keys, purse, medication and glasses. In case of a fire or other dangerous conditions, evacuate immediately leaving personal items behind.

When evacuating a building, remember the following general guidelines: walk, do not run; do not use elevators; when safety allows, seek out people with special needs and provide assistance; gather outside at designated building assembly areas; and wait for instructions from campus officials or emergency personnel.

In the event of an immediate, life-threatening emergency during which the campus must be evacuated, the Office of the President, in collaboration with local emergency personnel, will discuss information about the location and route with civil authorities. Once determined, emergency personnel will discuss information about the evacuation location and route. Campus and community communication systems will be used to provide information about this type of evacuation. Information about food, water, first aid and shelter and other needed information will be discussed in accordance with the Emergency Response Plan and additional information will be provided at evacuation sites.

Missing Students

Any student residing in a Dakota Wesleyan University residence hall who is determined to be missing for more than 24 hours must be reported immediately to one of the following:

1. Residence Life staff
2. Office of Student Life (605-995-2160)
3. Any other designated Support Staff

Reports made to Residence Life staff will be forwarded to the Office of Student Life. A determination will be made at that time if the student is indeed missing and, if so, an investigation will immediately begin to attempt to ascertain the whereabouts of the individual. Moreover, the appropriate law enforcement agency will be contacted and a cooperative effort will be made to find the student.

In addition to registering a general emergency contact, missing person contact information is collected by the Office of Residence Life on an annual basis at the time the resident students move into the residence halls. The contact information will be kept confidential and will be disclosed only to authorized campus officials and law enforcement in furtherance of a missing person investigation or other appropriate purpose. The confidential contact person will also be notified within 24 hours after the student is determined to be missing. If a student is under the age of 18, Dakota Wesleyan University is required to notify a custodial parent or guardian within 24 hours of when the student is

determined to be missing.

In situations in which the student has failed to designate a contact for missing student notification, Student Life will continue to investigate utilizing established police investigative procedures, to include University resources and records. Family members, including those not formally identified by the student, may be contacted during the course of the investigation to resolve a report of a missing student.

Issuance of Amber Alert

Suzanne’s Law requires law enforcement to notify the National Crime Information Center (NCIC) when someone between the ages of 18 and 21 is reported missing, as part of the national “Amber Alert” bill.

Resolution of Missing Student Status

Missing student contacts will be advised of the resolution of a student’s missing status. These contacts will further be advised of law enforcement options in cases where the student is not contacted by the University.

Registered Sex Offenders

The State of South Dakota requires all persons convicted of a sexual offense to register with the South Dakota Sex Offender Registry. The state-wide sex offender registry is available on the Attorney General's Office and Division of Criminal Investigation web site. You can view the South Dakota Sex Offender registry at <http://sor.sd.gov>. Several national databases can also be searched using any internet search engine.

Reporting a Crime

By reporting alleged crimes and other suspicious circumstances, the alleged crime or suspicious circumstances will be included, if appropriate, in the Annual Security and Fire Safety Report. Additionally, if necessary, the University will be able to issue timely and appropriate warnings alerting the campus community to dangerous situations.

Accurate and Timely Reporting of Criminal Offenses

All students, employees and guests should immediately report any criminal incident/activity and any other emergency to the Mitchell Police Department by calling 911 or contacting law enforcement via the DWU Alert App. Public Safety will dispatch the proper authorities to the scene whether it be the police, medical personnel or fire department. After contacting 911, the DWU Office of Student Life should also be notified, at 605-995-2160. When a potentially dangerous threat to the College community arises involving a serious crime as defined by the Clery Act, a timely warning may be issued by the University to the community.

Assistance in Notifying Law Enforcement

If a student, employee or guest should need help in reporting a criminal incident/activity to the appropriate authorities, they may seek the assistance of the Office of Student Life. A member of the Office will relay the information provided to the Mitchell Police Department to dispatch the proper

authorities to respond to the incident.

Individuals on campus may also report crimes to a Responsible Employee. At Dakota Wesleyan University, Responsible Employees include any employee who has the authority to take action to redress violations or is someone a student could reasonably believe has this authority or responsibility.

These individuals have significant responsibility for student and campus activities, and as such are trained by Dakota Wesleyan University to report crimes to the Director of Student Life (Title IX Coordinator).

Exceptions to reporting crimes exist for registered nurses, licensed mental health counselors and members of the clergy who serve the University in that capacity.

For non-emergencies and incidents that are not criminal in nature, students, employees and guests should contact the Office of Student Life at the above listed number.

In cases where reports concern allegations that also constitute violation of College policy, such reports will be forwarded to the office of the Vice President for Student Affairs or the Director of Human Resources for appropriate action. Moreover, all reports involving sexual misconduct will be forwarded to the College Title IX/Section 504 Coordinator or Deputy Coordinators.

Voluntary, Anonymous Reporting

Dakota Wesleyan University encourages anyone who is the victim of a crime or witnesses any crime to promptly report the incident to the police or a Responsible Employee (*see Mandatory Crime Reports Policy*).

Individuals, however, may anonymously report crimes and/or violations of the University's administrative policies, procedures or rules. Students are often encouraged to anonymously report when reporting minor violations by other students. Confidentiality will be maintained. Anonymous reports may be filed pursuant to one of the following methods:

- Leave a private anonymous voice message for a Responsible Employee
- Mail an anonymous letter to a Responsible Employee
- Online Reporting tool on the DWU.edu website

This encouragement is done to maintain and enhance the safety and security of the entire Dakota Wesleyan University campus and the surrounding community. With such information, the College can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method or assailant, and alert the campus community to potential danger. With the exception of reports made to College counselors and pastors, reports filed in this manner are counted and disclosed in the annual crime statistics for the institution.

Anonymous Reporting to Law Enforcement: Any member of the Dakota Wesleyan University community who has experienced or witnessed an incident of Sex and Gender-Based Misconduct may also decide to report the alleged incident anonymously to law enforcement. Law enforcement will record the date and time of the alleged assault, the mode of operation of the assailant, and any description of the assailant given. If the assailant's name is reported, it will be recorded. In addition, law enforcement stores the information in the event a pattern of crimes by the assailant is detected. The purpose of an anonymous confidential report is to comply with the Reported Victim's wish to keep the

matter confidential, while taking steps to ensure the future safety of the Reported Victim and others. Anonymous reports to law enforcement do not relieve Responsible Employees of their reporting duties under Title IX. Anonymous and confidential reports are counted and disclosed in the annual crime statistics for the University.

Mandatory Crime Reporters

There are two federal laws that establish responsibilities for employees of colleges and universities to report certain types of crimes and incidents: the Clery Act and Title IX. Pursuant to these laws, certain employees at Dakota Wesleyan University are required to report applicable criminal incidents to the Office of Student Life and/or the College Title IX Coordinator or a Deputy Coordinator. In addition, University policy mandates that all employees, University volunteers and third party vendors report incidents of child abuse and neglect to the Office of the President. Moreover, South Dakota law requires certain employees to report incidents of child abuse and neglect to Child Protective Services. The guidelines below identify which employees are obligated to make a mandatory report to the appropriate University authority (and law enforcement, if applicable) and what types of crimes or incidents must be reported.

Clery Crime Reporting

The Clery Act requires colleges and universities receiving federal funds to report statistics concerning the occurrence of certain criminal offenses reported to the Office of Student Life or any official of the institution who is defined as a Responsible Employee. A Responsible Employee is any employee who has the authority to take action to redress violations of this policy or is someone a student could reasonably believe has this authority or responsibility.

These individuals are required to report incidents of a Clery crime occurring on campus or at a University sanctioned event to the DWU Office of Student Life for inclusion in the College's Annual Security and Fire Report prepared for the U.S. Department of Education. A detailed listing of the Clery Crimes that must be reported is set forth in the University's Crime and Fire Statistics Policy. Due to the law's complex reporting requirements, all positions at Dakota Wesleyan University are required to participate in a mandatory training session that explain their role and expectations so that the University can be in compliance with the Clery Act. These mandatory training sessions occur at least once a year and are conducted by the Title IX Coordinator in conjunction with the Provost. These trainings consist of the duties, responsibilities and reporting requirements of Responsible Employees.

Unfounded Crimes: An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situations where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore "unfounded." Only sworn or commissioned law enforcement personnel may "unfound" a crime report for purposes of reporting under this section. Therefore, as a private agency, Dakota Wesleyan University will disclose all crimes unless directed by law enforcement or sworn officers to not do so. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not "unfound" a crime report. During the current reporting year, none of the previously reported crimes were unfounded.

Sexual Misconduct Reporting

Under Title IX, a University is required to take immediate and corrective action if a Responsible Employee knew or, in the exercise of reasonable care, should have known about sexual or gender-

based harassment that creates a hostile environment.

The University requires that all Responsible Employees share a report of alleged sexual misconduct violations with the Title IX Coordinator so the University can respond appropriately to end the conduct, prevent its recurrence and remedy its affects. See the DWU Sex and Gender-Based Misconduct Policy for additional information.

Child Abuse and Neglect

The following groups must follow the child abuse and neglect policies:

- University employees.
- Key students, defined as those students who are in practicum involving protected persons or the medical field, student teachers, students working with minors under the age of eighteen and resident assistants.
- Student employees over the age of 18.
- Campus counselors and program leaders defined as those students, faculty, staff and volunteers who in the course and scope of their employment or service to Dakota Wesleyan University conduct activities at or on behalf of Dakota Wesleyan University and come in contact with minors under the age of eighteen.
- University volunteers and third-party vendors.

These employees, key students, student employees, campus counselors and program leaders, University volunteers and third-party vendors, have:

- A responsibility to ensure that they do not abuse or neglect children under the age of 18 engaged in a University activity or program;
- An affirmative duty to report knowledge or suspicion of child abuse or neglect, which according to South Dakota law is defined as a child:
 - Whose parent, guardian or custodian has abandoned the child or has subjected the child to mistreatment or abuse;
 - Who lacks proper parental care through the actions or omissions of the parent, guardian or custodian;
 - Whose environment is injurious to their welfare;
 - Whose parent, guardian or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care or any other care necessary for their health, guidance, or well-being; or
 - Who is homeless, without proper care, or not domiciled with their parent, guardian or custodian through no fault of his parent, guardian or custodian;
 - Who is threatened with substantial harm;
 - Who has sustained emotional harm or mental injury as indicated by an injury to their intellectual or psychological capacity evidenced by an observable and substantial impairment in his ability to function within their normal range of performance and behavior, with due regard to their culture;
 - Who is subject to sexual abuse, sexual molestation or sexual exploitation by their parent, guardian, custodian or any other person responsible for their care;
 - Who was subject to prenatal exposure to abusive use of alcohol, marijuana or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 3420B;
 - Whose parent, guardian or custodian knowingly exposes the child to an environment that is being used for the manufacture, use or distribution of methamphetamine or any other unlawfully manufactured controlled drug or substance.

- Freedom from retaliation if they report such cases in good faith; and
- A duty to comply with child protection investigations and all other provisions of law relating to child abuse and neglect.

Reporting Suspected Child Abuse and Neglect

Individuals over the age of 18 who witness or suspect an incident of child abuse or neglect on campus or at a Dakota Wesleyan University activity are obligated to make a report utilizing the following procedures: Under South Dakota Law (South Dakota Codified Laws, specifically Chapter 26-8A and 26-7A.), certain persons are required to directly report incidents or suspicions of child abuse or neglect to Child Protective Services (see contact information below) immediately after suspecting the abuse or neglect.

- Any person who has contact with a child through the performance of services in any school, whether accredited or unaccredited as a teacher, school nurse, school counselor, school official or administrator, or any person providing services pursuant to 13-27-3 shall notify the school principal or superintendent (at DWU, notify a member of the Department of Student Life) shall report the information in accordance with the provisions of 26-8A-8. Any person who knowingly and intentionally fails to make a report required is guilty of a Class 1 Misdemeanor.
- The reports required by 26-8A-3, 26-8A-6 and 26-8A-7 and by other sections of this chapter shall be made orally and immediately by telephone or otherwise to the State's Attorney of the county in which the child resides or is present, to the Department of Social Services, or to the law enforcement officers. The mandatory reporter who witnessed the disclosure or evidence of the abuse or neglect must be available to answer questions when the initial report is made pursuant to this section. The State's Attorney or the law enforcement officers, upon receiving a report shall immediately notify the Department of Social Services. Any person receiving a report of suspected child abuse or child neglect shall keep the report confidential as provided in 26-8A-13, except as otherwise provided in Chapter 26-7A or this chapter.
- Do not directly question or solicit information from the child. This responsibility lies with the Child Protective Services and, in certain circumstances, with law enforcement;
- University employees, volunteers, and agents must report the information to an immediate supervisor. Athletic staff must report the incident to the Director of Athletics. The supervisor should ensure that this event has been reported to their President's Council representative.

Davison County Social Services Office

116 E 11th Ave

Mitchell, South Dakota 57301

Phone: 605-995-8000

Hours: 8 a.m. to 5 p.m. – Monday through Friday

Failure to Report

Failure to report suspected child abuse or neglect may subject employees to disciplinary action. Such action would be determined by the appropriate Executive Vice President in consultation with the Director of Human Resources and carried out based on applicable disciplinary procedures.

Immunity

Pursuant to South Dakota statute, any individual reporting suspected child abuse or participating in a judicial proceeding resulting from such report is immune from any civil or criminal liability they otherwise might be imposed because of such actions when taken in good faith.

False Reports

A person who knowingly makes or causes another person to make a false report that alleges that any person has committed an act or omission that results in a child being an abused or a neglected child is guilty of a misdemeanor in the first degree.

Timely Warning

When DWU becomes aware of a phenomenon that in the judgment of the University constitutes an ongoing or possible criminal threat to the University community, a Timely Warning Notice will be issued. Depending on the particular circumstances, the warning will be disseminated by using one, or a combination of, the following: email, the DWU website, phone calls (phone tree), text messaging, and/or campus bulletin boards.

The President (or her designee), Provost, and Executive Vice President will analyze and evaluate relevant information and make a determination as to the issuance of a Timely Warning Notice. A two-prong test will be applied to determine on a case-by-case basis if a Timely Warning will be issued – Was the incident reported to the College or local law enforcement:

1. Identified as a Clery Act crime. (*see Clery Crime Definitions in the Reportable Crimes section on page 25*).
2. Does the crime pose a serious or continuing threat to students, faculty, staff or visitors?

Timely Warning Notices typically contain in the subject line the phrase “timely notification” or “crime alert” depending on the nature and severity of the threat. The body of each Timely Notice will include information regarding the Clery Act requirement; a short description of the crime or incident giving the time and date, location, reported offense, suspect description, weapon used (if any), suspect vehicle (if any) and method of operation used to facilitate the crime. The notice will also include personal safety information to aid members of the College community in protecting themselves from becoming victims of a similar crime and to promote overall safety for the College community.

Alcohol Policy

Pursuant to the Federal Drug-Free Schools and Communities Act Amendments of 1989, DWU has a drug and alcohol prevention program for its students and employees. The program includes an annual disclosure to each student and to all employees outlining the standard of conduct expected of students and employees in relationship to the possession, use or distribution of illicit drugs and alcohol on campus or as part of any College activity; a description of the applicable legal sanctions under local, state and federal law which may arise from the unlawful possession or distribution of illicit drugs; a description of the health risks associated with the use of illicit drugs; a description of the University’s Drug and Alcohol Abuse Prevention Program and a clear statement of the disciplinary sanctions which may be imposed upon students and employees for violations of the standard of conduct. The University’s program is reviewed biennially by the Office of Student Life in collaboration with Human Resources to determine effectiveness and to implement changes (if needed) to ensure that the College’s disciplinary sanctions (below) are consistently enforced. The University is subject to the laws of the State of South Dakota, those of Davison County and the City of Mitchell.

Consumption, purchasing, possession or transportation of any alcoholic beverages by people under

the age of 21 on University property or at any University sponsored activity is illegal and a violation of University Policy. It is also unlawful and a violation of University policy for any person to knowingly provide alcoholic beverages to anyone under the legal drinking age of 21. Students and employees are expected to obey the law and to take responsibility for their own conduct.

Consequences for Alcohol Policy Violations

Student Sanctions:

DWU understands that students occasionally use alcohol and/or other drugs and are concerned about the overall effects on each student. Every effort is made to assign sanctions which are designed to address the behaviors and to provide an educational component in order to help the student make more informed choices in the future. Successive violations may indicate an immediate concern or potential development of a long-range problem and, therefore, all alcohol/drug violations are viewed cumulatively throughout a student's academic career/enrollment at DWU instead of being confined to single semesters or academic years. If a student should receive a third alcohol/drug violation over the course of his or her career, he or she is subject to probation, removal from the residence halls, and/or suspension; to be assigned at the discretion of the director of residence life and director of student life. Sanctions for alcohol violations will be determined on a case-by-case basis. Social media websites displaying photos or videos of students consuming alcohol on campus will be considered a violation.

Legal Sanctions:

Students and employees found responsible for violating the University Alcohol Policy are subject to the jurisdiction of the city of Mitchell, Davison County and the state of South Dakota. Possible penalties: Underage purchase of alcohol or misrepresentation of age is subject to a fine of up to \$500 and three days in jail or probation. Purchase of alcohol for those underage is subject to a fine of up to \$500 and up to 10 days in jail. Public intoxication is subject to a fine of up to \$100 and up to 60 days in jail or completion of an alcohol education program or counseling. Driving under the influence of alcohol, or other drugs (includes DUI), depending on circumstances, is subject to incarceration of from 24 hours to 10 years, a fine of \$100 to \$5,000, and license suspension of from six months to life.

Alcohol: Health Risks

As students and employees make choices concerning the use of alcohol, it is important to consider the health risks associated with consumption. Alcohol is a depressant, although it may initially stimulate emotions. It slows heart rate and respiration and may cause intoxication, sedation, unconsciousness and death. Alcohol is generally metabolized at the rate of one drink per hour. Mixing alcohol with other drugs can be lethal. Food slows down the absorption of alcohol. Long term alcohol misuse can lead to liver disorders, heart disease, brain damage, sterility, and dependency.

Approximately 1 in 10 drinkers becomes an alcoholic; children of alcoholics are 3 to 4 times more likely to become alcoholics themselves. BAC (Blood Alcohol Concentration) is affected by the amount consumed, rate of drinking, size and gender of drinker, and tolerance. Alcohol impairs judgment, performance, memory, and motor skills. An impaired person is usually unable to recognize his/her own impairment. Tolerance, the need to use more of a substance to maintain the effectiveness of that substance, occurs with use over an extended period of time. Tolerance increases the risk of alcohol-related problems, including alcoholism and social problems.

Educational Resources and Treatment Options

There are a number of resources available on and off campus to provide alcohol education or assistance with alcohol concerns:

- The Residence Life Office, including the Resident Directors and Resident Assistants, are a valuable

resource and provide much of the alcohol education programming on campus.

- The Campus Counselor is available to address individual concerns, provide information about assessments and referrals for treatment off campus, and provide information and education about alcohol use.
- The Campus Nurse is available to assist individuals with situations involving alcohol that affect the physical well-being of a student.

Drug Policy

Drug-Free Schools and Community Act Compliance

In accordance with state and federal laws, it is illegal for students to possess, use or sell illegal drugs, as well as abuse or distribute prescription drugs. Prescription drugs are only legal if the individual possessing them is the patient to whom the medication is prescribed. Included in these categories are opiates, barbiturates, amphetamines, marijuana, hallucinogens, illegal steroids, date-rape drugs, and other illegal or prescription drugs. Not only is it unlawful, but the presence, use and abuse of these drugs within the College is contrary to the intellectual and educational purposes of the College. Possession of these substances may well be an indication that the student is not constructively engaged in academic or work-related endeavors, respectively.

Students: In accordance with state and federal laws, it is illegal for students and employees to possess, use or sell illegal drugs, as well as to abuse or distribute prescription drugs. Prescription drugs are only legal if the individual possessing them is the patient to whom the medication is prescribed. Included in these categories are opiates, barbiturates, amphetamines, marijuana, hallucinogens, illegal steroids, date-rape drugs, and other illegal or prescription drugs. Not only is it unlawful, but the presence, use, and abuse of these drugs within the University is contrary to the intellectual and educational purposes of the University. Possession of these substances may well be an indication that the student or employee is not constructively engaged in academic or work-related endeavors, respectively.

Students arrested for selling drugs or found to be in possession of significant quantities shall be subject to immediate suspension pending final disposition of the case in the University judicial process. If the student is subsequently found responsible by the University, she or he will be expelled from the University.

Use or abuse of illegal and controlled substances is a violation of University regulations. Students violating this policy should expect disciplinary action, which may include suspension from the University. Subsequent violations may result in suspension or expulsion.

The possession of paraphernalia, making no distinction between whether it has or has not been used for its intended purpose, is prohibited. Therefore, students should not possess hookahs, water pipes or bongs, pipes designed to smoke tobacco alternatives, or any other paraphernalia suspected or associated with drug use. Any items found will be confiscated and destroyed by the Residence Life Office.

Student Life staff members are available to provide referrals to students with concerns about alcohol or drug use. Referrals to on campus counseling services are available and a list of off campus

providers is also available. Students assume full financial responsibility for any off campus services.

Drug Use Consequences

Student Consequences:

As a drug free campus, DWU will take all drug offenses seriously. The use of drugs on campus will not be tolerated. Though each case will be heard individually, punitive or criminal action may be taken in any case of drug use, including immediate dismissal from campus.

Criminal Penalties for Psychoactive Drug Possession

Students and employees found responsible for violating the Dakota Wesleyan University Drug Use and Abuse Policy are also subject to the jurisdiction of the state of South Dakota and U.S. Federal Law Enforcement.

Penalties for the use and possession of illicit drugs, along with illegal use of prescription drugs, vary greatly. Possession of a larger amount of a drug will typically result in charges of distribution, leading to much stiffer penalties.

Under South Dakota state law, conviction for possession of a controlled substance (SDCL 22-42-5) is subject to, depending on the substance classification, up to 5 years imprisonment and/or a \$10,000 fine upon conviction. Sentences can be double for second or subsequent offenses. Manufacture, possession, or delivery with the intent to manufacture or deliver a controlled substance (SDCL 22-42-2, 3, 4) is subject to, depending on the substance classification and circumstances of the crime, up to 15 years imprisonment and/or a \$30,000 fine upon conviction. Sentences can be doubled for second or subsequent offenses. Prison terms result for convictions involving distribution of controlled substances to minors (SDCL 22-42-2) or within 1,000 feet of the University or other school (SDCL 22-42-19, 20). Federal sanctions for illegal possession of a controlled substance vary with the conviction, substance possessed, and the quantity of the substance. Penalties may have changed since the creation of this document.

In situations where drugs and/or drug paraphernalia, weapons, or other dangerous or potentially dangerous items are found in plain view, Residence Life staff may perform a room search within legal limits and/or contact the local police with relevant information.

If the University receives a report of a potential policy violation, particularly a violation of the University's drug, health and safety, and/or weapons and explosive materials policies, the Director of Student Life, Director of Human Resources or Provost or his/her designee may authorize a search in writing. The Director of Student Life and/or Director of Residence Life must be present at any such residence hall room search. Mitchell Police Department officers may be the officers conducting the room search.

Drug Use and Abuse: Health Risks

As students and employees make choices concerning the use and misuse of drugs and controlled substances, it is important to consider the health risks associated with consumption.

Cocaine and Crack are powerful central nervous system stimulants that constrict blood vessels, dilate pupils, increase blood pressure, and elevate heart rate. Cocaine use may induce restlessness, irritability, anxiety, paranoia, seizures, cardiac arrest, respiratory failure, and death. Cocaine is extremely addictive, both psychologically and physically. Great risks exist whether cocaine is ingested through inhalation (snorting), injection, or smoking. Compulsive cocaine use may develop even more rapidly if the substance

is smoked, and smoking crack cocaine can produce particularly aggressive paranoid behavior in users.

Date Rape Drugs (Rohypnol, rophies, roofies, GHB, Ketamine, etc.) may incapacitate a person, particularly when used with alcohol. Rohypnol and GHB (gammahydroxybutyrate) are characterized as “date rape” drugs because they incapacitate users, thereby increasing vulnerability to sexual assault and other crime. Sedation, relaxation, and amnesia are associated with Rohypnol use. Rohypnol may be psychologically and physically addictive and can cause death if mixed with alcohol or other depressants. GHB usage may result in coma and seizures and when combined with methamphetamine appears to cause an increased risk of seizure. Combining use with other drugs such as alcohol can result in nausea and difficulty in breathing. GHB may also produce withdrawal effects, including insomnia, anxiety, tremors, and sweating. Ketamine may induce feelings of near-death experiences.

Ecstasy (X, Adam, MDMA, XTC, etc.) has amphetamine-like and hallucinogenic properties. Its chemical structure is similar to other synthetic drugs known to cause brain damage. Ecstasy use may cause psychological difficulties including confusion, depression, sleep problems, drug craving, severe anxiety, paranoia, and even psychotic episodes. Similar difficulties may occur weeks after taking MDMA. Physical symptoms such as increases in heart rate and blood pressure may result from use of such substances. Other physical symptoms include muscle tension, blurred vision, nausea, rapid eye movement, and involuntary teeth clenching.

Hallucinogens (acid, PCP, LSD, psilocybin [mushrooms], dextromethorphan [dxin]) are among the most potent mood-changing chemicals and may produce unpredictable effects that may impair coordination, perception, and cognition. Some LSD users experience flashbacks, often without warning, without the user having taken the drug again. Violence, paranoia, delusions, hallucinations, convulsions, coma, cardiac arrest, and respiratory failure may result from hallucinogen use.

Marijuana (pot, grass, hash, cannabis sativa, etc.) may impair memory, attention, coordination, and learning. Short-term effects of smoking marijuana may include problems with memory, learning, distorted perception, difficulty in thinking and problem solving, loss of coordination, increased heart rate, anxiety, and panic attacks. Persons who smoke marijuana regularly may have many of the same respiratory problems as tobacco smokers, including daily cough and phlegm, chronic bronchitis, and more frequent chest colds. Because users of marijuana deeply inhale and hold marijuana smoke in their lungs, they incur a higher risk of getting lung cancer.

Narcotics (heroin, opium, morphine, codeine, pain medication [Demerol, Percodan, Lortab, etc.]) may produce temporary euphoria followed by depression, drowsiness, cognitive impairment, and vomiting. Narcotic use may cause convulsions, coma, and death. Tolerance and dependence tend to develop rapidly. Using contaminated syringes to inject drugs may result in contracting HIV and other infectious diseases such as hepatitis.

Nicotine (tobacco, cigarettes, cigars, chewing tobacco, nicotine chewing gum and patches) is highly addictive, and, according to the Surgeon General, is a major cause of stroke and is the third leading cause of death in the United States. Over time, higher levels of nicotine must be consumed to achieve the same effect. Nicotine consumption results in central nervous system sedation and after initial activation may cause drowsiness and depression. If women smoke tobacco and also take oral contraceptives, they are more prone to cardiovascular and cerebrovascular diseases than are other smokers. Pregnant women who smoke tobacco run an increased risk of having stillborn or premature infants or infants with low birth weight.

Sedative-hypnotics (depressants, Quaaludes, Valium, Xanax, etc.) depress central nervous, cardiovascular, and respiratory functions. Sedative-hypnotic use may lower blood pressure, slow reactions, and distort reality. Convulsions, coma, and death are outcomes associated with sedative-hypnotic use. Consuming sedative-hypnotics with alcohol is especially dangerous.

Steroids (anabolic-androgenic) may permanently damage liver, cardiovascular, and reproductive systems. Possible side effects include liver tumors, cancer, jaundice, fluid retention, and hypertension. In men, steroids may cause shrinking of testicles, reduced sperm count, infertility, baldness, breast development, and increased risk for prostate cancer. In women, steroid use may cause growth of facial hair, male-pattern baldness, menstrual changes, enlarged clitoris, and deepened voice.

Stimulants (amphetamine, methamphetamine, speed, crystal, crank, Ritalin, ephedra, caffeine, various over-the-counter stimulants and diet aids) are powerful central nervous system stimulants that may increase agitation, physical activity, and anxiety. Stimulants may decrease appetite, dilate pupils, and cause sleeplessness. Dizziness, high blood pressure, paranoia, mood disturbance, hallucination, dependence, convulsions, and death due to stroke or heart failure may also result from use.

Synthetic Drugs (spice, K2, bath salts, etc.) are synthetic substances produced in a laboratory. They are chemical cousins of other drugs. They are often found in retail stores and are marketed as “herbal incense,” “plant food” or “bath salts.” They generally come in small tea bag size packets and are labeled “not for human consumption” and are marketed as a “legal high.” These substances have been outlawed in South Dakota. These may cause agitation, extreme nervousness, hallucinations, seizures, paranoia, and violent behaviors which can be extremely dangerous to the person consuming them and to those around them. Suicide attempts are very common among people who consume these substances. Emergency treatment is critical if you suspect that someone has ingested them. The packaging should be taken to the emergency department if available.

Synthetic Opioids (such as Fentanyl) - Fentanyl is a powerful synthetic opioid analgesic that is similar to morphine but is 50 to 100 times more potent. It is a schedule II prescription drug, and it is typically used to treat patients with severe pain or to manage pain after surgery. It is also sometimes used to treat patients with chronic pain who are physically tolerant to other opioids. In its prescription form, fentanyl is known by such names as Actiq®, Duragesic®, and Sublimaze®. Street names for fentanyl or for fentanyl-laced heroin include Apache, China Girl, China White, Dance Fever, Friend, Goodfella, Jackpot, Murder 8, TNT, and Tango and Cash.

(Source: National Institute on Drug Abuse, National Institutes of Health, www.nida.nih.gov)

Disciplinary Proceedings

Disciplinary complaints are reviewed preliminarily by the Director of Residence Life to determine whether the complaint has merit and whether the alleged misconduct might result in suspension or expulsion from the University.

Following initial review and a determination that the complaint has merit, the appropriate Conduct Officer will issue a written notice to the accused student(s) or student organization (“student”) informing the student of the charges. The notice will state the time and date of the occurrence. Additionally, the Director of Residence Life will arrange a meeting with the student to discuss the case.

During the initial conference with the accused, the charges will be discussed with the student. In addition,

the Director of Residence Life will review the student's rights and responsibilities pursuant to the University's Disciplinary Process. If the student fails to attend the conference, the Director of Residence Life will refer the matter for resolution pursuant to the Provost.

If the student admits culpability during the conference, the Director of Residence Life will determine an appropriate sanction(s). If the sanction is accepted by the student, the matter is closed with no right of appeal. If the student rejects the sanction, but admits culpability, the student has the right to appeal the decision to the Provost. The initial appeal must be made within three (3) business days of the penalty being set. If the student does not admit culpability during the conference, the disciplinary case will be referred to either an Administrative Hearing or a Hearing panel as follows:

- If there is a possibility that a student may be suspended or expelled from the University, the case is deemed to involve a major infraction. In such cases, an administrative hearing conducted by the Provost (or designee) will occur.
- Students not subject to suspension or expulsion may be entitled to an administrative hearing, at the discretion of the Director of Residence Life.

Amnesty Policy

As partners with the University in promoting health and safety, all students have a responsibility and obligation to seek immediate assistance for any student known to be experiencing a serious health crisis, including one resulting from high risk drinking or the abuse of other drugs.

As such, students who seek assistance on behalf of a peer and are themselves under the influence of alcohol or drugs in violation of this Policy will not receive a Code of Conduct sanction for this action. Additionally, the student who is the subject of the report will not receive a Code of Conduct sanction for this action.

Additionally, individuals may be hesitant to report conduct which they have experienced or witnessed, to participate in an investigation and/or grievance proceeding, or to speak truthfully because they fear University disciplinary action due to their own consumption of alcohol or other drugs at or near the time of the incident. While the University does not condone illegal drinking or drug use, the University may extend limited immunity from University sanctioning in the case of illegal drug and alcohol use to victims, witnesses and those reporting incidents and/or assisting the victims of sexual offenses, provided that they are acting in good faith in such capacity.

The University will provide students with the assistance needed to respond to high risk drinking and other drug abuse. Students may seek such assistance by contacting the Residence Life Office.

After the crisis is resolved, the student who experienced the health crisis, as a result of alcohol intoxication or other drug consumption, will be referred to the substance abuse prevention and treatment specialist. The substance abuse prevention and treatment specialist will provide further assessment, substance abuse education, counseling, recommendations and/or referral as applicable to the individual student's need.

Educational Resources and Treatment Options

There are a number of resources available on and off campus to provide drug education or assistance with

drug use concerns:

- The residence life staff, campus nurse, and campus counselor are valuable resources and provide much of the drug education programming on campus. They are available to assist individuals with situations involving drugs.
- Counseling services are available to address individual concerns, provide assessments and referrals for treatment on and off campus, and provide information and education about drug use.

- Alcohol/Drug Resources:

Jennifer Noteboom, M.S., NBCC
Campus Counselor
Rollins Campus Center, DWU
605-995-2896

Donna Gerlach, R.N.
Campus Nurse
Rollins Campus Center, DWU
605-995-2957

Dakota Counseling Institute
910 W. Havens
Mitchell, SD 57301
605-996-9686

Lutheran Social Services
411 N. Duff
Mitchell, SD 57301
1-800-568-2401

Stepping Stones
901 S. Miller
Mitchell, SD 57301
605-995-8180

Women's Health Services
1420 N. Main
Mitchell, SD 57301
605-995-8040

AA (Alcoholics Anonymous)
424 E. 9th St
Mitchell, SD 57301
605-996-8264

Reporting of Crime Statistics

Each year the DWU Office of Student Life collects crime reports for the crimes listed below from campus security authorities within the institution, as well as from local law enforcement. The College then discloses these crime statistics annually to the United States Department of Education. In addition, the College publishes an Annual Security and Fire Safety Report containing campus security policy disclosures and crime statistics for the previous three years. It is important to note that all crimes reported and documented include crimes that occur on campus including crimes that occur in residence halls.

Dakota Wesleyan University will report to the Department of Education in its Annual Security and Fire Safety Report the statistics for the total number of crime reports that were “unfounded” and subsequently withheld from the crime statistics reported in the Annual Security and Fire Safety Report. Unfounded reports are those that have been fully investigated by sworn law enforcement personnel and, based on the results of this full investigation and evidence, have made formal determination that the crime report is false or baseless. Recovery of stolen property, stolen property that is of low value, the refusal of a victim to cooperate with law enforcement or the failure to make an arrest do not justify classifying a report as “unfounded.”

Clery Crimes and Definitions

Part 1 – Primary Crimes

MURDER AND NON NEGLIGENT MANSLAUGHTER

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

NEGLIGENT MANSLAUGHTER

The killing of another person through gross negligence.

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. Simple assaults are excluded.

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.

Note that only fires determined through investigation to have been willfully or maliciously set are classified as arsons. Arson is therefore the only Clery Act offense that must be investigated before it can be disclosed. If other Clery Act offenses were committed during the arson incident, the most serious is counted in addition to the arson.

BURGLARY

The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

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.

MOTOR VEHICLE THEFT

The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on the surface and not on rails. Motorboats, construction equipment, airplanes, and farming equipment are specifically excluded from this category.

Sex Offenses

The Clery Act has four defined sex offenses for which crime statistics must be collected on Clery geography. They are: rape, fondling, incest and statutory rape.

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 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 and/or because of his/her temporary or permanent mental incapacity.

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.

Part 2 – Alcohol, drug and weapon violations

The Clery Act requires institutions collect statistics for violations of state law and or ordinances for drug, alcohol and weapons violations.

LIQUOR LAW VIOLATIONS

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

WEAPONS POSSESSION

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 aforementioned.

DRUG ABUSE VIOLATIONS

Violations of 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, Heroin, Codeine); Marijuana; synthetic narcotics (Demerol, Methadone); and dangerous non-narcotic drugs (Barbiturates, Benzedrine).

Part 3 – Hate Crimes

The Clery Act requires institutions collect crime statistics for hates crime associated with either the commission of a primary crime or the lesser offenses of larceny-theft, simple assault, intimidation, destruction of or vandalism of a buildings or property.

HATE CRIMES

A Hate Crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator’s bias against the victim.

Under the Clery Act, Hate Crimes include any of the following offenses motivated by bias: Murder and Non-negligent Manslaughter, Sexual Assault, Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson, Larceny-Theft, Simple Assault, Intimidation, Destruction/Damage/Vandalism of Property. Larceny-Theft, Simple Assault, Intimidation, and Destruction/Damage/Vandalism of Property are included in your Clery Act statistics only if they are Hate Crimes

Larceny-theft

The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

Simple Assault

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

Intimidation

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or conduct, but without displaying a weapon or subjecting the victim to actual attack. Includes cyber-intimidation if victim is threatened on Clery geography.

Destruction, damage or 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 the property.

Part 4: Violence Against Women Act (2013) Crimes

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.

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. The existence of such a relationship shall be determined based on the reporting party’s statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person’s safety or the safety of others; or (2) suffer substantial emotional distress.

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.

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

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

These crimes and definitions above are provided by the 2014 VAWA Negotiated Rulemaking Final Consensus Language.

Disclosures to Alleged Victims of Crimes of Violence or Non-forcible Sex Offenses

Dakota Wesleyan University will disclose to the alleged victim of a crime of violence or a non-forcible sex offense the results of any due process hearing conducted by the University against a student or employee who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime of violence or non-forcible sex offense, Dakota Wesleyan University will provide the results of the disciplinary hearing to the victim’s next of kin, if so requested.

Crime Statistics

The statistics in this report are published in accordance with the standards and guidelines used by the FBI Uniform Crime Reporting Handbook and relevant federal law. Dakota Wesleyan University submits the annual crime statistics published in this report to the Department of Education. The statistical information gathered by the Department of Education is available to the public through the Department of Education website.

In reading the crime statistics table, it is important to note the following:

- Crimes occurring on campus include crimes occurring in the residence halls.
- The College reports the number of persons who are charged with a violation of policy or law, not the number of persons who are found responsible for a violation of policy or law.

	Occurrences On Campus			Occurrences In Residence Halls			Occurrences On Public Property			Occurrences on Non-campus		
	2017	2018	2019	2017	2018	2019	2017	2018	2019	2017	2018	2019
CRIMINAL OFFENSES												
Murder/non-negligent manslaughter	0	0	0	0	0	0	0	0	0	0	0	0
Negligent manslaughter	0	0	0	0	0	0	0	0	0	0	0	0
Sex offenses – forcible	0	0	0	0	0	0	0	0	0	0	0	0
Sex offenses – non forcible	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	1	0	0
Aggravated assault	0	0	0	0	0	0	0	0	0	1	0	0
Burglary	0	0	2	0	0	0	0	0	0	0	0	0
Motor vehicle theft	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0
Larceny/theft	0	0	0	0	0	0	0	0	0	0	0	0
Simple assault	0	1	0	0	0	0	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0	0	0	0	0	0	0
Destruction/damage/vandalism of property	0	0	0	0	0	0	0	0	0	0	0	0
Domestic violence	0	0	0	0	0	0	0	0	0	0	0	0
Dating violence	0	1	0	0	1	0	0	0	0	0	0	0
Stalking	0	0	0	0	0	0	0	0	0	0	0	0
ARRESTS												
Illegal weapons possession	0	0	0	0	0	0	0	0	0	0	0	0
Drug law violations	0	0	0	0	0	0	0	0	0	0	0	1
Liquor law violations	0	0	0	0	0	0	0	0	0	0	0	0
REFERRALS												
Illegal weapons possession	0	0	0	0	0	0	0	0	0	0	0	0
Drug law violations	0	0	1	0	0	1	0	0	0	0	0	0
Liquor law violations	20	44	35	20	44	35	0	0	0	0	0	0

Hate Crimes

For the years 2017, 2018, and 2019, there were no hate crimes to report.

Unfounded Crimes

For the years 2017, 2018, and 2019, there were no unfounded crimes to report.

Crime Prevention

Crime Prevention Programs

“See Something, Say Something” Program

Dakota Wesleyan University is dedicated to eliminating and/or minimizing criminal activities through the eyes and ears of the faculty, staff, students, visitors and neighbors of the campus community. Crime prevention is discussed in hall programming. Resident Assistants and Resident Directors are given training by the Residence Life Office and the Mitchell Police Department on security and crime prevention topics. These topics include, but are not limited to, sexual assault, date rape, drugs, alcohol, personal protection, fire safety, and theft. In addition, all employees receive annual training on issues pertaining to sexual misconduct, including sexual criminal assaults.

In addition to the above, the Student Life Department annually disseminates safety and crime prevention policies and procedures to students and employees through the Annual Security and Fire Safety Report. When time is of the essence, information is released to the University community through timely warnings (see Timely Warning Notice Policy) and emergency notifications (see Emergency Notification Policy).

Safety Tips

- Report all suspicious information to the Office of Student Life immediately.
- Try to avoid walking alone at night, travel with friends, or use the escort services provided by the residence life staff (605-770-1593).
- Be aware of your surroundings. Watch the cars and people around you.
- Carry your keys and ID card on you at all times. Do not lend them to anyone.
- Keep your residence hall room door closed and locked when you are not there.
- Do not prop open doors to residence halls or other protected locations.
- Lock up bicycles and motorcycles. Lock car doors and close windows when leaving your car.
- Never leave valuables unattended or in your car.

Sex and Gender-based Misconduct Policy Statement

The mission of Dakota Wesleyan University is, as an inclusive educational community, to provide a transformative learning experience that cultivates enduring intellectual growth, ethically grounded leadership, intentional faith exploration and meaningful service. Toward that end, the University is committed to maintaining a healthy and safe learning, living, and working environment that promotes responsibility and respect among all members and guests of the campus community and where no one is unlawfully excluded from participation in, denied the benefits of, or subjected to discrimination in any University program or activity on the basis of gender, sex, sexual orientation, sexual identity, gender identity, or gender expression.

This policy sets forth Dakota Wesleyan’s obligations under the 2020 Title IX Regulations. This policy also includes Dakota Wesleyan’s obligations under the 2013 Clery Amendments pertaining to sexual assault, dating violence, domestic violence, and stalking.

Dakota Wesleyan University's Title IX Coordinator is John Kippes.

Mr. Kippes may be contacted by phone at 605-995-2160 or by email at john.kippes@dwu.edu. He may also be visited in person in his office, R104, in the Rollins Campus Center.

Sexual and Gender-Based Misconduct comprises a broad range of behaviors focused on sex and/or gender that include sexual harassment, hostile environment caused by sexual harassment, sexual assault, domestic violence, dating violence, sexual exploitation, and stalking, and discrimination on the basis of sex or gender. (Definitions are provided in Section IV below). Sex and Gender-Based Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship. Sex and Gender-Based Misconduct can be committed by anyone regardless of gender identity, and it can occur between people of the same or different sexes or genders. The University will not tolerate any form of sexual and/or gender-based misconduct, and all Sex and Gender-Based Misconduct is prohibited by this policy. This conduct, and any retaliation or intimidation associated with the investigation and/or sanctioning of such conduct, is prohibited by the University and may also violate federal and state law.

The University seeks to prevent Sex and Gender-Based Misconduct offenses by providing:

- Education, prevention, and training programs that inform the community about the risks and myths that contribute to Sex and Gender-Based Misconduct;
- Assistance and support, including procedures sensitive to individuals who have been reported to be the victim of a Sex and Gender-Based Misconduct offense and interim measures designed to prevent continued harm or retaliation; and
- A process for the prompt and equitable investigation and resolution of incidents of Sex and Gender-Based Misconduct that includes appropriate disciplinary sanctions enforced against those who commit Sex and Gender-Based Misconduct offenses, as well as the imposition of remedial actions to address and remedy the effects of such offenses.

The University is committed to stopping incidents of Sex and Gender-Based Misconduct, preventing their recurrence, and addressing and remedying their effects within the DWU campus community. It makes this policy and accompanying information readily available to all students, employees and other members of the University community. Violations of this policy may result in the imposition of sanctions up to and including termination, dismissal, or expulsion.

Immediate Assistance and Resources

It is the University's goal to empower individuals who believe they have experienced an incident of sexual or gender-based misconduct to make the decisions that are best for them. Various campus and community advocates, counselors and emergency first responders are available to offer assistance in this regard. Moreover, seeking assistance and advice promptly from one of these resources may also be important to ensure one's physical safety or to obtain medical care or other support. It may also be necessary to preserve evidence, which can assist the University and/or law enforcement in responding effectively. Assistance is available 24 hours a day, 7 days a week. This document provides contact information for the various campus and community advocates, counselors and emergency first responders available to provide assistance.

Get to a Safe Place: First and foremost, an individual who is the victim of sexual assault (non-consensual sexual contact and non-consensual sexual intercourse), domestic violence, dating violence, stalking or other violent actions is urged to get to a safe place away from the perpetrator or from any other

potential danger as soon as possible. Individuals that are not in a safe place should contact local law enforcement at 911 immediately (24 hours).

Preserve Evidence: Collecting evidence does not obligate an individual to any particular course of action, but can assist law enforcement should criminal charges ultimately be pursued. For evidence collection purposes, it is important that, if possible, victims do not shower, bathe, wash, comb their hair, use the toilet, smoke, brush their teeth, eat or drink, and wash clothes, sheets, blankets or other items. Anything of evidentiary value should be placed in a paper bag (plastic bags are discouraged). Also, victims are urged to photograph visible injuries. Pictures of injuries should be taken in both close-up and wide-angle formats. A credit card, coin or dollar bill should be used in the pictures for reference of size.

Confidential Resources

Contact a Confidential Counselor or Health Care Providers

Individuals who believe that they or someone they know has been a victim of sexual or gender-based misconduct may seek medical, counseling, support and reporting information from any of the University or off-campus confidential resources listed in this policy. Discussing a matter with these offices or individuals is not considered a report to the University or a request that any action be taken by the University in response to a sexual or gender-based misconduct incident unless specifically requested by the victim. Conversations with these resources are confidential, except as described in this policy.

The confidential counselors and healthcare members listed in this policy can provide individuals with both immediate and long-term help. They will listen and help access additional assistance, and explain options for obtaining additional support from the University and others. They can also arrange for medical care and accompany victims, or arrange for someone to accompany individuals, to seek such care. In addition, they can provide assistance in filing a complaint with local law enforcement. These resources may be used regardless of whether the victim wants to file an official report or participate in University investigation and resolution proceedings or the criminal process. They are familiar with the University's investigation and resolution process, can explain what to expect, and provide support while University or legal processes are pending, all on a confidential basis.

Seek Medical Care (Health Care Options)

Whether a member of the University community who has experienced an incident of sexual assault (non-consensual sexual contact and non-consensual sexual intercourse), domestic violence, dating violence or other violent actions elects to report the incident or not, it is important that medical attention be sought as soon as possible. This will allow the individual to get care for any injuries that may have resulted from the assault, receive medications in order to prevent sexually transmitted infections in the event of a sexual assault and to properly collect and preserve evidence, if the patient consents to do so. A medical examination within 72 hours is critical in preserving evidence of sexual assault and proving a criminal or civil case against a perpetrator.

Avera Queen of Peace Hospital has rape kits and Sexual Assault Nurse Examiners (SANE), which will assist law enforcement should criminal charges ultimately be pursued by the victim.

Getting to the Hospital: For victims with injuries that require emergency medical care, it is imperative

that Emergency Medical Services be contacted at 911 to request emergency transport.

Transportation Assistance: If there are no pressing medical needs, the individual may make arrangements for travel to the hospital for assistance in seeking medical attention off campus.

Records Available to the Public

DWU will complete publicly available record keeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim and 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.

Non-Confidential Reporting

Reporting to the Title IX Coordinator or Deputy Title IX Coordinators

A report may be made to the Title IX Coordinator or a Deputy Title IX Coordinator regardless of whether the Reporting Party is a student, employee, or third party:

Dakota Wesleyan University Title IX Coordinator

John Kippes
Title IX and Section 504 Coordinator
605-995-2160; john.kippes@dwu.edu
Office R104 in Rollins Campus Center
1200 W University Ave, Mitchell, SD 57301

Dakota Wesleyan University Title IX Deputy Coordinators

Janet Hayen

Director of Human Resources
605-995-2648; janet.hayen@dwu.edu
Rollins Campus Center, lower level
1200 W University, Mitchell, SD 57301

Thomas Hoek

Associate Athletic Director for Internal Operations & Director of Golf
605-995-2179
Thomas.Hoek@dwu.edu
Christen Family Athletic Center, Main Office
1200 W University, Mitchell, SD 57301

Dr. Joseph Roidt

Provost
605-995-2625

Joseph.Roidt@dwu.edu
201 Smith Hall
1200 W University, Mitchell, SD 57301

The Title IX Coordinator and Title IX Deputy Coordinators may be contacted in any of the following ways:

- File a complaint or report on the gender-based discrimination, harassment and sexual misconduct incident form, which is available on the Dakota Wesleyan University website.
- Leave a private voice message for the Title IX Coordinator or a Title IX Deputy Coordinator;
- Send an email to the Title IX Coordinator or a Title IX Deputy Coordinator;
- Mail a letter to the Title IX Coordinator or a Title IX Deputy Coordinator; or
- Visit in person the Title IX Coordinator or a Title IX Deputy Coordinator.

Reporting to a Responsible Employee

Any member of the University community has the option to report an incident of gender-based discrimination, harassment and sexual misconduct and/or associated incidents of retaliation or intimidation to a “Responsible Employee” of the University.

When a member of the University community tells a Responsible Employee about an incident of gender-based discrimination, harassment and sexual misconduct and/or associated incidents of retaliation or intimidation, the individual has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A Responsible Employee will immediately inform the Title IX Coordinator (or in his or her absence the Title IX Deputy Coordinator) all relevant details about the alleged incident that the University will need to determine what happened – including the names of the Subject(s) of the Report and the Respondent(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. Any Responsible Employee who knew about a violation of this policy and took no action to stop it or failed to report the prohibited act may be subject to disciplinary action.

To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling the University’s response to the report. A Responsible Employee will not share information with law enforcement without the Subject of the Report’s consent or unless the Subject of the Report has also reported the incident to law enforcement.

Before a person reveals any information to a Responsible Employee, a Responsible Employee should make reasonable efforts in light of the circumstances to ensure that the Reporting Party understands the employee’s reporting obligations – and, if the Reporting Party wants to maintain confidentiality, direct the Reporting Party to confidential resources.

If the Reporting Party wants to tell the Responsible Employee what happened but also maintain confidentiality, the Responsible Employee should tell the Reporting Party that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the

details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Title IX Coordinator of the Reporting Party's request for confidentiality.

Responsible employees will not pressure a Reporting Party to request confidentiality, but will honor and support the Reporting Party's wishes, including for the University to fully investigate an incident. For the same reason, Responsible Employees will not pressure a Reporting Party to make a report or formal complaint if the Reporting Party does not wish to.

Anonymous Reporting to the University

The **Campus Conduct Hotline** at (866) 943-5787 may be utilized.

Make a Report to Local Law Enforcement (Non-Confidential)

Any member of the University community who has experienced an incident of sexual misconduct and gender-based misconduct involving potential criminal conduct has the option to report the conduct to the law enforcement agency that has jurisdiction over the location where the incident occurred by calling 911. In Mitchell, the Police Department may be contacted at 605-995-8400 or by calling 911. If the conduct is reported to the University, the individual will be informed of his or her option to also report any potential criminal activity to law enforcement. The University, however, may be obligated to report the matter to local law enforcement as required by law.

The University and the police/legal system work independently from one another. Individuals can file reports with the University, with law enforcement, with both systems, or with neither. Because the standards for finding a violation of criminal law are different from the standards in this policy, neither the results of a criminal investigation nor the decision of law enforcement to investigate, or decline to investigate a matter, is determinative of whether a violation of this policy has occurred.

Victim support and resources are available even if a student, employee or third party elects not to pursue criminal charges or file a report or complaint with the University. Because sexual misconduct and gender-based misconduct may, in some instances, constitute both a violation of University policy and a criminal activity, and because the University resolution process is not a substitute for instituting legal action, the University provides guidance and, if requested, assistance regarding how to report an incident to law enforcement authorities who have jurisdiction over the location where the incident occurred.

Filing a Report with External Agencies

In addition to the University's internal remedies, members of the campus community should also be aware that the Office of Civil Rights investigates and prosecutes complaints of prohibited sex discrimination. This agency may be contacted as follows:

Office for Civil Rights

U.S. Department of Health and Human Services
200 Independence Avenue, SW

Room 509F, HHH Building
Washington, D.C. 20201
Toll-free: (800) 368-1019
TDD toll-free: (800) 537-7697

Rocky Mountain Region - (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Andrea Oliver, Regional Manager

HHS/Office for Civil Rights

1961 Stout Street

Room 08-148

Denver, CO 80294

Customer Response Center: (800) 368-1019

Fax: (202) 619-3818

TDD: (800) 537-7697

Email: ocrmail@hhs.gov

Complaints with the Office for Civil Rights must be filed within one hundred eighty (180) days of the last act that the Reporting Party believes was discriminatory. There is no time limit for making a report to the University.

Employees, Employment Applicants, Volunteers and other Third Parties: In addition, employees, applicants for employment and other third Parties may also file a formal complaint of sex discrimination with the following federal agency:

U. S. Equal Employment Opportunity Commission

Minneapolis Area Office

Towle Building

330 South Second Avenue, Suite 720

Minneapolis, MN 55401-2224

Phone: 612-552-7306 Fax: 612-335-4044

TTY: 1-800-669-6820

ASL Video Phone: 844-234-5122

PROHIBITED CONDUCT AND DEFINITIONS

For purposes of this policy, Sex and Gender-Based Misconduct is defined as any of the following types of conduct:

Sexual Harassment: Sexual harassment is unwelcome sexual advances, requests for sexual favors, other verbal, visual or physical conduct of a sexual nature, when either:

- Submission to, rejection, or toleration of such conduct is made the basis for decisions related to an individual's employment, education, living environment, or participation in a Dakota Wesleyan University program or activity;
- Submission to, rejection, or toleration of such conduct is used as a basis for or a factor in decisions affecting that individual's employment, education, living environment or participation in a Dakota Wesleyan University program or activity; or
- Such conduct creates a hostile environment (see Hostile Environment Harassment).

Hostile Environment Harassment: Hostile Environment Harassment is defined as harassment against an individual on the basis of gender (including gender identity and gender expression), sex, sexual orientation, sexual identity, gender identity, or gender expression when the conduct is either:

- Sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit the individual's ability to participate in or benefit from the University's programs or activities; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's employment or education.

The determination of whether an environment is "hostile" must be based on all of the circumstances, giving consideration to whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered:

- The degree to which the conduct affected one or more students' education or individual's employment;
- The nature, scope, frequency, duration, severity, and location of incident or incidents; and
- The identity, number, and relationships of persons involved.

A single or isolated incident harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to establish a hostile environment, particularly if the harassment is physical in nature.

Forms of Sexual or Gender-Based Hostile Environment Harassment: Hostile Environment Harassment based on one's sex or gender (including gender identity and gender expression) may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or gender (including gender identity and gender expression), even if the acts do not involve conduct of a sexual nature. In either type of harassment, the effect will be evaluated based on the standard of a reasonable person in the position of the Subject of the Report. Hostile Environment Harassment can take many forms:

- It may be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- It does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- It may be committed by anyone, regardless of gender, age, position, or authority. While there is

often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships (e.g., supervisor to subordinate, faculty member to student, coach to student-athlete, student leader to first year student), harassment can occur in any context and between persons of equal power status (e.g., student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to staff).

- It may be committed by a stranger, an acquaintance, or someone with whom the individual has an intimate or sexual relationship.
- It may be committed by or against an individual or may be a result of the actions of an organization or group.
- It may occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- It may occur in the classroom, in the workplace, in residential settings, over electronic media (including the Internet, telephone, and text), or in any other setting.
- It may be a direct proposition of a sexual nature.
- It may be a one-time event or part of a pattern of behavior.
- It may be committed in the presence of others or when the parties are alone.
- It may affect the Subject of the Report and/or third parties who witness or observe harassment.

Examples of behavior that might be considered Hostile Environment Harassment include:

- Threats, either directly or by implication, of adverse employment or academic action if sexual favors are not granted or punishing, either directly or by implication, for refusing to tolerate harassment, or for refusing to submit to sexual activity;
- Promising favorable treatment or continued employment in return for sexual favors;
- Change of academic or employment responsibilities (increase in difficulty or decrease of responsibility) based on sex or gender (including gender identity and gender expression);
- Unwanted, unnecessary and objectively inappropriate physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body;
- Sexual assault;
- Physical coercion or pressure on an individual to engage in sexual activity or punishment for a refusal to respond or comply with sexual advances;
- Display or distribution of pornographic material or sexual explicit drawings, pictures, or written materials;
- Sexual rumors or ratings of sexual activity/performance or the circulation, display, or creation of emails or websites of a sexual nature;
- Offensive remarks, including unwelcome graphic or suggestive comments about an individual's body, appearance or dress;
- Jokes and humor about sex or gender-specific traits;
- Use of sexually explicit or offensive language or derogatory language directed at another person's sexuality, gender (including gender identity and gender expression), or sexual orientation;
- Insults and threats based on sex, gender, gender identity, sexual orientation or gender expression;
- The display in the workplace of sexually suggestive objects or pictures which create an intimidating or hostile work environment;
- The display or circulation of written materials or pictures degrading to an individual(s) or gender

group where such display is not directly related to an educational/pedagogical, artistic, or work goal; and

- Other unwelcome and unwanted conduct of a sexual nature, such as leering, name-calling, suggestive comments and sexual propositions or innuendos and other oral, written or electronic communications of a sexual nature that an individual communicates.

Sexual Assault: Sexual Assault is defined as either:

Non-Consensual Sexual Contact: Any intentional touching of a sexual nature, however slight and with any object or body part, that is without consent (as defined in this policy) and/or by threat, intimidation, coercion, duress, violence, or by causing a reasonable fear of harm. This includes intentional contact with breasts, buttocks, groin, mouth, or genitals, as well as any other intentional bodily contact of a sexual nature.

Non-Consensual Sexual Intercourse: Any penetration or copulation, however slight and with any object or body part, of the vagina, anus, or mouth by a penis or the vagina or anus by any body part or object that is without consent and/or by force or coercion. Intercourse includes anal or vaginal penetration by a penis, object, tongue, or finger, and oral copulation (mouth and genital/anal contact), no matter how slight the penetration or contact.

Dating Violence: Dating Violence, which is a form of intimate partner violence, means violence by a person who has been in a romantic or intimate relationship with the victim. Violence can be psychological or physical abuse related to emotional and physical control.

Discrimination: Discrimination means excluding a person from participation in, or experiencing the benefits of, any University education program or activity on the basis of the person's sex or gender (including gender identity and gender expression).

Domestic Violence: Domestic Violence refers to 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 who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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 compliance with the Violence Against Women Act, the applicable criminal definition for domestic violence in the state of South Dakota is set forth in Appendix B of the Sex and Gender-Based Misconduct Policy.

Sexual Exploitation: Sexual Exploitation is an act or omission that involves taking non-consensual, unjust, humiliating, or abusive sexual advantage of another, either for the individual's own advantage or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to the following:

1. Creating pictures, movies, web cam, tape recording, graphic written narrative or other means of memorializing sexual behavior or a state of undress of another person without the other's knowledge and consent;
2. Sharing items described in paragraph (1) above, beyond the boundaries of consent where consent was given. For example, showing a picture to friends where consent to view it was given for oneself only;
3. Observing or facilitating observation by others of sexual behavior or a state of undress of

- another person without the knowledge and/or consent of that person;
4. Without a person's consent, watching or enabling others to watch another person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy;
 5. Engaging in sexual behavior while knowing that one has a sexually transmitted infection (STI) that is capable of being transmitted by the behavior without first obtaining the Informed Consent (for purposes of this policy, Informed Consent is voluntary permission to engage in sexual activity given after being informed of the sexually transmitted infection) of all other participants in the sexual behavior;
 6. Engaging in or attempting to engage others in "escort services" or "dating services" which include or encourage, in any way, exchanging sexual behavior for money;
 7. Surreptitiously providing drugs or alcohol to a person for the purpose of Sexual Exploitation; and
 8. Causing another person to be exposed to pornographic material without the person's advance knowledge or consent.

Stalking: "Stalking" is defined as engaging in a course of conduct (e.g., repeatedly following, harassing, threatening or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method) directed at a specific person that would cause a reasonable person to (a) fear for his, her, or their safety or the safety of others; or (b) suffer other emotional distress.

The University also considers stalking to include the concept of cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of Stalking include:

- Unwelcome and repeated visual or physical proximity to a person;
- Repeated oral or written threats;
- Extortion of money or valuables;
- Unwelcome/unsolicited and repeated written communication, including letters, cards, emails, gifts, instant messages, and messages on on-line bulletin boards;
- Unwelcome/unsolicited, and repeated communications about a person, their family, friends, or co-workers;
- Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

In compliance with the Violence Against Women Act, the applicable criminal definition for stalking in the state of South Dakota is set forth in Appendix B of the Sex and Gender-Based Misconduct Policy.

Retaliation: Retaliation is defined as taking adverse action against an individual making a complaint under this policy or against any person cooperating or participating in the investigation of a complaint or the enforcement of any interim measures or sanctions under this policy. Retaliation includes intimidation, threats, harassment, and other adverse action, including adverse job action and adverse academic action against any Reporting Party, Subject of the Report, or Respondent.

Intimidation: Intimidation is defined as threats or acts, whether implied or explicit, that are intended to cause someone to reasonably believe that he, she, or they is about to be touched in a harmful or offensive manner or to coerce someone to commit or omit an act.

Aiding or Facilitating Sexual or Gender-Based Misconduct: Promoting, aiding, facilitating or encouraging the commission of any behavior prohibited under this Policy is also prohibited by

this Policy.

Consent: Consent is defined as voluntary agreement to engage in sexual activity. It may be given by words or actions, so long as those words or actions convey clear, mutually understood agreement to engage in (and the conditions of) sexual activity. Consent, which can be withdrawn at any time, must meet all of the following standards:

1. Active, not passive. Silence, in and of itself, cannot be interpreted as consent. There is no requirement that an individual resist a sexual act or advance, but resistance is a clear demonstration of non-consent. A person cannot give consent under force, threats, or unreasonable pressure (coercion). Coercion includes continued pressure after an individual has made it clear that he/she does not want to engage in the behavior.
2. Provided knowingly. Consent to sexual activity cannot be given by a person under the legal age to consent or an individual who is known to be (or based on the circumstances should reasonably be known to be) mentally or physically incapacitated. An incapacitated individual is someone who cannot make rational, reasonable decisions because he, she, or they lacks the capacity to understand the “who, what, when, where, why, or how” of a sexual interaction. This includes a person whose incapacity results from mental disability, sleep, involuntary physical restraint, unconsciousness, use of alcohol or other drugs.
3. Specific. Consent to engage in one form of sexual activity does not imply consent for another activity. In addition, previous relationships or prior consent do not imply consent to future sexual acts. It is the responsibility of the initiator of the act to receive permission for the specific act. As a result, consent may be requested and given several times by multiple parties during a sexual encounter involving multiple acts. Moreover, consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

The above definitions will be used in the compilation and evaluation of reports or complaints alleging that the Dakota Wesleyan University Sex and Gender-Based Misconduct has been violated.

Incapacitation: Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because she/he lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically unable to express Consent. An individual is incapacitated, and therefore unable to give consent, if she/he is asleep, unconscious or otherwise unaware that sexual activity is occurring.

Where alcohol or other drugs are involved, incapacitation is a state of serious drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments;
- Capacity to appreciate the nature and the quality of the act; or
- Level of consciousness.

Evaluating incapacitation also requires an assessment of whether a Respondent should have

been aware of the Subject of the Report's incapacitation based on objectivity and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position.

DOCUMENTATION

The University will retain documentation (including but not limited to the records of each report and formal complaint, notifications, the investigation report, any written findings of fact, petitions for appeal, and any written communication between the parties), for at least seven years. Documentation pertaining to expulsions or degree revocations will be retained indefinitely or in accordance with University policy.

INDIVIDUALS WITH DISABILITIES AND INTERNATIONAL STUDENTS

The procedures and resources identified in this policy are equally available to students, employees and third parties with disabilities. The University will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations as needed to participate in the steps and procedures outlined in this policy, as well as to access the support and other resources identified in the policy.

In addition, the procedures and resources identified in this policy are accessible to students who are English language learners and is distributed on campus in such a way that all students are aware of their rights under Title IX and the Violence Against Women Act.

SHARING RECORDS WITH LAW ENFORCEMENT

The University will share with law enforcement, as necessary and appropriate, information or records permitted to be released under any exception to the privacy protections of the Family Educational Rights and Privacy Act (FERPA), including the Health and Safety Emergency exception and/or records/information otherwise protected by any other state laws or local ordinances. It should be noted that FERPA applies only to records created by the University and to information derived from tangible records. FERPA does not protect the confidentiality of information in general and, therefore, does not apply to the disclosure of information derived from a source other than an education record, even if education records exist which contain that information. As a general rule, information that is obtained through personal knowledge or observation and not from an education record is not protected from disclosure under FERPA. Thus, a non-confidential verbal report of an incident of Sex and Gender-Based Misconduct can be reported to the appropriate law enforcement agency.

In those instances when a student is formally charged by law enforcement with a crime of violence or sexual assault, the University may provide to local law enforcement the name of the student found responsible for violating the University's Code of Student Conduct, the Code of Student Conduct violation, and the final results of the disciplinary proceedings.

In the event there is a concern that some information/record regarding a sexual or gender-based misconduct incident may not be shared because of FERPA constraints, the University's legal counsel will be consulted.

Sex and Gender-Based Misconduct Investigation Process

Reporting Prohibited Sex and gender-based misconduct

1. **Notice of Allegations.** Dakota Wesleyan has notice of sex and gender-based misconduct or allegations of sex and gender-based misconduct under this policy when such conduct is reported to the Title IX Coordinator or any official of Dakota Wesleyan who has authority to institute corrective measures on behalf of Dakota Wesleyan. However, all employees (with the exception of those employees designated as confidential resources) are required to report sex and gender-based misconduct, as defined and prohibited by this policy, to the Title IX Coordinator, Deputy Coordinator, or Director of the Office of Civil Rights and Investigations consistent with the requests of the Complainant.
2. **Response to a Report.** With or without a Formal Complaint, upon a report of sex or gender-based misconduct, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures whether the Complainant wishes to file a Formal Complaint or not, consider the Complainant's wishes with respect to Supportive Measures, and explain to the Complainant the process for filing a Formal Complaint.
3. **Information Packet.** Upon a receipt of a report of any of the following:
 - sexual assault,
 - dating violence,
 - domestic violence,
 - stalking,
 - or sexual exploitation

Dakota Wesleyan University shall provide an information packet that contains procedures to follow if a sex offense (i.e. an incident of domestic violence, dating violence, sexual assault, stalking, or sexual exploitation) has occurred, including information in writing about—

- i. The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order and the identification and location of witnesses;
- ii. How and to whom the alleged offense should be reported;
- iii. Options regarding law enforcement and campus authorities, including notification of the option to:
 - a. notify proper law enforcement authorities, including on-campus and local police;
 - b. be assisted by campus authorities in voluntarily notifying law enforcement authorities; and
 - c. decline to notify such authorities;
- iv. Where applicable, their rights and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
- v. Information about appropriate and available services both at the institution and in the community including information about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate; and
- vi. Options for, available reasonably available assistance and accommodations and how to request them; and
- vii. Information about the participation of victim advocates and other supporting people.

4. **Implementation of Supportive Measures.** Dakota Wesleyan shall treat parties equitably by offering Supportive Measures to the Complainant, and by following a grievance process that complies with this policy before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against the Respondent. Dakota Wesleyan will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of Dakota Wesleyan to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator should record and retain records regarding requests and provision of Supportive Measures in accordance with the requirements set out at XIV (as set forth in the section on record-keeping below).
5. **Emergency removal.** Nothing precludes Dakota Wesleyan from removing a Respondent from Dakota Wesleyan’s education program or activity on an emergency basis, provided that Dakota Wesleyan undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sex and gender-based misconduct justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
6. **Administrative Leave.** Dakota Wesleyan reserves the right to place a non-student employee Respondent on administrative leave during the pendency of a grievance process.
7. **Amnesty for Student Code of Conduct Violations.** Sometimes, individuals are reluctant to come forward to report perceived violations of this policy out of fear that they may be charged with violations of other policies. To ensure that all perceived violations of this policy are reported so that those affected can receive the support and resources needed, Dakota Wesleyan may choose not to charge students who report violations of this policy with violations of other policies (e.g. drug and alcohol use policy violations, visiting hours, etc.).

Procedures for Resolving Complaints of Prohibited Sex and gender-based misconduct

1. Informal Resolution

Consistent with the requirements of this section, at any time prior to reaching a determination regarding responsibility, Dakota Wesleyan may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that Dakota Wesleyan:

- i. Provides to the parties a written notice disclosing:
 - a. The allegations,
 - b. The requirements of the informal resolution process including the circumstances under which the process precludes the parties from resuming a Formal Complaint arising from the same allegations, so long as at any time prior to agreeing to a resolution, any or either party has the right to withdraw from the informal resolution process and resume the grievance process with respect to registering a Formal Complaint, and
 - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- ii. Obtains the parties’ voluntary, written consent to the informal resolution process; and
- iii. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

iv. Completes the informal resolution process within 60 days of receiving the Formal Complaint, unless unusual or complex circumstances exist.

Dakota Wesleyan does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of sex and gender-based misconduct under this policy. Dakota Wesleyan shall not require the parties to participate in an informal resolution process and will not offer an informal resolution process unless a Formal Complaint is filed.

2. Formal Complaint and the Grievance Process

i. Filing a Formal Complaint. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator above. (A formal complaint may be initiated via phone conversation but will require the complainant's signature or equivalent.) A "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by Dakota Wesleyan) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party. A Formal Complaint shall trigger an investigation except as specified below. The Formal Complaint should include the date(s) of the alleged incident(s), the name (or names) of the Respondent(s), and should describe the circumstances of the incident(s), when known and/or to the extent possible.

ii. Dismissal of a Formal Complaint. Dakota Wesleyan shall investigate the allegations in a Formal Complaint, except as follows:

a. Mandatory Dismissal. Dakota Wesleyan shall dismiss the Formal Complaint if the conduct alleged in the Formal Complaint

- i. would not constitute sex and gender-based misconduct as defined by this policy, even if proved,
- ii. Occurred wholly and entirely outside of the university environment, its educational programs, and activities
- iii. A mandatory dismissal does not preclude Dakota Wesleyan from taking action under another university policy or procedure.

b. Discretionary Dismissal. Dakota Wesleyan may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- ii. The Respondent is no longer enrolled in or employed by Dakota Wesleyan; or
- iii. Specific circumstances prevent Dakota Wesleyan from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.
- iv. The incident (or incidents) forming the basis of the complaint occurred prior to August 14, 2020, in which case, Dakota Wesleyan's Sex and Gender-Based Misconduct policy in place at that time shall be used.

Dakota Wesleyan may dismiss a Formal Complaint at any time in the process if it becomes known that one of the foregoing reasons for dismissal applies.

Upon a dismissal required or permitted under this section, Dakota Wesleyan will promptly send written notice of the dismissal and reason(s) therefore simultaneously to all relevant parties. Dakota Wesleyan may also refer the matter to the appropriate department for resolution under the university's anti-discrimination policy, student code of conduct, or employee code of conduct and ethics.

iii. **Consolidation of Formal Complaints.** Dakota Wesleyan may consolidate Formal Complaints as to allegations of sex and gender-based misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sex and gender-based misconduct arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

iv. **Disaggregation of Formal Complaints.** Dakota Wesleyan may disaggregate Formal Complaints as to allegations involving both discriminatory misconduct and sex and gender-based conduct with respect to the same incident or incidents. In such instances, a single investigator may create two parallel reports stemming from the same incident, one involving discriminatory misconduct, and the other involving sex and-gender based misconduct, with the two complaints being adjudicated separately.

v. **Notice of Charges**

a. **Initial Notice of Charges.** Upon receipt of a Formal Complaint, and prior to commencing an investigation, Dakota Wesleyan shall provide the following written notice to all known, relevant parties. This notice shall include:

- i. This policy (in the form of a link and/or an attachment).
- ii. Notice of the allegations potentially constituting sex and gender-based misconduct as defined in this policy, including sufficient details known at the time and providing sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sex or gender-based misconduct under this policy, and the date and location of the alleged incident, if known.
- iii. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- iv. Notification to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- v. Notification to the parties that they may inspect and review evidence, as set forth in this policy.
- vi. Any provision in Dakota Wesleyan's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- vii. The standard of evidence (i.e. the preponderance of the evidence standard) used in the adjudication process.
- viii. A link to and/or list of all possible sanctions the institution may impose.

vii. **Amended Notice of Charges.** If, in the course of an investigation, Dakota Wesleyan decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice of

charge, Dakota Wesleyan must provide notice of the additional allegations to the parties whose identities are known.

viii. Principles for the Grievance Process

Under this grievance process, Dakota Wesleyan shall:

a. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Dakota Wesleyan and not on the parties (assuming and provided that Dakota Wesleyan cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Dakota Wesleyan obtains that party's voluntary, written consent to do so for a grievance process under this section). (If a party is not an "eligible student," as defined in 34 CFR 99.3, 16

then Dakota Wesleyan must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3).

b. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

c. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

d. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and to not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding. Dakota Wesleyan reserves the right to screen advisors for conflicts of interest and to reject an advisor's participation in grievance proceedings if such a conflict of interest is identified. Dakota Wesleyan may also establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. For the purposes of this policy, the role of the advisor is limited to the following: the advisor may attend any interview or meeting connected with the grievance process, but may not actively participate in interviews nor provide testimony or argument on behalf of the party. The advisor may attend the live hearing, but the advisor's participation in the hearing is limited strictly to conducting cross-examination of the other party and any witness at the hearing (in accordance with specified university protocols).

e. Allow each party to be accompanied by a support person if they do not wish to have an advisor. Each party may be accompanied by only one other person unless there is good cause, such as a disability-related accommodation.

f. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

g. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence— and provide that credibility determinations may not be based on a person’s status as a Complainant, Respondent, or witness.

h. Require that any individual designated as a Title IX Coordinator, investigator, decisionmaker, or any person to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. Dakota Wesleyan may use internal personnel or external parties in the informal resolution process or the grievance process, provided that they meet this requirement.

i. Include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

j. Use the following standard of evidence to determine responsibility for allegations in a Formal Complaint of sex and gender-based misconduct: the preponderance of the evidence standard. The standard of evidence shall be the same for Formal Complaints against students as well as for Formal Complaints against faculty and staff.

k. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

ix. Extensions of the Grievance Process

The Title IX Coordinator may grant or deny requests from either party to temporarily delay the grievance process. The Title IX Coordinator may issue a limited extension of time frames for good cause with written notice to the Complainant and the Respondent regarding the delay or extension and the reasons for the action.

Good cause may include (but is not necessarily limited to) considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

In all cases the university will seek a timely resolution of all grievances and is unlikely to grant a single party multiple extensions.

x. Investigation of Formal Complaints

If not serving as the Investigator, the Title IX Coordinator will appoint an Investigator, who may be an employee or official of Dakota Wesleyan or may be an external investigator with appropriate experience or expertise. The parties will be provided with notice of the identity of the appointed Investigator, and will be informed that any objections to the service of the appointed Investigator on grounds of conflict of interest or a lack of impartiality should be submitted in writing to the Title IX Coordinator within three days of notice of the appointment. If one of the parties objects to the appointment of the investigator, the Title IX Coordinator will decide promptly whether the grounds for objection have merit and, if so, will appoint a new investigator (notifying the parties of the new appointment and inquiring as to whether any party objects to this new appointment on the grounds identified above). If the Title IX Coordinator decides that objections lodged against the appointment of an investigator do not have merit, they will inform the parties the objections were found not to have merit and that the investigation will proceed with the originally assigned investigator. In instances in which a new investigator is appointed, any materials collected, or notes prepared, by the original investigator during the initial investigatory period will be

turned over to any replacement Investigator. The replacement Investigator and the Title IX Coordinator will decide whether to use such materials or not.

When investigating a Formal Complaint Dakota Wesleyan shall, within 60 days of receiving the Formal Complaint, unless unusual or complex circumstances exist:

- a. Engage in fact-gathering of all relevant facts. Credibility resolutions and fact-finding shall be conducted in the live hearing phase of the grievance process.
- b. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which Dakota Wesleyan does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- c. Prior to completion of the investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. All parties have 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- d. Make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- e. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing or other time of determination regarding responsibility, the Title IX Coordinator shall send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. Upon finalization of the investigative report, the Title IX Coordinator shall provide it to the hearing administrator and review panel.

Live Hearings Under the Grievance Process

1. Requirement of a Live Hearing for Fact-Finding and Determining Responsibility.

- i. Following the investigation, within 30 days of sending the final investigative report to the parties, unless unusual or complex circumstances exist, Dakota Wesleyan shall conduct a live hearing presided over by a hearing administrator and in front of the three member Review Panel, for the purposes of determining responsibility for allegations of sex and gender-based misconduct in the Formal Complaint. Neither the Title IX Coordinator nor the investigator of the allegation(s) that are the subject of the hearing in question shall serve as either the hearing administrator or as a member of the Review Panel. The Hearing Administrator and the members of the Hearing Panel may include internal employees or external third parties contracted by Dakota Wesleyan. If using a Review Panel, the Title IX Coordinator will choose three Review Panel members from its pool to attend the hearing and make determinations. All potential Review Panel members will receive annual training as specified by this policy. Upon being notified of the identity of the hearing administrator and the three members of the Review Panel, the parties each may challenge the participation of the hearing administrator and/or any member of the Review Panel for conflict of interest or other good cause. Upon receiving a challenge from one or more parties, the Title IX

Coordinator will make the final decision as to whether to select an alternate hearing administrator and/or review panel member (or members). The Title IX Coordinator will appoint a member of the Review Panel to serve as Chair of the Review Panel. The Chair of the Review Panel will be responsible for writing and submitting the written decision of the panel as outlined below.

ii. The live hearing will be closed. The only individuals permitted to participate in the hearing are as follows: the Hearing Administrator, the Complainant, the Respondent, the three members of the Review Panel, the advisor for each party, any witnesses (who participate only for the duration of their questioning), and any individual providing authorized accommodations or assistive services.

iii. If a party does not have an advisor present at the live hearing, Dakota Wesleyan shall provide, without fee or charge to that party, an advisor of Dakota Wesleyan's choice, who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that party. Dakota Wesleyan is obligated to ensure each party has an advisor, either of the party's or Dakota Wesleyan's choice, regardless of whether or not the party is present at the hearing. To ensure timely proceedings, a party shall alert the Title IX Coordinator as soon as practical if the party requires the university to furnish them with an advisor. If a party's selected advisor is unavailable for a hearing date, the live hearing date may be postponed for good cause.

iv. Live hearings may be conducted with all parties physically present in the same geographic location or, at Dakota Wesleyan's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

v. At the request of either party, Dakota Wesleyan shall provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.

vi. Dakota Wesleyan shall create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. Hearing participants are prohibited from making their own recordings of the hearing, and violations of this rule may be subject to disciplinary action.

vii. The parties shall participate, separately, in a pre-hearing meeting with either the hearing administrator and/or the Title IX Coordinator to go over the process and administration of the live hearing. Prior to, or during, this meeting, the hearing administrator or the Title IX Coordinator will specify deadlines for submitting and exchanging names of witnesses, evidence, and pre-hearing questions. (The parties will also be permitted to submit questions during the live hearing.) Participation in this pre-hearing meeting is required in order to facilitate the efficient and fair administration of the live hearing process.

2. Questioning at the Live Hearing

a. At the live hearing, the hearing administrator must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility (although all questions must be submitted to the hearing administrator for approval).

- b. Only relevant cross examination and other questions may be asked of a party or witness. The hearing administrator serves as the sole and final arbiter regarding what constitutes a relevant question.
- c. Review Panel members also have the right to question a party or witness (with all questions being submitted to the hearing administrator for approval).
- d. Cross examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding Dakota Wesleyan's ability to otherwise restrict the extent to which advisors may participate in the proceedings.
- e. Before the Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Administrator must first determine whether the question is relevant. It is incumbent upon the Hearing Administrator to offer a short explanation to any party proposing questions (whether the complainant's advisor, the respondent's advisor, or members of the hearing panel) their decision to exclude a question on the basis of lack of relevance.
- f. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

3. Use of Witness Statements

- i. Parties or witnesses at the live hearing are free to decline to answer questions and/or to participate in cross examination. If a party or witness does not submit to cross examination at the live hearing (i.e. they either do not attend the hearing or attend the hearing and refuse to answer questions), the Review Panel shall not rely on any statement(s) of that party or witness (e.g. contained in the investigator's report) in reaching a determination regarding responsibility. However, the decision of a party or witness not to submit to cross examination does not preclude the Review Panel from reaching a determination based on evidence provided by the party or witness who refuses to participate in cross examination (e.g. physical evidence, video, etc.) that does not constitute a statement.
- ii. The decision-maker(s) shall not draw an inference about a determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

4. Written Determination of the Decision-Maker

- i. The Review Panel shall issue a written determination regarding responsibility. A majority of the Review Panel members must find that a policy violation occurred for a finding of responsibility and a majority of the Panel members must assent to the sanction(s) imposed, if any.

To reach this determination, the decision-maker must apply and meet the preponderance of the evidence standard as required by this policy. The written determination must include:

- a. Identification of the allegations potentially constituting sex or gender-based misconduct as defined by this policy;
 - b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of Dakota Wesleyan’s policy to the facts;
 - e. A statement of, and rationale for, the result regarding each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to Dakota Wesleyan’s education program or activity will be provided to the complainant; and
 - f. The procedures and permissible bases for the Complainant and Respondent to appeal, as set forth in this policy.
- ii. Dakota Wesleyan shall provide the written determination to the parties simultaneously.
 - iii. If neither party files an appeal, the determination regarding responsibility becomes final on the day following the last day designated by Dakota Wesleyan for filing an appeal. If one party, or both parties, file/files an appeal, the determination regarding responsibility becomes final on the day the parties receive a final determination regarding the appeal or appeals.

Appeals

1. Grounds

Within 10 days of receiving the written determination, either party may appeal a determination regarding responsibility or Dakota Wesleyan’s dismissal of a Formal Complaint or any allegations therein, on the following grounds:

Ground 1: Procedural irregularity that affected the outcome of the matter;

Ground 2: New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

Ground 3: The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Appeals must be sent to the Title IX Coordinator in writing.

2. Response to Appeals

As to all appeals, the Title IX Coordinator (or designee) shall:

- i. Notify the other party in writing immediately when an appeal is filed and implement appeal procedures equally for both parties;

- ii. Ensure, as appropriate, that the decision-maker(s) for the appeal is/are not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

- iii. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in this policy;
- iv. Give the non-appealing party an opportunity to submit a written statement in response to the appeal within 10 days of receiving the appeal, which shall be transmitted within 2 business days to the Appeal decision-maker(s).

3. Decision on Appeal

Within 20 days of receiving the appeal and the response from the non-appealing party (if applicable), the Appeal decision-maker(s) shall issue a written decision, simultaneously to both parties, describing the result of the appeal and the rationale for the result. If the appeal fails to adequately meet one or more of the grounds for appeal, the decision-maker(s) may simply deny the appeal, explaining why the appeal fails to adequately meet one or more of the grounds identified for appeal. If the appeal does adequately meet one or more of the grounds for appeal, the appeal decision-maker(s) may return the case to the initial decision-maker(s) for reconsideration, convene a new hearing or, if necessary and appropriate, open a new investigation. If a case is returned to the initial decision-maker(s), the Appeal decision-maker(s) shall identify which aspects merit further review.

Remedies and Sanctions

Remedies must be designed to restore or preserve equal access to Dakota Wesleyan's education program or activity. A list of possible disciplinary sanctions and remedies that the university may implement following a determination of responsibility are included as an appendix to this document.

A student found responsible for a violation of this policy will be subject to sanction(s) regardless of whether legal proceedings involving the same incident are underway or anticipated. An employee found responsible for a violation of this policy will be subject to sanction(s) up to and including termination of employment.

Possible sanctions and remedies that Dakota Wesleyan may implement following any determination of responsibility include: expulsion, withdrawal of an awarded degree, a no contact order, written warning, suspension, a fine, restitution, community service, probation, reference to counseling, termination of employment, and notation in the Respondent's official student or personnel file of the fact of a violation and the sanction.

The Title IX Coordinator is responsible for effective implementation of any remedies.

Retaliation Prohibited

No student, faculty or staff member may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right established by this policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sex and gender-based misconduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of sex and gender-based misconduct, for the purpose of interfering with any right under this Policy constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this section.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination outlined in the university's antidiscrimination policy.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation prohibited under of this section, provided that a determination regarding responsibility does not, in and of itself, represent the sole reason for concluding that any party made a materially false statement in bad faith.

PREVENTION AND EDUCATIONAL RESOURCES

Dakota Wesleyan University provides resources for education about and prevention of Sex and Gender-Based Misconduct. On-campus prevention and awareness resources regarding sex and gender-based misconduct are available online, across campus, and at the following offices:

Title IX Coordinator	John Kippes Director of Student Life	Rollins Campus Center
Deputy Title IX Coordinator	Janet Hayen, Director of Human Resources	Rollins Campus Center, lower level
Office of Residence Life	Director of Residence Life	Rollins Campus Center, lower level
Campus Health	Campus Nurse and Counselor	Rollins Campus Center, lower level
Campus Ministry	Campus Pastors	Rollins Campus Center

TRAINING

Primary and ongoing sex and gender-based misconduct prevention and awareness training, which includes training with respect to sexual assault offenses, is provided for members of the Dakota Wesleyan University community according to the following schedule:

- All students – annually;
- New full-time faculty and staff – within six months of hire;
- All Responsible Employees – annually;
- All campus safety authorities – annually;
- All Investigators – annually;
- Title IX Coordinator and Deputy Coordinators – annually;
- All Public Safety and Security officers – annually.

1. Employee Awareness and Prevention Programs

Training for employees includes practical information about how to prevent and identify sex and gender-based misconduct, including same-sex sex and gender-based misconduct; the behaviors that may lead to and result in sex and gender-based misconduct; the attitudes of bystanders that may allow conduct to continue; the potential for re-victimization by responders and its effect on the Subject of the Report; appropriate methods for responding to the Subject of the Report who may have experienced an incident of Sex and Gender-Based Misconduct, including the use of nonjudgmental language; the impact

of trauma on victims; and, as applicable, the person(s) to whom such misconduct must be reported. The University's training also specifically reviews the University's policy and prohibition of the crimes of sexual assault, dating violence, domestic violence and stalking; the definitions of these terms in South Dakota; the state of South Dakota's definition of 'consent' in relation to sexual activity; and a review of safe and positive options for bystander intervention and information on risk reduction. It further explains Responsible Employees' reporting obligations, including what should be included in a report, consequences for failing to report, procedures for responding to a Reporting Party's request for confidentiality, and the contact information for the University's Title IX Coordinator. The University also trains Responsible Employees to inform a potential Reporting Party of the reporting obligations of Responsible Employees; the potential Reporting Party's option to request confidentiality and available confidential advocacy, counseling or other support services; and the potential Reporting Party's right to file a Title IX complaint with the University and to report a crime to campus or local law enforcement.

2. Student Awareness and Prevention Programs

At a minimum, the following topics (as appropriate) are covered during the University's sex and gender-based misconduct student training:

- Title IX and what constitutes sexual assault, including same-sex assault, under the University's Sex and gender-based misconduct Policy;
- The University's definition of consent applicable to sexual conduct, including examples;
- How the University analyzes whether conduct was unwelcome under Title IX;
- How the University analyzes whether unwelcome sexual conduct creates a hostile environment;
- Reporting options, including formal reporting and confidential disclosure options;
- Identification of the offices or individuals with whom victims can speak confidentially and the offices or individuals who can provide resources such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance;
- Identification of those employees who are considered Responsible Employees;
- The University's investigation procedures and proceedings when a sex and gender-based misconduct report is made;
- Sanctions relating to sex and gender-based misconduct;
- Effects of trauma, including neurobiological changes;
- The role alcohol and drugs often play in sex and gender-based misconduct incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sexual assault and other forms of sex and gender-based misconduct;
- Strategies and skills for bystanders to intervene to prevent possible sexual assault;
- How to report criminal sex and gender-based misconduct incidents to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance;
- A review of the state of South Dakota's definition of "consent" in relation to sexual activity;
- A review of safe and positive options for bystander intervention and information on risk reduction (see Appendix E); and
- Title IX's protections against retaliation.

The University's training also encourages students to report incidents of sex and gender-based misconduct and explains that students (and their parents or friends) do not need to determine whether incidents of sexual assault or other sex and gender-based misconduct created a hostile environment

before reporting the incident. The training also highlights that the University's primary concern is student safety, and the use of alcohol or drugs never makes the survivor at fault for an incident of sex and gender-based misconduct.

Sexual Assault, Dating Violence, Domestic Violence and Stalking Risk Reduction Tips

With no intent to victim-blame, and recognizing that only sexual predators are responsible for sexual assault, the following are some strategies to reduce one's risk of sexual assault or harassment (information provided by Rape, Abuse, & Incest National Network, www.rainn.org):

- Program the Residence Life on-call telephone number, 605-770-1593, into your cell phone.
- Download the DWU Alert App
- Be aware that you are a potential victim of crime. Stay alert and attuned to people and circumstances around you.
- Immediately notify Residence Life on-call telephone number, 605-770-1593, of suspicious activity or people.
- Avoid the use of excessive alcohol and other drugs. Persons under the influence are much more likely to be victims of a serious crime.
- Do not allow non-residents into residential facilities.
- Lock your room when you are out – even for just a few minutes. Keep your door locked when sleeping.
- Never lend your room or apartment key to anyone.
- Keep your valuables in a safe place. Do not leave valuables in the open and unattended. Utilize GPS or "locate" software for your electronics.
- Do not prop open locked outside doors and stairwell doors; ensure they close and lock behind you. Do not allow anyone other than your personal guests to enter the building behind you.
- 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.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure you take your cell phone and it is charged.
- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the event and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately by calling 911 or Office of Public Safety.
- Don't leave your drink unattended even while talking, dancing, using the restroom or making a phone call. If you have left your drink alone, just get a new one.
- 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, do not drink from the punch bowls or other large common open containers.
- 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 have had, or is acting out of character, get him or her to a safe place

immediately.

- If you suspect you or a friend has been drugged, contact law enforcement immediately. Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
- If you need to get out of an uncomfortable or scary situation here are some things that you can try:
 - 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 who is to blame.
 - 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 doing.
 - 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.
 - 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.
- 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?
- 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.

Safe and Positive Options for Bystander Intervention

Bystander intervention is a helping behavior whereby an individual or individuals utilize safe and positive options in emergency or non-emergency situations to prevent harm or intervene when there is a risk of sexual assault, dating violence, domestic violence, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene when it is safe to do so.

The most basic and best action an active bystander can take is to call Residence Life on-call telephone number, 605-770-1593, or local law enforcement at 911.

Additional ways to be an active bystander include:

- Being vigilant by watching out for your friends and fellow students or employees;
- If you see someone who is too intoxicated to consent, enlist their friends to help them leave safely;
- Intervening and asking if a person needs help (e.g., "Do you need a ride?" or "Do you want me to call Security or the police?");
- Confronting people who seclude, hit on, and try to make out with, or have sex with people who may be incapacitated;
- Speaking up when someone discusses plans to take sexual advantage of another person;
- Believing someone who discloses sexual assault, abusive behavior, or experience with stalking;
- Encouraging victims to self-report;
- Refer people to on- or off-campus resources listed in this document for support in health, counseling, or with legal assistance.
- Trust your gut. If something looks like it might be a bad situation, it probably is;
- Avoid using violence when intervening; approach in a friendly, honest and direct manner;
- Keep an eye on someone who has had too much to drink. Do not leave another person alone in a

- situation in which you feel uncomfortable; develop a buddy system;
- If you see someone who is too intoxicated to consent, enlist their friends to help them leave safely;
 - Create and negotiate possible solutions; maintain an open dialogue; communicate clearly;
 - Be aware if someone is deliberately trying to intoxicate, isolate or corner someone else;
 - Use distraction techniques such as humor, reframing, redirection or personalization to reduce tension between individuals and to stall for time in which to intervene;
 - Recruiting help; group interventions can make individuals aware of patterns of behaviors of concern;
 - Focusing on your feelings about the behavior rather than criticizing the person;
 - Encourage respect; speak up if you find a behavior offensive (e.g., do not laugh at offensive jokes but rather indicate your disapproval); and
 - Use body language that indicates disapproval of or concern about a behavior (e.g., silent stare, crossed arms, wrinkling of the nose, raised eyebrows and wide eyes, stepping between two people).

VIOLENCE AGAINST WOMEN ACT DISCLOSURES

In compliance with Violence Against Women Reauthorization Act of 2013, the local definitions of the crimes of sexual assault, dating violence, domestic violence and stalking are set forth below. In the state of South Dakota, any assault crime may be classified as dating violence charge insofar as the relationship in which the crime is perpetrated falls within the definition of dating or other romantic relationship. The rape and sexual contact statutes outline what constitutes, and does not constitute consent depending on the circumstances of the crime. Information about protection orders is also provided. This is the website for South Dakota's Codified Laws: http://sdlegislature.gov/statutes/Codified_Laws/Default.aspx

Sexual Assault

Chapter 22-22, Sex Offenses

http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-22

22-22-1. Rape--Degrees--Felony--Statute of limitations.

Rape is an act of sexual penetration accomplished with any person under any of the following circumstances:

- (1) If the victim is less than thirteen years of age; or
- (2) Through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution; or
- (3) If the victim is incapable, because of physical or mental incapacity, of giving consent to such act; or
- (4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis; or

(5) If the victim is thirteen years of age, but less than sixteen years of age, and the perpetrator is at least three years older than the victim.

A violation of subdivision (1) of this section is rape in the first degree, which is a Class C felony. A violation of subdivision (2) of this section is rape in the second degree which is a Class 1 felony. A violation of subdivision (3) or (4) of this section is rape in the third degree, which is a Class 2 felony. A violation of subdivision (5) of this section is rape in the fourth degree, which is a Class 3 felony. Notwithstanding the provisions of § 23A-42-2, no statute of limitations applies to any charge brought pursuant to subdivisions (1) or (2) of this section. Otherwise a charge brought pursuant to this section may be commenced at any time prior to the time the victim becomes of age twenty-five or within seven years of the commission of the crime, whichever is longer.

22-22-7.2. Sexual contact with person incapable of consenting--Felony.

Any person, fifteen years of age or older, who knowingly engages in sexual contact with another person if the other person is sixteen years of age or older and the other person is incapable, because of physical or mental incapacity, of consenting to sexual contact, is guilty of a Class 4 felony.

22-22-7.4. Sexual contact without consent with person capable of consenting as misdemeanor.

No person fifteen years of age or older may knowingly engage in sexual contact with another person other than his or her spouse who, although capable of consenting, has not consented to such contact. A violation of this section is a Class 1 misdemeanor.

Domestic Violence

Chapter 22-18 Assaults and Personal Injuries

http://sdlegislature.gov/statutes/Codified_laws/DisplayStatute.aspx?Statute=22-18&Type=Statute

22-18-1. (Definition) Simple assault--Misdemeanor--Felony for subsequent offenses.

Any person who:

- (1) Attempts to cause bodily injury to another and has the actual ability to cause the injury;
- (2) Recklessly causes bodily injury to another;
- (3) Negligently causes bodily injury to another with a dangerous weapon;
- (4) Attempts by physical menace or credible threat to put another in fear of imminent bodily harm, with or without the actual ability to harm the other person; or
- (5) Intentionally causes bodily injury to another which does not result in serious bodily injury;

is guilty of simple assault. Simple assault is a Class 1 misdemeanor. However, if the defendant has been convicted of, or entered a plea of guilty to, two or more violations of § 22-18-1, 22-18-1.1, 22-18-26, or 22-18-29 within ten years of committing the current offense, the defendant is guilty of a Class 6 felony for any third or subsequent offense.

22-18-1.1. Aggravated assault--Felony.

Any person who:

- (1) Attempts to cause serious bodily injury to another, or causes such injury, under circumstances manifesting extreme indifference to the value of human life;
- (2) Attempts to cause, or knowingly causes, bodily injury to another with a dangerous weapon;
- (3) Deleted by SL 2005, ch 120, § 2;
- (4) Assaults another with intent to commit bodily injury which results in serious bodily injury;
- (5) Attempts by physical menace with a deadly weapon to put another in fear of imminent serious bodily harm; or
- (6) Deleted by SL 2005, ch 120, § 2;
- (7) Deleted by SL 2012, ch 123, § 4;
- (8) Attempts to induce a fear of death or imminent serious bodily harm by impeding the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck, or by blocking the nose and mouth; is guilty of aggravated assault. Aggravated assault is a Class 3 felony.

Chapter 25-10 Protection From Domestic Abuse

http://sdlegislature.gov/statutes/Codified_laws/DisplayStatute.aspx?Statute=25-10&Type=Statute

25-10-1. Definitions. Terms used in this chapter (domestic violence) mean:

(1) "Domestic abuse," physical harm, bodily injury, or attempts to cause physical harm or bodily injury, or the infliction of fear of imminent physical harm or bodily injury when occurring between persons in a relationship described in § 25-10-3.1. Any violation of § 25-10-13 or chapter 22-19A or any crime of violence as defined in subdivision 22-1-2(9) constitutes domestic abuse if the underlying criminal act is committed between persons in such a relationship;

(2) "Protection order," an order restraining any person in a relationship described in § 25-10-3.1 from committing any act of domestic abuse or an order excluding any person in a relationship

described in § 25-10-3.1 from the dwelling or residence of another person in such a relationship, whether or not the dwelling or residence is shared. A protection order has a duration of five years or less; and

(3) "Temporary protection order," an order restraining any person in a relationship described in § 25-10-3.1 from committing any act of domestic abuse or an order excluding any person in a relationship described in § 25-10-3.1 from the dwelling or residence of another person in such a relationship, whether or not the dwelling or residence is shared. A temporary protection order has a duration of thirty days except as provided in § 25-10-7.1.

25-10-3.1. Persons entitled to apply for protection order.

Any person who is involved in one of the following relationships with another party:

- (1) Spouse or former spouse;
- (2) Is in a significant romantic relationship or has been in one during the past twelve months with the abusing party;
- (3) Has a child or is expecting a child with the abusing party;
- (4) Parent and child, including a relationship by adoption, guardianship, or marriage; or
- (5) Siblings, whether of the whole or half blood, including a relationship through adoption or marriage; is entitled to apply for a protection order or a temporary protection order pursuant to the provisions of this chapter.

25-10-34. Domestic abuse charge to be indicated on summons, warrant, or judgment of conviction.

The state's attorney of the county where a crime is believed to have been committed shall indicate on the summons, complaint, information, indictment, arrest warrant, and judgment of conviction whether the charge involves domestic abuse.

25-10-35. Arrest of person for abuse--Considerations.

If the officer has probable cause to believe that persons in a relationship as defined in § 25-10-3.1 have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the predominant physical aggressor. In making this determination, the officer shall make every reasonable effort to consider:

- (1) The intent to protect victims of domestic abuse under this chapter;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury; and
- (3) The history of domestic abuse between the persons involved.

Stalking

http://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=22-19A

22-19A-1. Stalking as a misdemeanor--Second offense a felony.

No person may:

- (1) Willfully, maliciously, and repeatedly follow or harass another person;
- (2) Make a credible threat to another person with the intent to place that person in reasonable fear of death or great bodily injury; or

(3) Willfully, maliciously, and repeatedly harass another person by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.

A violation of this section constitutes the crime of stalking. Stalking is a Class 1 misdemeanor. However, any second or subsequent conviction occurring within ten years of a prior conviction under this section is a Class 6 felony.

22-19A-4. Harasses defined.

For the purposes of this chapter, harasses means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose.

22-19A-5. Course of conduct defined.

For the purposes of this chapter, course of conduct means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of course of conduct.

22-19A-6. A credible threat defined.

For the purposes of this chapter, a credible threat means a threat made with the intent and the apparent ability to carry out the threat. A credible threat need not be expressed verbally.

22-19A-8. Petition for protection order--Procedures.

There exists an action known as a petition for a protection order in cases of stalking, in cases of physical injury as a result of an assault, or in cases of a crime of violence as defined in subdivision 22-1-2(9). Procedures for the action are as follows:

(1) A petition under this section may be made against any person who violates § 22-19A-1 or against any other person against whom stalking or physical injury as a result of an assault or in cases where a crime of violence is alleged;

(2) A petition shall allege the existence of (a) stalking or (b) physical injury as a result of an assault or (c) a crime of violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances of the stalking or the physical injury as a result of an assault or crime of violence;

(3) A petition for relief may be made whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

The clerk of the circuit court shall make available standard petition forms with instructions for completion to be used by a petitioner. The attorney general shall prepare the standard petition form.

22-19A-8.1. Petition for protection order in which allegations support domestic abuse rather than stalking or physical injury.

If a petition for a protection order alleging the existence of stalking or physical injury is filed with the court pursuant to § 22-19A-8 and, if the court, upon an initial review, determines that the allegations do not support the existence of stalking or physical injury, but that the allegations do support the existence of domestic abuse pursuant to § 25-10-3, the court, in its discretion, may hear and act upon the petition as though the petition had been filed under § 25-10-3 and subject to the provisions of chapter 25-10.

22-19A-11. Relief granted by protection order.

Upon notice and a hearing, if the court finds by a preponderance of the evidence that stalking has taken place, the court may provide relief as follows:

(1) Restrain any party from committing acts of stalking or physical injury as a result of an

assault or a crime of violence as defined in subdivision 22-1-2(9);

(2) Order other relief as the court deems necessary for the protection of the person seeking the protection order, including orders or directives to law enforcement officials.

Any relief granted by the order for protection shall be for a fixed period and may not exceed five years.

22-19A-16. Violation of protection order--Penalties.

If a temporary protection order or a protection order is granted pursuant to §§ 22-19A-8 to 22-19A-16, inclusive, and the Respondent or person to be restrained knows of the order, violation of the order is a Class 1 misdemeanor. If any violation of this section constitutes an assault pursuant to § 22-18-1.1, the violation is a Class 6 felony. If a Respondent or person to be restrained has been convicted of, or entered a plea of guilty to, two or more violations of this section or § 25-10-13, the factual basis for which occurred after the date of the second conviction, and occurred within ten years of committing the current offense, the Respondent or person to be restrained is guilty of a Class 6 felony for any third or subsequent offense. Any proceeding under §§ 22-19A-8 to 22-19A-16, inclusive, is in addition to other civil or criminal remedies.

22-19A-17. Defendant prohibited from contacting victim prior to court appearance--Misdemeanor.

While in custody after arrest for assault or stalking, no defendant may have or be permitted any contact or communications, either directly or by means of a third party, with the victim or the family or household members of the victim, until the defendant's initial court appearance or until such contact or communication is specifically authorized by the court. Willful violation of this section is a Class 1 misdemeanor.

REPORTED VICTIM AND RESPONDENT RIGHTS

- To be treated with respect, dignity and sensitivity throughout the process;
- To seek and receive appropriate support services at the University;
- To the presence of an advisor throughout the process;
- To confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). The

University will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know;

- To be informed of the University's Gender-Based Discrimination, Harassment, and Sexual Misconduct Policy;
- To a prompt and thorough investigation of the allegations;
- To challenge any individual taking part in an administrative review process if a conflict of interest is present;
- To participate or decline to participate in the University's investigation. However, the University will determine an outcome with the information available pursuant to applicable proceedings;
- To refrain from making self-incriminating statements;
- To be notified, in writing, of the case resolution – including, where permitted by applicable law, the outcome of any sanctions/remedial action and appeal;
- To report incidents of criminal sex and gender-based misconduct to law enforcement if she/he wishes to do so;
- To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

Fire Safety Report

Fire Safety Policies, Fire Statistics and Fire Log

The College annually provides a report to each student and current employee that discloses campus fire safety policies, fire prevention activity data, and any fire-related incident that occurs within on-campus housing. Future improvements to fire safety are currently underway and being evaluated. Prospective students and prospective employees receive a notice of the report's availability. In addition to the above, the College fire safety policies are published in the DWU Emergency Response Plan.

The DWU Office of Student Life is responsible for this Annual Security and Fire Safety Report, Timely Warnings and the Crime and Fire Logs. The Annual Security and Fire Safety Report is prepared in cooperation with local law enforcement agencies in Mitchell, South Dakota. Campus crime, arrest and referral statistics include those reported to the DWU Office of Residence Life, campus officials, RAs, RDs, and local law enforcement agencies. The Annual Security Report is compiled and submitted by the Director of Student Life. For more information, contact the Office of Student Life at 605-995-2160.

Crime and Fire Log

The Office of Residence Life maintains a combined Crime and Fire Log of all incidents reported to the office, which is available for inspection during normal business hours. This includes all crimes reported to the office, as well as all fires in on-campus student housing facilities.

The Crime and Fire Log includes the incident type, date incident is reported, date and time of occurrence, and general location of each reported incident type, as well as the disposition of the incident, if this information is known.

Campus-Wide Fire Safety Practices

Fires result in serious injuries, deaths and property loss; all members of the University community must take precautions at all times to prevent a tragedy due to fire and smoke.

In the event of smoke or fire, calmly exit the building using the nearest exit. If the building's alarm system is not sounding, pull the fire alarm when exiting the building. All University buildings have posted exit diagrams and all building occupants should know the exit routes and be familiar with University fire evacuation procedures set forth in the Emergency Response Plan. Failure to exit the building at the sound of a fire alarm or warning is a violation of University policy, as well as a violation of state law. In addition, tampering with or falsely activating a fire alarm is a violation of University policy and state law.

Campus Fire Safety Policies

All residence halls are equipped with fire extinguishers, smoke detectors, alarms and pull stations. Smoking is not permitted in any form in the residence halls or University buildings. This includes the use of electronic cigarettes. Also not allowed is anything with an open flame, such as candles, incense, candle warmers, hot plates, space heaters, toasters, toaster ovens, Crock-Pots, electric skillets, rice steamers, woks, deep fryers, grills, flammable liquids (e.g. bottles of propane gas, lighter fluid and dangerous chemicals), and explosives (including fireworks) and/or any other such item that can produce heat. To meet all fire safety codes, students and employees are required to use only electrical cords that are surge protector types and approved power strips instead of conventional extension

cords or grounded in-wall adapters. Flammables, combustibles and/or any toxic materials are not permitted in or around any University building. The University is subject to scheduled and regular inspections by the South Dakota Fire Marshal's Office. The State Fire Marshal's Office, as well as the local fire department, also performs unannounced spot checks on campus as part of their job duties. Violations discovered will be subject to fines, the cost of which will be passed onto the individual student or employee.

Fire Safety Instruction

In the event of smoke or fire, calmly exit the building using the nearest exit. If the building's alarm system is not sounding, pull the fire alarm when exiting the building. All resident hall rooms have an exit diagram posted on the inside of the door. In addition, each University building has a posted exit diagram. Failure to exit the building at the sound of a fire alarm or warning is a violation of the University's administrative rules, as well as a violation of state law. In addition, tampering with or falsely activating a fire alarm is a violation of University rules and state law.

Fire safety training is given each year to the Resident Assistants, Resident Directors, Safety Officers and other members of the Office of Residence Life and/or University community. From this training, the RAs and RDs educate all the resident students on the proper fire evacuation procedures. All fire and smoke alarms along with emergency lighting is checked on a monthly basis. Fire extinguishers are also checked on a regular basis and areas in the kitchen are checked in accordance with National Fire Prevention Association guidelines. Fire drills, both announced and unannounced, are performed during each semester.

In case of an actual fire, individuals should call 911. For any type of alarm, or smoke, please contact DWU Physical Plant at 605-995-2800. It is essential for the corridor separations and stairwell doors to be closed at all times. Fire doors retard the travel of smoke, heat, toxic gases and fire. All stairwell doors must be closed at all times. Do not place any combustible material on these doors, absolutely no paneling, burlap, draperies, parachute netting, Styrofoam, nor any type of wood can be installed in the exit corridors or stairwells. Building fire equipment such as sprinkler heads, smoke detectors, fire hoses, extinguishers, standpipes and alarm boxes must remain in good working condition and must not be obstructed. Unauthorized use or tampering with this equipment will result in disciplinary and/or legal action.

Fire Safety Training

Resident Directors and Resident Assistants, along with Safety officers, receive fire safety training from the Mitchell Fire Department on an annual basis. In addition, procedures that should be followed in the case of a fire are set forth in the University's Emergency Response Plan, which is available to all students, faculty and staff on the intranet homepage. At the beginning of each academic year, the Office of the President sends students, faculty and staff an email reminding them to review the Emergency Response Plan.

Campus Fire Statistics

Dakota Wesleyan University had no reports of fire or fire damage on campus during the 2019 calendar year.

FACILITY	2017			2018			2019		
	FIRES	INJURIES	DEATHS	FIRES	INJURIES	DEATHS	FIRES	INJURIES	DEATHS
Davton Hall	0	0	0	0	0	0	0	0	0
Allen Hall	0	0	0	0	0	0	0	0	0
Apartments	0	0	0	0	0	0	0	0	0
Koka Hall	0	0	0	0	0	0	0	0	0
West House	0	0	0	0	0	0	0	0	0
McCabe House	0	0	0	0	0	0	0	0	0
Grandv House	0	0	0	0	0	0	0	0	0
Psi Cottage	0	0	0	0	0	0	0	0	0