



Annual Security and Fire Safety Report for Calendar Year 2021

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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,

Tom Hoek
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, [Davis & Elkins college does not](#) 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 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:

Kimberly Lienemann
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.

Annual Security and Fire Safety Report – October, 2022

	Occurrences On Campus			Occurrences in Residence Halls			Occurrences On Public Property			Occurrences on Non-campus		
	2019	2020	2021	2019	2020	2021	2019	2020	2021	2019	2020	2021
CRIMINAL OFFENSES												
Murder/non-negligent manslaughter	0	0	0	0	0	0	0	0	0			0
Manslaughter by Negligence	0	0	0	0	0	0	0	0	0			0
Rape	0	0	1	0	0	1	0	0	0			0
Fondling	0	0	0	0	0	0	0	0	0			0
Incest	0	0	0	0	0	0	0	0	0			0
Statutory Rape	0	0	0	0	0	0	0	0	0			0
Robbery	0	0	0	0	0	0	0	0	0			0
Aggravated Assault	0	0	0	0	0	0	0	0	0			0
Burglary	2	0	0	0	0	0	0	0	0			0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0			0
Arson	0	0	0	0	0	0	0	0	0			0
Simple Assault	0	0	0	0	0	0	0	0	0			0
Larceny-Theft	0	0	0	0	0	0	0	0	0			0
Intimidation	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
Domestic Violence	0	0	0	0	0	0	0	0	0			0
Dating Violence	0	0	0	0	0	0	0	0	0			0
Stalking	0	0	0	0	0	0	0	0	0			0
ARRESTS												
Illegal weapons possession	0	0	0	0	0	0	0	0	0			0
Drug law violations	0	0	0	0	0	0	0	0	0			0
Liquor Law Violations	0	0	0	0	0	0	0	0	0			0
REFERRALS												
Illegal weapons possession	0	0	0	0	0	0	0	0	0			0
Drug law violations	1	1	1	1	1	1	0	0	0			0
Liquor law violations	35	28	40	35	28	40	0	0	0			0

Hate Crimes

For the years 2019, 2020, and 2021, there were no hate crimes to report.

Unfounded Crimes

For the years 2019, 2020, and 2021, 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 addresses the University's responsibilities under Title IX and the Violence Against Women Reauthorization Act of 2013. As a recipient of federal funds, Dakota Wesleyan University is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* ("Title IX"), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, Sex and Gender-Based Misconduct (as defined in the Definitions Section below) constitutes sexual discrimination prohibited by Title IX. Section 304 of the Violence Against Women Reauthorization Act of 2013 requires universities receiving federal funds to have procedures in place to respond to matters of sexual assault, domestic violence, dating violence and stalking. Inquiries concerning the application of Title IX and/or Section 304 of the Violence Against Women Reauthorization Act of 2013 may be referred to the University's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights.

Dakota Wesleyan University's Title IX Coordinator is Tom Hoek.

Mr. Hoek may be contacted by phone at 605-995-2160 or by email at tom.hoek@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

Tom Hoek

Title IX and Section 504 Coordinator
605-995-2160; tom.hoek@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

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.

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

Interim Measures

Once the University receives a report of or is put on notice of an incident of sexual or gender-based misconduct or associated incidents of retaliation or intimidation, the assigned Title IX Coordinator, in consultation with other appropriate administrators, will determine whether any interim and protective measures and/or interim disciplinary sanctions are warranted and appropriate.

While consideration of interim measures is generally the first step in the University's response to a reported violation of this policy, the University may also implement such measures in the absence of a report. While an individual may request interim measures without filing a report, the request itself may trigger the University's obligation to respond to an alleged violation of this policy, even if the request for interim measures was made through one of the confidential resources identified in Section V.

Where appropriate, the Assigned Title IX Coordinator may implement one or more interim measures including, but not limited to, one or more of the following:

- a. Issuing of mutual no-contact orders to prevent any contact between the Subject of the Report, the Respondent, witnesses and/or other community members to ensure the safety of all parties and the integrity of the process;
- b. Providing an escort to ensure that individuals connected to or involved in a report or investigation can move safely between classes, work and/or activities;
- c. Changing on-campus housing, if any, to a different on-campus location and providing assistance from University support staff in completing the relocation;
- d. Rescheduling class work, assignments and examinations;
- e. Changing on-campus work arrangements or schedules;
- f. Providing academic support services such as providing alternative course completion options, dropping a course without penalty or transferring to a different class section (with the agreement of the appropriate faculty);
- g. Limiting an individual's or organization's access to certain University facilities or activities pending resolution of the matter;
- h. Transportation accommodations, such as shuttle service, cab voucher or parking arrangements, to ensure safety and access to other services; and
- i. Preserving eligibility for academic, athletic or other scholarships, financial aid, internships, study abroad, or foreign student visas.

The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. The Assigned Title IX Coordinator will consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the party requesting the interim measure; the ages of the parties involved; the severity or pervasiveness of the alleged conduct; any continuing effects of the alleged conduct; whether the parties share the same residence hall, class, transportation or job location; and whether relevant judicial measures have been taken (e.g., civil protection orders).

Even when the assigned Title IX Coordinator has determined that the University may not be able to respond fully to an allegation of Sex and Gender-Based Misconduct and initiate formal action against a Respondent because of the Subject of the Report's request for confidentiality, to the extent possible, the assigned Title IX Coordinator will take immediate action to protect the Subject of the Report and the University community while keeping his or her identity confidential. These actions may include:

providing support services to the Subject of the Report; changing living arrangements or course schedules, modifying assignments or tests; and providing increased monitoring, supervision or security at locations or activities where the misconduct is alleged to have occurred.

Throughout the University's investigation and resolution process, the assigned Title IX Coordinator will periodically reconsider previously implemented interim measures to determine whether they are still appropriate. The Assigned Title IX Coordinator may leave previously implemented interim measures in place, alter them, remove them, or supplement them with other interim measures.

Voluntary Informal Resolution Mechanisms

If the investigator(s) believe the matter may be resolved by informal means, the investigator(s) may undertake to obtain such a result with the assistance of a third party (mediator or counselor) for as long as both Claimant and Respondent consent to such methods. The Claimant or Respondent may end informal resolution mechanisms and initiate a formal investigation at any point. The University reserves the right to ensure that any resolution is designed to stop problematic behavior.

****NOTE** Informal means of resolution are not available in cases of alleged sexual violence.**

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.

Sanctions for Sex and Gender-Based Misconduct Policy Violation

Prohibited Behavior/Conduct	Range of Sanctions
Sexual/Gender Misconduct Constituting Sexual Assault	Dismissal/Termination Suspension Probation
Sexual/Gender Misconduct Not Constituting Sexual Assault	Dismissal/Termination Suspension Probation
Unwanted Sexual Touching	Dismissal/Termination Suspension Probation Community Service Educational/Counseling Consultation
Non-physical Sexual Harassment/Stalking	Dismissal/Termination Suspension Probation Community Service Educational/Counseling Consultation

Discrimination	Dismissal/Termination Suspension Probation Community Service Educational/Counseling Consultation
Retaliation/Intimidation False Allegations	Dismissal/Termination Suspension Probation Community Service Educational/Counseling Consultation

INVESTIGATIVE PROCESS

INITIAL MEETINGS WITH THE ASSIGNED TITLE IX COORDINATOR

1. Meeting with the Subject of the Report

Within five Days following the filing of a report or being put on notice of a possible incident of Sex or Gender-Based Misconduct or associated incidents of Retaliation or Intimidation (or as soon as is reasonably practicable), the assigned Title IX Coordinator will contact the Subject of the Report to schedule an initial meeting to discuss the report and avenues for its resolution. If the report was made by a Reporting Party who is not the Subject of the Report, the assigned Title IX Coordinator will attempt to meet with the Reporting Party and gather information from him or her before speaking with the Subject of the Report.

During the initial meeting with the Subject of the Report, the assigned Title IX Coordinator will, as applicable:

- Review and provide a written copy of this policy, including a review of applicable rights under the policy and how to access the policy (see Appendix C);
- Provide written notification of the counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for victims both within the University and in the community and the availability of changes to academic, living, transportation, and working situations or protective measures regardless of whether the Subject of the Report reports to law enforcement;
- Explain the avenues for formal and, if applicable, informal resolution of the complaint;
- Explain the steps involved in a formal Title IX investigation;
- Advise the Subject of the Report that he, she, or they may have an advisor of their choice present throughout the Title IX investigation and resolution process. The advisor may be anyone of the Subject of the Report’s choosing, including an attorney retained at the individual’s initiative. Any advisor may participate as a silent observer in any meeting or proceeding related to the investigation or resolution process;
- Discuss confidentiality standards and concerns;
- Discuss the importance of preserving relevant evidence or documentation of relevance to the investigatory process (e.g., texts, emails, notes, photographs, etc.); and
- Discuss whether any interim measures are appropriate.

2. Meeting with the Responding Party

If the Reporting Party or Subject of the Report wishes to pursue resolution through the University or if the University otherwise deems that further investigation is warranted, as soon as is practicable after the assigned Title IX Coordinator's initial assessment, the assigned Title IX Coordinator may schedule an initial meeting with the Respondent. If the Assigned Title IX Coordinator decides to meet with the Respondent prior to making an initial assessment of the report, the Assigned Title IX Coordinator will provide the Respondent with written notice of the allegations constituting a potential violation of this policy in sufficient detail and sufficiently in advance of the initial investigation to allow the Respondent to prepare for the interview. At a minimum, the written notice will contain the names of the parties involved, the nature of the alleged violation, and the date and location of the alleged incident, if that information is available.¹ During the initial meeting with the Respondent, the assigned Title IX Coordinator will, as applicable:

- Review with and provide the Respondent a written copy of this policy and how to access it, including a review of rights provided under this policy (see Appendix C);
- Provide written notification of the counseling, health, mental health, legal assistance, visa and immigration assistance, student financial aid and other services available to Respondents both within the University and in the community, and the availability of changes to academic, living, transportation, and working situations or protective measures;
- Explain the University's procedures for resolution of the complaint, including informal resolution;
- Explain the steps involved in a formal Title IX investigation;
- Advise the Respondent that he, she, or they may have an advisor of his or her choice present throughout the Title IX inquiry, investigation, and resolution process. The advisor may be anyone of the Respondent's choosing, including an attorney retained at the individual's initiative. Any advisor may participate as a silent observer in any meeting or proceeding related to the investigation or resolution process.
- Discuss confidentiality standards and concerns with the Respondent;
- Discuss non-retaliation and intimidation requirements with the Respondent;
- Inform the Respondent of any interim measures already determined that directly affect the Respondent (e.g., changing the Respondent's class schedule or moving the Respondent to an alternate residence hall);
- Discuss the importance of preserving evidence or documentation relevant to the investigation (e.g., texts, emails, notes, photographs, etc.);
- Refer the Respondent to a counselor or other resources, as appropriate; and
- Discuss possible interim measures.

TITLE IX COORDINATOR'S INITIAL ASSESSMENT

The Title IX Coordinator will make an assessment as to whether or not there are reasonable grounds for believing that the conduct at issue constitutes Sex and Gender-Based Misconduct.

In the event that the assigned Title IX Coordinator determines there are no reasonable grounds for believing that the conduct at issue constitutes gender-based discrimination, harassment and/or sexual

¹ If the Title IX Coordinator does not meet with the Respondent prior to making an initial assessment of the report, the assigned Investigator will provide the written notice described in this section in advance of the Investigator's initial interview of the Respondent. The Investigator will provide the notice sufficiently in advance of initial interview to enable the Respondent to prepare a response to the report prior to the interview.

misconduct as defined by this policy, the Title IX Coordinator will refer the matter to the appropriate University office (e.g., Human Resources, Student Life, Provost) so that the relevant office may determine whether some other University policy may have been violated and pursue appropriate measures. The Title IX Coordinator will communicate his or her decision in writing to the Subject of the Report, the Respondent and relevant University administrators. Where he or she deems appropriate, the Title IX coordinator may pursue appropriate measures notwithstanding finding that the matter was not appropriate for resolution under this policy, which may include broader remedial actions – such as increased monitoring, supervision or security at locations where the reported Sex and Gender-Based Misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting University policies, procedures and practices.

If the Title IX Coordinator determines that reasonable grounds exist for believing that the alleged conduct constitute Sex and Gender-Based Misconduct, the Title IX Coordinator will next determine whether (a) the case may appropriately be resolved through the informal resolution procedures outlines in this policy; or (b) must be resolved using the formal resolution procedures outlined in this policy.

INFORMAL RESOLUTION

Informal resolution may be used for less serious violations of this policy as an alternative to the formal resolution process. In order to resolve a reported violation of this policy using these informal resolution procedures, both parties must agree to use the informal resolution procedures. Both parties must agree to pursue informal resolution freely, and the University does not encourage or discourage the use of informal resolution. Either party may rescind their agreement to resolve a report through these informal resolution procedures, and initiate formal resolution procedures, at any time prior to reaching a final resolution. Informal resolution will never be used to resolve a report of Sexual Assault. Informal resolution will not be the primary resolution mechanism used to address a report of dating violence, domestic violence, sexual exploitation of any kind or in other cases of serious violations of the gender-based discrimination, harassment and sexual misconduct policy as determined by the Title IX Coordinator or in other cases of serious violations of this policy.

Either party (the Subject of the Report or the Respondent) participating in informal resolution can stop that process at any time Title IX Coordinator that they are rescinding their agreement to participate in the informal resolution process and are requesting a formal resolution. Additionally, the Title IX Coordinator may determine, in his or her sole discretion that the matter is no longer appropriate for informal resolution and commence formal resolution procedures. In such cases, information provided by the parties in the course of the investigation and conflict resolution may be considered in the subsequent formal resolution. Moreover, the Subject of the Report and Respondent may be accompanied by an advisor at any meetings related to the informal resolution process. If a satisfactory resolution is reached, the matter will be considered resolved. If informal resolution efforts are unsuccessful, the formal resolution process will commence.

Information shared or obtained during an informal resolution process will be treated as confidential to the extent permitted by law. Any agreements reached in an informal resolution process must be approved by the Title IX Coordinator to ensure consistency with the University's Title IX obligations.

The Title IX Coordinator will maintain records of all reports and conduct resolved through informal resolution. Informal resolution will typically be completed within 60 business days, or as soon as is reasonable and practicable.

FORMAL RESOLUTION PROCEDURES

It is the goal of DWU to provide for an adequate, reliable and impartial investigation of each report, including the opportunity for both the Subject of the Report and Respondent to present witnesses and evidence.

Assignment of Investigator and Review Panel

If the Title IX Coordinator (or Assigned Coordinator) determines that a formal Title IX Investigation is warranted or if informal resolution efforts were not successful, the assigned Title IX Coordinator will appoint an Investigator who has specific training and experience investigating allegations of gender-based discrimination, harassment and sexual misconduct. The Title IX Coordinator will notify both the Subject of the Report and the Respondent in writing of the formal Title IX investigation and the name of the Investigator. The Title IX Coordinator will also provide both the Subject of the Report and Respondent with the names of the three Title IX Coordinators who will serve on the Review Panel to determine whether a conduct violation has occurred. The Title IX Coordinator will provide both parties with written notice of the allegations constituting a potential violation of this policy in sufficient detail and appropriately in advance of their initial interviews to allow the Respondent to prepare for the interview. At a minimum, the written notice will contain the names of the parties involved, the nature of the alleged violation, and the date and location of the alleged incident, if that information is available.

Either the Respondent or the Subject of the Report may protest the appointment of the Investigator and/or the composition of the Review Panel by identifying a possible conflict of interest in writing to the assigned Title IX Coordinator within 4 Days of receipt of the written notice. The assigned Title IX Coordinator will carefully consider such statements and will assign a different Investigator and /or modify the composition of the Review Panel if it is determined that a factual conflict of interest exists. The Title IX Coordinator shall retain the power to replace members of the Review Panel as the Title IX Coordinator deems appropriate. The Subject of the Report and the Respondent may challenge such replacements in the same manner as the original Review Panel members.

Investigator's Activities

The Title IX investigation will be conducted in a manner appropriate to the circumstances of the case. The formal investigatory process may include, but is not limited to, conducting interviews of the Reporting Party, the Subject of the Report, the Respondent, and any witnesses (witnesses may testify to any relevant fact but cannot be participating solely to speak about an individual's character); reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering, examining and preserving other relevant documents and physical, written (including medical records), and electronic evidence (including social media, communications between parties, security camera footage, etc.). The parties will have an equal opportunity to present relevant witnesses and evidence to the Investigator, as well as identify witnesses who may have relevant information. Moreover, both the Subject of the Report and Respondent(s) may have an advisor accompany (but not actively participate) him or her through the investigation process.

In gathering the facts and arriving at a conclusion, the Investigator may consider the

Respondent's prior conduct history if:

- The Respondent was previously found to be responsible for a violation of an institutional policy which has bearing on or was connected to the current allegation and/or was substantially similar to the present allegation; and/or
- The information indicates a pattern of behavior by the Respondent.

Additionally, the Investigator will refrain from posing questions about or considering the Subject of the Report's sexual history with anyone other than the Respondent. The Investigator will strive to conduct the investigation in a manner that does not intentionally inflict additional trauma on the parties and will take reasonable care to protect the parties' privacy.

Note: The Investigator should obtain, when applicable and when possible, the written consent of any third-party witnesses to the disclosure of any personally identifiable information (as that term is defined by FERPA) contained in the complaint, the investigative report, and/or any other documents the disclosure of which is contemplated by this policy in order to further the resolution of the complaint. If the Investigator is unable to obtain the consent of such third-party witnesses, the Investigator must redact the investigative report to the extent necessary to avoid disclosure of such witness's personally identifiable information, while ensuring that such redaction does not prevent resolution of the complaint.

Investigatory Process; Report; Review Panel Decision; Outcome Notification

The investigatory process will typically be completed within 30 Days after the investigation begins. The process will result in a written report detailing the investigation and including a synthesized presentation of the facts and key points that will lead to the determination of whether there is reasonable cause to believe that the Respondent(s) engaged in a Sex and Gender-Based Misconduct policy violation. The written report will include an overview of each interview, a summary of key points, and an assessment of each individual's credibility. The written report will be simultaneously provided to the parties, who may respond in writing to the report. Any such response must be submitted to the Assigned Title IX Coordinator within 10 Days of the party's receipt of the written report.

Once the 10-Day period for party responses has passed, the written report, along with any party responses, will be provided to the three-person Review Panel identified at the outset of the investigation (and comprised of Deputy Coordinators and/or the Title IX Coordinator). In determining whether this policy has been violated, the Review Panel will apply the Preponderance of the Evidence standard.

If, in applying the Preponderance of the Evidence standard, the Review Panel determines that the evidence does not support finding that the Sex and Gender-Based Misconduct policy has been violated, the matter will be closed subject to a final appeal.

The Review Panel will arrive at a decision by majority vote and deliver its decision in writing to the Assigned Title IX Coordinator. If the Review Panel finds that a policy violation occurred, it will determine an appropriate sanction consistent with the sanctioning guidelines listed in Appendix E.

Sanctions

If a Respondent admits responsibility for a policy violation or if the Respondent is found to have violated this policy, the Review Panel will determine appropriate sanctions. In determining appropriate sanction(s), the Review Panel may consider the nature of, and circumstances surrounding, the violation, prior disciplinary violations, precedential cases, the University's safety concerns, and any other information deemed relevant. The severity of the offense will determine the severity of the sanction. See Appendix E of the Sex and Gender-Based Misconduct Policy for the University's Sanctioning Matrix.

If a sanction is to be implemented, this will be communicated in writing to both the Subject of the Report and the Respondent as well as to the University Administrator responsible for implementing the sanction.

- If the Respondent is a student: The sanction will be administered by the Provost or his or her designee.
- If the Respondent is an employee: The sanction will be administered by the Director of Human Resources or his or her designee.
- If the Respondent is a member of Faculty: The sanction will be administered by the Provost or his or her designee.
- If the Respondent is a third party: The sanction will be administered by the Title IX Coordinator or his or her designee.

Whenever possible, the sanction will be implemented by the appropriate administrator within a maximum of three (3) days following the receipt of the written decision or the Respondent's admission of responsibility.

In cases involving only allegations of conduct not covered by the Clery Act (generally, allegations of Harassment, Discrimination, or Retaliation), a copy of the decision and sanctions will be provided to the Respondent only. In such circumstances, the University will notify the Reporting Party (a) whether it found that the alleged conduct occurred, (b) of any individual remedies offered to the Reporting Party or any sanctions imposed on the Respondent that directly related to the Reporting Party, and (c) of any other steps the school has taken to eliminate the hostile environment, if the University found one to exist.

In all other cases, copies of the decision and sanction, which will include an explanation of the rationale for the decision and sanction imposed, will be provided to the Reporting Party and Respondent, via the assigned Title IX Coordinator.

All notices provided pursuant to this section will be provided to the parties simultaneously by hand delivery or via certified mail, will be in writing, and will include notice of the appeal procedures outlined in this policy.

Appeals

Both parties have the right to appeal the finding within five (5) business days upon receipt of the written notice of final decision. Disagreement with the finding and/or with the sanctions is not, by itself, grounds for appeal. There are only two grounds for appeal: material procedural error and / or the discovery of new evidence that could not have been known at the time the original decision was made. As used in this policy, a procedural error is material if there is a substantial likelihood that a reasonable

factfinder would have reached a different conclusion but for the error. Appeals must be submitted in writing and must identify and explain the basis for the appeal. Appeals should be submitted to the Title IX Coordinator.

All appeals are considered by an Appeal Office. The Appeal Officer shall be a Title IX Coordinator or Deputy Coordinator who did not serve on the Review Panel and who did not serve as the primary Title IX office liaison with the Subject of the Report and the Respondent.

The Appeal Officer will review the appeal to determine whether the appeal has merit (i.e. the party making the appeal has identified a material procedural error and/or called attention to new evidence that could not have been known at the time the original decision was made). If the Appeal Officer determines that appeal does not have merit, the Appeal Officer will inform the party making the appeal, in writing, that the appeal does not meet the necessary criteria for a review of the Review Panel's decision to be undertaken.

If the Appeal Officer determines that the appeal has merit (i.e. the party making the appeal has identified a material procedural error and/or called attention to new evidence that could not have been known at the time the original decision was made), the Appeal Officer will open a new factual finding on the material procedural error and/or the new evidence. When this process is complete, the Appeal Officer will review the Review Panel's decision and the Investigator's report and evidence in light of the material procedural error and/or the new evidence.

The Appeal Officer will then make a decision to uphold the Review Panel's decision; modify the Review Panel's decision; or overturn the Review Panel's decision. The Appeal Officer may also elect to modify or overturn the sanction levied by the Review Panel. The decision of the Appeal Officer is final.

At the conclusion of the appeal process, the Appeal Officer shall submit a report to the Title IX Coordinator outlining his or her decision based on a material procedural error and/or new evidence along with his or her rationale for modifying or overturning sanctions (if applicable). Within 30 days of the appeal being undertaken, the Appeal Officer will communicate his or her decision in writing to both the Subject of the Report and the Respondent. In compliance with applicable law, this communication will articulate the rationale for the Review Panel's original decision being upheld, modified, or overturned and the rationale for the modification or overturning of sanctions (if applicable). The communication will also state that this decision is final.

Remedial Action

In addition to the imposition of disciplinary sanctions, the Title IX Coordinator may take remedial action to remedy a hostile environment. Such remedies may be imposed to protect the Subject of the Report and the University community and are considered separate from, and in addition to, any disciplinary sanction or interim measure that may have been provided prior to the conclusion of the University's investigation.

Examples of remedial action for the Subject of the Report as determined by the Title IX Coordinator may include, but are not limited to:

- Providing an effective escort to ensure that the Subject of the Report can move safely between classes and activities;
- Ensuring the Subject of the Report and Respondent(s) do not share classes or extracurricular activities;
- Moving the Respondent or Subject of the Report to a different residence hall;
- Providing comprehensive, holistic survivor services including medical, counseling and

academic support services, such as tutoring;

- Arranging for the Subject of the Report to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and
- Reviewing any disciplinary actions taken against the Subject of the Report to see if there is a causal connection between the sexual assault and the misconduct that may have resulted in the Subject of the Report being disciplined.

Examples of Remedial Action for the broader University community

Remedies for the broader University community, as determined by the Title IX Coordinator may include, but are not limited to:

- Training or retraining employees on the University's responsibilities to address allegations of Sex and Gender-Based Misconduct and how to conduct Title IX investigations;
- Developing materials on Sex and Gender-Based Misconduct;
- Conducting bystander intervention and Sex and Gender-Based Misconduct prevention programs with students;
- Issuing policy statements or taking other steps that clearly communicate that the University does not tolerate Sex and Gender-Based Misconduct and will respond to any incidents and to any student who reports such incidents;
- Conducting a campus climate check to assess the effectiveness of efforts to ensure that the University is free from Sex and Gender-Based Misconduct, and using that information to inform future proactive steps that the school will take;
- Targeted training for a group of students if, for example, the Sex and Gender-Based Misconduct created a hostile environment in a residence hall or on an athletic team; and
- Developing a protocol for working with local law enforcement.

When the University is unable to conduct a full investigation into a particular incident (i.e., when the Reporting Party insists on confidentiality, when it received a general report of Sex and Gender-Based Misconduct without any personally identifying information, etc.), the Title IX Coordinator will pursue remedies for the broader University community in an effort to limit the effects of the conduct at issue and prevent its recurrence.

Note: The University does not permit a student Respondent to formally withdraw from the University if a complaint is pending against the Respondent. Should a student decide to leave the University and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to Dakota Wesleyan University unless all sanctions have been satisfied. A hold may be placed on the student's account to prohibit re-enrollment and the release of transcripts.

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	Tom Hoek 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](tel:605-770-1593), into your cell phone.
- 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 the 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 2021 calendar year.

FACILITY	2015 6			2016 7			2017 8		
	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